

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

22 APRIL 2021

DAY 380



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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 22 APRIL 2021

CHAIRPERSON: Good morning Mr Myburgh, good morning everybody.

ADV MYBURGH SC: Good morning Chairperson.

ADV VAN DEN HEEVER: Good morning Chairperson.

CHAIRPERSON: Good morning, good morning, good morning Mr Singh.

MR SINGH: Morning Chair.

CHAIRPERSON: I thought I had to push you guys.

10 **ADV VAN DEN HEEVER:** Chairperson we indebted for the time I think we have resolved some of the issues but at this stage

CHAIRPERSON: Yes.

ADV VAN DEN HEEVER: To save time I think it is – we can proceed. If any issues arise in between.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVER: We will deal with it.

CHAIRPERSON: Okay no that is fine.

ADV VAN DEN HEEVER: Thank you Chairperson.

20 **CHAIRPERSON:** Okay alright.

ADV MYBURGH SC: Thank you Chairperson.

CHAIRPERSON: Thank you.

ADV MYBURGH SC: Chairperson as you aware today is scheduled for the continuation of the evidence of Mr Singh within the Transnet stream.

CHAIRPERSON: Yes. Okay please administer the oath or affirmation.

REGISTRAR: Please state your full names for the record.

MR SINGH: Anoj Singh.

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

MR SINGH: No.

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

10 **MR SINGH:** Yes 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.

ADV MYBURGH SC: So help me God.

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

ADV MYBURGH SC: Chairperson the documents that are of particular relevance to Mr Singh's evidence are contained in Transnet Bundle 5(b) and 5(c) and that is
20 Exhibit BB23.

CHAIRPERSON: Okay alright. And I have got 5(c) so I guess that is the one you start with.

ADV MYBURGH SC: Yes.

CHAIRPERSON: Ja. Okay.

ADV MYBURGH SC: Mr Singh good morning.

MR SINGH: Good morning Sir.

ADV MYBURGH SC: Could I ask you please you have these two bundles I take it in front of you. Could you turn to Bundle 5(c) and go to page 1750.

MR SINGH: We using the black or red?

ADV MYBURGH SC: The black numbers yes.

MR SINGH: 15?

ADV MYBURGH SC: 1750.

MR SINGH: I am there Sir.

10 **ADV MYBURGH SC:** Now you will recall that at the last sitting of your evidence you contended that Witness 3 had been spoon fed information about Knox Vault by someone within the commission and that that is how he came to say that he took you there. Do you recall that evidence?

MR SINGH: Yes.

ADV MYBURGH SC: Now what you find at page 1750 and further is an affidavit of Josiah Leonard he is an investigator at the commission and if I could take you to paragraph 8 at paragraph – sorry page 1752 he makes
20 reference to your evidence at paragraphs 8,9 and 10 and he explains then that he provided this affidavit in that context. Could I ask you please to turn to page 1753 you will see there at paragraph 12 that Mr Leonard says that as part of his – of the on-going investigation procedure performed at Transnet he interviewed various drivers or

CPO's who were assigned to protect and transport members of Transnet executive management team during the period 2009 to 2018. He then says at paragraph 13 that on 29 April he interviewed Witness 3 for the first time. He says at paragraph 14 that Witness 3 informed us that he served as a driver and CPO for Mr Singh while being the GCFO of Transnet commencing in July 2014 until his secondment to Eskom.

And at 15 Mr Leonard says that in addition to other
10 matters Witness 3 informed us about – he told us that on six or seven occasions after visits to the Gupta residence Mr Singh would instruct him to drive to Knox Vault across the road from the Killarney Mall.

According to Witness 3 Mr Singh would take the bag that he collected from the Gupta residence (which he suspected contained cash) from the boot of the vehicle and go into the Knox Vault building.

Mr Singh would return to the vehicle and Witness 3 would notice that the bag was now empty. He informed us
20 that he suspected that Mr Singh had deposited the contents in a safe at Knox Vault.

Paragraph 16 it was during this interview with Witness 3 that anyone within or from the commission first became aware of Knox Vault and Mr Singh's visits to Knox Vault.

17 – Witness 3 subsequently deposed to an affidavit setting out the abovementioned facts.

So that was an interview on the 29th of April 2019. Mr Leonard goes on to say that based on the first consultation with Witness 3 the commission issues a summons to Knox Vault on 13 June 2019 in terms of which Knox Vault were required to provide the commission with records and documents relating to the rental of safety deposit boxes by specific individuals.

10 Mr Singh was among the individuals whose records were summonsed.

Paragraph 19 on 20 June Knox Vault complied with the summons and produced the following customer records for Mr Singh.

And they then listed as access records (customer visits, application form, additional box forms, tax invoices, cancellation forms, credit note and identification document).

Over the page Mr Leonard goes on to say that the
20 records received from Knox Vault are attached hereto marked Annexure EPL1.

According to the access records (customer visits) Mr Singh visited Knox Vault on 22 occasions between July 2013 and August 2017. Ten of these visits fall within the period that Witness 3 served as driver/CPO for Mr Singh.

22 - As mentioned above Witness 3 stated during the first interview with him on 29 April 2019 that he had escorted Mr Singh to Knox Vault on approximately six or seven occasions during this period.

And then Mr Leonard with reference to the evidence that you had given before says at paragraph 23 in conclusion the legal issue that attracted media attention which I assume Mr Singh was referring to in his evidence arose from the execution of a summons issued by the
10 commission in terms of which it took custody of safe deposit boxes rented by Kuban Moodley at Knox Vault.

The execution of the summons occurred on 25 June 2019 more than two months after Witness 3 informed us about Knox Vault on 29 April 2019.

You see that?

MR SINGH: I do Sir.

ADV MYBURGH SC: Have you got any reason to question the truth and accuracy of this affidavit of Mr Leonard?

MR SINGH: Not at this stage.

20 **ADV MYBURGH SC:** Right. So what then would you say to the proposition that the only way that Witness 3 could have known about your safe deposit boxes at Knox Vault is if he took you there as he alleges?

MR SINGH: Mr Chair I am not sure how Mr – Witness 3 came to know about the boxes that as we – as I have

testified before Mr Chair Witness 3 has never taken me to Knox Vault on any occasion.

CHAIRPERSON: Hm. Shall I take that as meaning that you are saying you accept that he got to know about it but you do not know how he knew about it because as far as you are concerned he never took you there?

MR SINGH: Mr Chair that is correct because as you see in the affidavit itself Mr Chair I was not the only person that formed the part of – that formed the content of the
10 subpoena.

CHAIRPERSON: Yes.

MR SINGH: There were other people that actually were also – information was requested from Knox Vaults so it would seem that maybe through that process people had got to know about it.

CHAIRPERSON: Ja.

MR SINGH: So I would accept your proposition.

CHAIRPERSON: Mr Myburgh.

ADV MYBURGH SC: So Mr Singh I am not sure that I
20 follow your answer. I mean last time you said that and you must correct me if I am wrong. Last time I understood you to say that Witness 3 came to learn about this because it was planted information by a member of the commission. Now you accept that that is not true so how is it then that Witness 3 knows of your facility at Knox Vault unless he

took you there?

MR SINGH: Mr Chair if we have regard to the information that is presented to us today all of this information was available to the commission on the day that my evidence was led yet none of this information was available to me.

CHAIRPERSON: How does – how does that affect your answer?

MR SINGH: Oh well Mr Chairperson that is what I am –

CHAIRPERSON: Because that is...

10 **MR SINGH**: That is what I am trying to...

CHAIRPERSON: Because it is – because you – you either know what the position is or how Witness 3 would have come to know about the information relating to you and Knox Vault or you do not know you know. Whether you were shown information or not is not going to affect what you knew.

MR SINGH: No but that is my – that is what I am trying to get to Mr Chair.

CHAIRPERSON: Ja.

20 **MR SINGH**: Is that on the day that I testified I did not know.

CHAIRPERSON: What did you not know?

MR SINGH: I did not know that the information relating to the investigators report came to the attention of the investigator on the 29th of April 2019.

CHAIRPERSON: Yes.

MR SINGH: For example.

CHAIRPERSON: Yes.

MR SINGH: Because I was not presented with anything relating to Knox Vaults.

CHAIRPERSON: Yes.

MR SINGH: So when...

CHAIRPERSON: Is that – is that why you gave the answer you gave because you did not know that?

10 **MR SINGH:** Because I was asked how did he come to know so I ...

CHAIRPERSON: Because you were denying.

MR SINGH: Yes. So I then preferred or provided an explanation.

CHAIRPERSON: Yes.

MR SINGH: That I thought was relevant at the time.

CHAIRPERSON: But you accept now do you not that that explanation you provided namely of accusing somebody in the commission to have planted the information or given
20 him that information to implicate you do you now accept that that is not true?

MR SINGH: That is correct Sir.

CHAIRPERSON: Yes. Okay. So is – is – as I understand it the position you are in is you have denied that Witness 3 took you to Knox Vault. The evidence that you also accept

suggest that he – he must have taken you there but – or at least he knows information that you would have known if he had taken you there. But your position is he did not take you there and you cannot say how he came to know the information.

MR SINGH: That is correct.

CHAIRPERSON: Is that correct?

MR SINGH: That is correct.

ADV MYBURGH SC: Thank you Chairperson. Now Mr
10 Singh previously when you testified I asked you this is at page 64 of the transcript of 12 March day 360. I said what were you keeping in these four boxes? And your answer was Mr Chair the four boxes is easy to explain. There was a box for each one of the family – sorry each one of the members of the family. You recall giving that evidence?

MR SINGH: Along those lines yes.

ADV MYBURGH SC: I beg your pardon.

MR SINGH: Along those lines yes Chair.

ADV MYBURGH SC: Yes. I am reading from the
20 transcript. So as I understand it the four members of the family were you, your wife and your two children.

MR SINGH: Yes Sir.

ADV MYBURGH SC: Is that correct?

MR SINGH: That is correct Sir.

ADV MYBURGH SC: Now in 2014 your children were aged

on my calculations your eldest child was 12 and your youngest child was 4.

MR SINGH: In 2014?

ADV MYBURGH SC: Ja.

MR SINGH: That could be probably be right yes.

ADV MYBURGH SC: Approximately.

MR SINGH: Yes.

ADV MYBURGH SC: So what is it that you stored in the two boxes for your children?

10 **MR SINGH**: I do not recall right now but it could have been documents for them – gifts for them, jewellery for them. Odds and sods I do not really recall.

ADV MYBURGH SC: Documents for them like?

MR SINGH: Birth certificates and so on. ID documents.

CHAIRPERSON: Please speak up Mr Singh.

MR SINGH: Sorry birth certificates, ID documents and the like. But Mr Chair these are personal – these are issues that relate to my personal being at the time. I do not see the relevance for that in this.

20 **CHAIRPERSON**: Well what you were – you kept in the boxes is obviously relevant Mr Singh you know that. You surely know that what you kept in the boxes is relevant because there are allegations of you taking money from the Gupta's and taking it to Knox Vaults so you say you did not take any money – any cash from the Gupta's and kept it at

Knox Vault you – you indicated what you kept in those boxes but if the other version is true you may have kept money that you got from the Gupta's in the boxes. Is it not?

MR SINGH: Yes that is true Mr Chair.

CHAIRPERSON: Yes so it is highly relevant. Mr Myburgh.

ADV MYBURGH SC: Thank you. And you then went on to explain that as I understood your – you would keep some jewellery for your wife and you also said that you might
10 keep or you did keep cash for yourself to a maximum value as I recall evidence of R100 000.00.

MR SINGH: I think the number was between 100 to 200 000.00.

ADV MYBURGH SC: Between 100 and?

MR SINGH: 200.

ADV MYBURGH SC: Between 100 and 200 and that money you say you got if my memory serves me correctly from moonlighting and gambling.

MR SINGH: Well moonlighting was your suggestion.

20 **ADV MYBURGH SC:** That is the term that is commonly used when an executive in a position such as you does private work on the side.

MR SINGH: Okay if that is the way it is – ja.

ADV MYBURGH SC: But that is how you got the money gambling and moonlighting.

MR SINGH: That is correct.

ADV MYBURGH SC: Right. Well what we do know from records is that you did not have four boxes you had eight boxes you would have seen that?

MR SINGH: That is correct.

ADV MYBURGH SC: So let us go to page 1758. So let us...

MR SINGH: Sorry the 00:17:43.

ADV MYBURGH SC: 1758 and before I get into the
10 records so how does one square this with your previous evidence. Would you now say that you had two vaults or boxes for each family member?

MR SINGH: No Mr Chair I think the – I also did mention in the previous testimony that I also used the boxes to store documents and stuff that was of relevance to me at the time. So the balance of the doc – the boxes were really to store documents that were relevant to me.

ADV MYBURGH SC: Well...

CHAIRPERSON: Well Mr Myburgh's question is since
20 when you gave your evidence you said you had – you kept four boxes because you – the family consisted of four members.

MR SINGH: Yes.

CHAIRPERSON: How do you now explain the fact that there were not four boxes there were eight boxes? Mr

Myburgh did I get your question right?

ADV MYBURGH SC: Yes Chairperson.

MR SINGH: Yes. So what is the explanation for having so many boxes much more than double the number of the family members?

MR SINGH: Mr Chair as I would recall again from the testimony that I had given at the time. I did say I do not recall the number of boxes that I actually had.

CHAIRPERSON: Sorry just say that again.

10 **MR SINGH:** I said I do not recall the exact number boxes that I had at the time. Because remember at that – when I had given evidence the issue of Knox Vault was not put to us.

CHAIRPERSON: Was not what?

MR SINGH: Was not put to us. Was not put to me sorry.

CHAIRPERSON: Ah there was a discussion of Knox Vault what do you mean it was not put to you?

MR SINGH: No there was – there was discussions relating to Knox Vault that emanated from my testimony at the time.

20 **CHAIRPERSON:** Hm.

MR SINGH: Based on Witness 3's testimony.

CHAIRPERSON: Yes.

MR SINGH: But the details relating to Knox Vaults in terms of the information that you see before you today did not exist on the day that I testified. So when I testified I

was testifying from memory.

CHAIRPERSON: You were testifying from?

MR SINGH: From memory.

CHAIRPERSON: Yes.

MR SINGH: So hence when you asked how many boxes do you have I said I think I had approximately four boxes.

CHAIRPERSON: Hm. My Myburgh.

ADV MYBURGH SC: Yes thank you. Alright well you said you had approximately four but it turns out you had twice
10 the number.

MR SINGH: Point taken – point taken.

ADV MYBURGH SC: Alright then let us go to page 1758. What you will see it is quite useful and handwritten annotations at the top. You count there – there are eight boxes. Those were the numbers of the boxes correct?

MR SINGH: That is correct.

ADV MYBURGH SC: So let us have a look at how this unfolded. If you go to page 1759 you will see that this is the first box that you acquired and it was a transaction that
20 was affected on the 12th of February 2013 and you will see there at page 1759 in the middle of the page ...

CHAIRPERSON: I am sorry Mr Myburgh where do you see the date?

ADV MYBURGH SC: The date DCJ is 1760 at the bottom under Mr Singh's signature.

CHAIRPERSON: Oh yes okay.

ADV MYBURGH SC: That is 12 February 2013.

CHAIRPERSON: Yes okay.

ADV MYBURGH SC: It is a little obscure but it will become clear from the next document.

CHAIRPERSON: Yes. No, no I can see it now.

ADV MYBURGH SC: So we will become familiar with these – these documents as we go along because there is a series of them that are the same. But at 1759 at
10 paragraph 8 you will agree that it reflects then that you acquired a small safe box on that day? Is that correct?

MR SINGH: Sorry that is correct.

ADV MYBURGH SC: And what we see is you made an annual cash payment, is that correct?

MR SINGH: That is correct.

ADV MYBURGH SC: And you will then find the invoice at page 1761 there you will see the invoice is dated 12 February 2013. You may a refundable key deposit and then you rented this small safety deposit box rental and
20 you paid R2700.00. Was that for the year?

MR SINGH: That is correct.

ADV MYBURGH SC: And you paid that in cash?

MR SINGH: That is correct.

ADV MYBURGH SC: If we then go to the second transaction. Now that you find at page 1763 this is now on

the 8th of May 2014 you acquired a large box, correct?
That is reflected at 1763.

MR SINGH: 1763.

ADV MYBURGH SC: Number 1424 and you will see at 1764 on the same day you acquired box number 1425 another large box and in fairness to you I have looked at these documents quite carefully. What happened is that you upgraded the small box to a large box and then you rented another large. Do you recall that?

10 **MR SINGH:** I do not recall that but if that is what you saying Mr Myburgh.

ADV MYBURGH SC: Well let me explain to you if you go to page 1765 which is the invoice relevant to you acquiring these boxes you see that it says the second line – large safety deposit box rental and then upgrade S to L presumably small to large. You see that?

MR SINGH: I do Sir. I do.

ADV MYBURGH SC: So that is May 2014. Then in the next month June 2014 and this is at page 1766 you then
20 rented another large box, you confirm that on the 9th of June 2014.

MR SINGH: I do.

ADV MYBURGH SC: And the invoice you find over the page at 1767 you paid R4900.19 again in cash, correct?

MR SINGH: That is correct.

ADV MYBURGH SC: Then the next transaction was two months later in August 2014 you find this at page 1768 this time you rented another large box and now you had four, correct?

MR SINGH: That is correct.

ADV MYBURGH SC: And you again paid annually in cash, is that right?

MR SINGH: From 1768 that is (inaudible).

ADV MYBURGH SC: Page 1768 it reflects annual cash.

10 **MR SINGH:** Yes.

ADV MYBURGH SC: Did you pay in cash?

MR SINGH: Yes Sir.

ADV MYBURGH SC: And then if you go over the page 1769 you see the invoice again you paid an amount of R4900.19 is that correct?

MR SINGH: That is correct.

ADV MYBURGH SC: Now the fifth transaction occurred two months later in August 2014 could I ask you please documents are out of sequence could I ask you to turn this
20 time to page 1774. So we have dealt with the transaction on the 1st of August 2014 at 1774 there was a second transaction in August 2014 this time on the 15th of August, you see that?

MR SINGH: Yes Sir.

ADV MYBURGH SC: And now you acquired another large

box two weeks or so later. Is that right?

MR SINGH: Yes.

ADV MYBURGH SC: Again you paid annually in cash.

MR SINGH: That is correct.

ADV MYBURGH SC: And you find the invoice at page 1775 and sorry – I am incorrect in fact on this day you acquired two boxes. You go back to 1774 you will see there large number required 2, you see that?

MR SINGH: That is correct.

10 **ADV MYBURGH SC:** And that is why the invoice again settled in cash is much larger this time for R9160.08. You see that?

MR SINGH: That is correct.

ADV MYBURGH SC: So you now had six large boxes. Correct?

MR SINGH: That is correct.

ADV MYBURGH SC: If we could now go to the sixth transaction and that you find at page 1770

MR SINGH: 1770.

20 **ADV MYBURGH SC:** This occurred two months later in October 2014. And here you will see that this time you upgraded to an extra large box. You see that?

MR SINGH: So 1770.

ADV MYBURGH SC: 1770.

MR SINGH: Yes Sir.

ADV MYBURGH SC: You acquired this time an extra large box to go with your six large boxes. You see that?

MR SINGH: That is correct.

ADV MYBURGH SC: Again you paid in cash.

MR SINGH: That is correct.

ADV MYBURGH SC: And it cost you R6008.00 correct?

MR SINGH: That is correct.

ADV MYBURGH SC: So now you had six large boxes and one extra large box and then the next transaction you find
10 at 1772 and this occurred in the next year 9th of February 2015 and this time you acquired for yourself an extra extra large box. You see that?

MR SINGH: That is correct.

ADV MYBURGH SC: And again you paid in cash.

MR SINGH: That is correct.

ADV MYBURGH SC: Now this time you were given a 20% discount, correct?

MR SINGH: That is correct.

ADV MYBURGH SC: Why were you being given discount?

20 **MR SINGH:** Sorry Sir

ADV MYBURGH SC: Do you know why you were being given discounts?

MR SINGH: No Sir. I guess – I do not.

ADV MYBURGH SC: Not perhaps because you were a very good customer?

MR SINGH: It could be.

ADV MYBURGH SC: Alright. Then you see at page 1773 that for that extra extra large box you paid in cash R6740.01. So that is February 2015. Then if I can ask you please to go to page 1776 we see that what happened here.

MR SINGH: 1776.

ADV MYBURGH SC: 1776. Is that in August 2017, you then effectively cancel your facility. Correct?

10 **MR SINGH**: That is correct, sir.

ADV MYBURGH SC: And you returned the keys and you undertake that you no longer require the boxes.

MR SINGH: That is so.

ADV MYBURGH SC: And then what happens, and perhaps not particularly relevant, is the documents that followed at 1770 and 1778, et cetera, they were then credit notes where you returned the keys, you were credited and presumably you were credited because there were pro-rata credit effects. Is that correct?

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

ADV MYBURGH SC: Now Mr Singh, I just want to hand up – I am going to ask you to go to the access records or customer record, visit record. At page 1757. Are you there?

MR SINGH: That is correct.

ADV MYBURGH SC: With your leave Chairperson, could I just hand up a copy of that page with certain handwritten annotations that I have made which will facilitate my examination with Mr Singh? I do apologise for the handwriting but it will ...[intervenes]

CHAIRPERSON: No, that is fine.

ADV MYBURGH SC: It should help everyone.

CHAIRPERSON: That is fine. Thank you.

ADV VAN DEN HEEVER: Is this part of the bundle?

10 **ADV MYBURGH SC:** It is annotations made on page 1757.
I will give you a copy.

ADV VAN DEN HEEVER: [No audible reply]

ADV MYBURGH SC: What I have done here, Mr Singh, is. From the left-hand side you will see that I have boxed in your name. That boxing reflects the time that you were employed at Transnet. On the right-hand side, there is another boxing running from 14 July 2018 up until 20 March 2015. That is the time that Witness 3 said that he worked for you. That is that boxing.

20 Then...[intervenes]

CHAIRPERSON: What is the date with the right?

ADV MYBURGH SC: On the right-hand side, from 18 July 2014 through to 20 March 2015.

CHAIRPERSON: I think what you call boxing on mine ...[intervenes]

ADV MYBURGH SC: When I mean boxing, I have just drawn a line.

CHAIRPERSON: Okay, yes. No, no, no. Now I see. 20 March?

ADV MYBURGH SC: Yes.

CHAIRPERSON: Yes. No, no, no. Now... I thought it was the one above that.

ADV MYBURGH SC: Thank you.

CHAIRPERSON: Okay. So that is 20 March 2015 up to
10 18 July 2014. Is that right?

ADV MYBURGH SC: Witness 3 says that he worked as Mr Singh's driver but the dates that fall within that range are from 18 July 2014 until 9 February 2015, DCJ, in the middle column.

CHAIRPERSON: Yes, I am looking at the middle column. Is the first date column where you have boxed, is the first date 20 March 2015?

ADV MYBURGH SC: Yes, it is.

CHAIRPERSON: Is the last date within the box,
20 18 July 2014?

ADV MYBURGH SC: Yes. Yes, it is. I am sorry. I was just reading it the other way around.

CHAIRPERSON: Yes.

ADV MYBURGH SC: I have started with it ...[intervenes]

CHAIRPERSON: Okay.

ADV MYBURGH SC: ...but yes – hopefully, we – I think we are on the same page.

CHAIRPERSON: Ja, okay. No, that is alright. Okay.

ADV MYBURGH SC: So then Mr Singh, what I have done at the bottom of the middle column, is I have got small. You required that box on the 12th of February 2013. I have put an asterisk because we know that it was then converted. Now I want to follow the highlighting. So on the 1st pink highlight, on the 8th of May 2014, you now
10 acquired two large boxes.

You upgrade the small, you get a large. That is in May of 2014. You then visit that facility twice again in May and then in June you acquire another large box. You visited the facility again in June and July. Two months later in August, you acquire another large box. Correct? On the 1st of August 2014. Do you confirm that?

MR SINGH: Sorry, on the 1st of... Yes.

ADV MYBURGH SC: And then we know, two weeks later on the 15th of August 2014 you acquired two more large
20 boxes. Correct?

MR SINGH: [No audible reply]

ADV MYBURGH SC: And then ...[intervenes]

MR SINGH: Sorry, Mr Chair. This is – as in these dates with these documents?

ADV MYBURGH SC: Yes.

MR SINGH: Okay.

ADV MYBURGH SC: And then two months later – so you visited the facility, you get - in the month of August, you have actually acquired three large boxes. You visited the facility in September and then in October, you get your extra-large box. Correct?

MR SINGH: Oh, that – yes.

CHAIRPERSON: Is that 11 October?

ADV MYBURGH SC: Yes.

10 **CHAIRPERSON**: Okay.

ADV MYBURGH SC: And then you visit the facility in November twice and December and then early in the next year, you now get an extra extra-large box. Do you see that?

MR SINGH: That is correct.

ADV MYBURGH SC: Now I want to just ask you ...[intervenes]

CHAIRPERSON: Hold on, Mr Myburgh. I have been wondering why we – I seem to lose you. The numbers
20 have not been written in the normal sequence. The earlier months and the year are at the top.

ADV MYBURGH SC: Yes, it is the other way around.

CHAIRPERSON: Yes.

ADV MYBURGH SC: So the year comes first.

CHAIRPERSON: Yes. Well, that is fine but one expects

that when you get a document like this and it gives you dates, you expect that the earlier date would be at the top.

ADV MYBURGH SC: Yes.

CHAIRPERSON: Then you go down. This is the other way around.

ADV MYBURGH SC: It is the other way, yes.

CHAIRPERSON: Yes.

ADV MYBURGH SC: So in other words, the document builds up. It reflects at the bottom the first time when
10 Mr Singh went there.

CHAIRPERSON: Yes.

ADV MYBURGH SC: And at the top the last time he went there.

CHAIRPERSON: Yes, yes.

ADV MYBURGH SC: So Mr Singh, I just want to – presumable on these days when you acquired these boxes, you had with you the things that you wanted to store in them?

MR SINGH: That would be a reasonable assumption but I
20 do not recall.

ADV MYBURGH SC: So can you remember what caused you in May of 2014 to get two large boxes?

MR SINGH: Mr Chair, maybe – I do not recall the exact reasons as to why these events occurred or why these boxes increased each and every single, let us call it,

highlighted item. But Mr Chair, again, as I indicated previously. These – the contents of these boxes related to personal items, documents and effects.

During this period of time, Mr Chair again, as it relates to my personal affairs, I - my ex-wife were going through a separation process. So to the extent that I needed to move stuff from my residence at the time, this was then placed in these boxes.

ADV MYBURGH SC: So in August of 2014 when you take
10 another two boxes, can you remember why you did that?

MR SINGH: Look, Mr Chair, as I said. In terms of the exact nature of why these occurred. I do not recall why that happened in August 2014 or October 2014 but I understand and know that during this period of time my visits there and the increase in the number of boxes and the size of the boxes related to me putting in my personal effects and documents and other information that related to me moving out of my primary residence at the time.

ADV MYBURGH SC: And then, why the need to get an
20 extra-large box and then a need to get an extra extra-large box?

MR SINGH: So, Mr Chair, again. I will come back to the point of saying that it would be as it relates to the moving out process.

ADV MYBURGH SC: So this evidence you did not give

previously that relates to the moving out process.

MR SINGH: Yes, Mr Chair.

ADV MYBURGH SC: I mean, previously you said there are four boxes and they are easy to explain. It is one for each of the family members.

MR SINGH: Well, Mr Chair, as I have said to you previously. These matters are private and confidential matters Mr Chair but - yes, I did not explain it before.

CHAIRPERSON: No, but Mr Singh. If the need to acquire
10 boxes had something to do with you having to take some personal items that had been kept in your house which you had decided to put in at Knox Vault, you would not have made it to explain anything. You would simply have said: You know, I made a decision to put things, some items at Knox Vault that I have kept in the house.

MR SINGH: Look, Mr Chair, that was the – that was the line of my responses when I was here the previous occasion. Now I am presented with substantially more information relating to the nature, the extent and the timing
20 of the – for my transactions with Knox. So I am offering you an explanation relating to the information that is presented to me.

CHAIRPERSON: H'm. Mr Myburgh.

ADV MYBURGH SC: Yes, thank you. Could I ask you, please, to go to page 1759?

MR SINGH: 1759...

ADV MYBURGH SC: What you will see and I think you go
...[intervenes]

CHAIRPERSON: It is one, seven...?

ADV MYBURGH SC: 1759.

CHAIRPERSON: Ja, okay.

MR SINGH: Just give me on second Chair to page back.

ADV MYBURGH SC: Well, I come back to that highlighted
document... Now you gave evidence the last time and it is
10 borne out by this page that the – the width and the depth
of all of your boxes were the same. So you will see, if you
look at small all the way through to extra-large, the width
and the depth is the same. 241 mm in width and the depth
445 mm. So the width of about 24 and depth of 45.5.
Correct?

MR SINGH: That is correct.

ADV MYBURGH SC: The only difference was in the
height. So the small box was very short and so it goes
from 88 to 110 to 133, 260 for an extra-large and then an
20 extra extra-large 520. Do you see that?

MR SINGH: That is correct.

ADV MYBURGH SC: So if you could just have a look at
one of these file boxes here, Mr Singh and I have put up -
a file box in width is 29 cm. These... were 5 cm narrow
than that. A fire box is also 45 cm in depth. Al you have

to work out is what really would the accumulative height been of the boxes that you rented.

Well, we know that you had five large ones and that which was 30 cm and that you had one extra-large and another extra extra-large. When I have added that up, the total height would have been about 160 cm which would be the equivalent of five file boxes. So if you look from here, this is three.

You will put another two on top of that, it would
10 really be the area, roughly, that you rented. Do you see that?

MR SINGH: There is four...

ADV MYBURGH SC: I am looking from here.

MR SINGH: Oh.

ADV MYBURGH SC: One, two, three. We can – I cannot put two there because it is too high. I cannot reach it. Ja, so it would be five. You get a sense then of how much space it was. Just to give you an example. Although these are a little broader, you can, as you know, store five lever
20 arch files in each one of these boxes. So in five, you can store 25 lever arch files and you can store 500-pages in a lever arch file, as you would know. 12 500 half pages. It is a lot of space. You can get a lot of things in there, not so?

MR SINGH: That is correct.

ADV MYBURGH SC: The last time ...[intervenes]

CHAIRPERSON: Mr Myburgh, whether it is not necessary for the record just to indicate what the size of each file is in terms of height so that when you – when somebody reads the record and you say five files they have an idea how high they would go.

ADV MYBURGH SC: Yes.

CHAIRPERSON: Or if you have got the number ready, just read it into the record.

ADV MYBURGH SC: I have done a rough calculation.

10 **CHAIRPERSON:** Ja.

ADV MYBURGH SC: Let me – perhaps during the break ...[intervenes]

CHAIRPERSON: H'm, okay.

ADV MYBURGH SC: ...I will make sure that it is completely accurate.

CHAIRPERSON: Okay.

ADV MYBURGH SC: And I will also give Mr Singh's legal representative an opportunity to confirm it.

20 **CHAIRPERSON:** Ja-no, that is fine. It is just that sometimes one forgets these things because one is ...[intervenes]

ADV MYBURGH SC: Certainly.

CHAIRPERSON: ...and somebody is reading the record without – has no idea how high the files were. Okay alright.

ADV MYBURGH SC: Thank you. Now Mr Singh, the last time we spoke about how much this was costing you. What we have seen is that a large box cost about R 4 000,00 a year, an extra-large one about R 5 000,00 and an extra extra-large one, I think, in the order – in the region of R 10 000,00. So on my calculations this was costing you a lot, about R 35 000,00 a year. Does that recall roughly with your recollection in studying of these documents?

MR SINGH: I would take it as correct.

10 **ADV MYBURGH SC:** And all of that money you paid here in cash. Where did you get that cash from, incidentally?

MR SINGH: Mr Chair, as I have testified. The boxes also contained around R 200 000,00 in cash. So that was the cash that I ...[intervenes]

CHAIRPERSON: Sorry, just repeat that sentence, please.

MR SINGH: I said, as I have testified before, the boxes did contain cash. So I used some of that cash to pay for these boxes and I also, obviously, replenished that cash from time to time.

20 **CHAIRPERSON:** H'm

ADV MYBURGH SC: Now, Mr Peter, when he took over from you as the Group Chief Financial Officer. Do you know that he also, him and/or his mother acquired boxed at Knox Vault?

MR SINGH: I did not know that.

ADV MYBURGH SC: In fact, he and/or his mother had seven large boxes, a similar number to you. I assume you cannot comment or would you describe that to a coincidence?

MR SINGH: I cannot comment.

ADV MYBURGH SC: Now if I could take you back to this page 757 with my annotations. If you have a look in the middle column, that box that I have done in the middle, running from 18 July 2014 up until 20 August 2015. All of
10 those days, except for one, was a weekday. The day that was on a weekend, as I have it, is the 11th of October 2014. Perhaps you could just mark that.

MR SINGH: Yes...

ADV MYBURGH SC: The rest of the days were all during the week. So there are nine days then that fall within that range, weekdays. What I wanted to put to you, Mr Singh, is. What I do not follow is this. Your own evidence and you have confirmed Witness 3's statement when Witness 3 says, how things would work on a normal working day is, I
20 would go and I would go and collect Mr Singh at his home. Where was that? In the Midrand?

MR SINGH: Yes.

ADV MYBURGH SC: Alright. And I would take him to the Carlton Centre and I would drive him around the whole day and then I would take him back and you worked, it seems,

long hours. So seeing that you went to Knox Vault during this period, nine time during the week, surely Witness 3 must have taken you there. Who else could have taken you there?

MR SINGH: Mr Chair, also my own testimony and my testimony of Witness 3, he also testified that my personal vehicle was parked at the basement of the Transnet offices during the week and that is the vehicle that I would have used to visit Knox Vault during the period of these days
10 that would appear to be during the week.

ADV MYBURGH SC: Sorry. Mr Singh, I thought you might say that but that is not what the evidence reflects. The evidence reflects, because you remember this arise in the context of the Three Rivers and the maroon bag of cash.

And the evidence that was given, you confirmed this, is that occasionally what you would do is you would drive your blue M3 BMW to the Carlton Centre on a Monday, it would stay there in the basement, it might be washed on a Friday and then you would drive it home. Not
20 all the time. Occasionally.

No evidence has been given in these proceedings that you ever during the week drove yourself anywhere. In fact, you confirmed Witness 3's evidence.

MR SINGH: Mr Chair, I – this is – I am at a loss
...[intervenes]

ADV MYBURGH SC: Yes.

MR SINGH: ...in terms of responding to this because
...[intervenes]

CHAIRPERSON: Well, before you respond, I must just tell
you that my recollection too is that you said that you would
drive yourself during the weekends which I understood to
confirm that generally speaking, I would not say there
would be no exception, but generally speaking, during the
week, when it is doing working hours you would be driven
10 by your driver.

MR SINGH: Now that is my point Mr Chair.

CHAIRPERSON: Ja.

MR SINGH: Generally speaking, as you had said.

CHAIRPERSON: H'm.

MR SINGH: Nine times in a period of a year is generally
speaking.

CHAIRPERSON: H'm?

MR SINGH: But I may have also driven myself.

CHAIRPERSON: H'm? So you mean you ...[intervenes]

20 **MR SINGH:** Okay let me put it to you this way Mr Chair.

CHAIRPERSON: Ja?

MR SINGH: Had I known that I needed to – that I have
driven myself occasionally during the week at the time, I
would have said so.

CHAIRPERSON: Ja.

MR SINGH: Because Mr Chair, when I was confronted with Witness 3's statement it was done on the basis that generally that is what happened.

CHAIRPERSON: So is your version that, generally, when you would allow your driver to drive you to different places but when it came to going to Knox Vault, you would make sure that he did not drive you there. You would drive yourself there?

MR SINGH: That is correct, Mr Chair.

10 **ADV MYBURGH SC:** So you say – because this is an eight month period – you say that in an eight month period you drove yourself there nine times during a normal business day?

MR SINGH: Yes, Mr Chair.

ADV MYBURGH SC: I see. And you see the times?

MR SINGH: I do see.

ADV MYBURGH SC: Opposite 18 July 2014, two o'clock, then one o'clock, eleven o'clock. Right in the middle of the business day. Correct?

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

CHAIRPERSON: Why did you not want your driver to know that you had reason to go to Knox Vault?

MR SINGH: Look, Mr Chair, I think I did testify previously that these were personal matters and from my perspective I did not really want him to be part of these matters.

CHAIRPERSON: Well, if he was not going to see what was in the box, he would just drive you there. That is all. And remain in the car. There was nothing, you know, he was not going to go any personal matters, other than that you had some business to do at Knox Vault. Why did you not want him to know that you had some business to do at Knox Vault?

MR SINGH: No, Mr Chair, as I say it was a personal decision that I made at the time.

10 **CHAIRPERSON:** What did you say to the proposition that you may have – you might not have wanted him to see that because you had something to hide about your visits to Knox Vault?

MR SINGH: No, Mr Chair. I do not know if you ask me to speculate.

CHAIRPERSON: No, no, no. I am saying if that proposition is put to you, you say – because remember his version is. He would drive you to the Gupta residence. You would get cash there. And then he would drive you to
20 Knox Vault where you would take that cash. Now, from what he said, it does not appear that that would be legitimate cash.

So I ask the question. If that was not legitimate cash, maybe that might have been the reason why you would have, on your version, decided that whenever you

went there you did not want him to know. That is assuming your version is true.

MR SINGH: No, Mr Chair that is not the reason.

CHAIRPERSON: H'm. What is the reason?

MR SINGH: Mr Chair, as I said it was personal matters that I decided to deal with on my own.

CHAIRPERSON: Ja.

MR SINGH: And that was the reason.

CHAIRPERSON: Mr Myburgh.

10 **ADV MYBURGH SC**: Yes, thank you. Mr Singh, can I ask you, please, to pick out Exhibit BB-14(b)?

MR SINGH: [Speaker moves away from microphone – unclear]

CHAIRPERSON: Have you got the page number Mr Myburgh?

ADV MYBURGH SC: Yes, if I could ask you, please, to turn to page 127?

MR SINGH: [Speaker moves away from microphone – unclear]

20 **ADV MYBURGH SC**: Go to page 127.

MR SINGH: 127?

ADV MYBURGH SC: Yes, the numbers are on the right-hand side.

MR SINGH: The red numbers?

ADV MYBURGH SC: No, there is only black numbers on

this if we are in the same file.

ADV VAN DEN HEEVER: Chairperson, sorry to interrupt. We just trying to establish, at this stage, my attorney and myself, if this bundle was in fact emailed to us and when it was so that so that we can follow the evidence or maybe my learned friend can assist us just with the date on which this bundle was mailed to us so that we can ...[intervenes]

ADV MYBURGH SC: Well... I do not know when it was mailed to my learned friend but of course she did have it
10 because this is Witness 3's affidavit that Mr Singh was examined on extensively at the last sitting.

CHAIRPERSON: Ja, I think that should help her.

ADV VAN DEN HEEVER: That helps us.

CHAIRPERSON: Ja.

MR SINGH: So this file only has red numbers ...[intervenes]

ADV MYBURGH SC: Alright ...[intervenes]

MR SINGH: For ...[intervenes]

ADV MYBURGH SC: Do you have my – can I ask you to
20 go to page 127? Yes.

MR SINGH: Is that the red number?

ADV MYBURGH SC: Okay. Well, if that is a red number, fine.

MR SINGH: Ja, sure.

ADV MYBURGH SC: Is that a page from Witness 3's

affidavit with the heading in the middle, COP Services to Anoj Singh?

MR SINGH: That is so.

ADV MYBURGH SC: Alright. Could I take you, please, to paragraph 31?

MR SINGH: [No audible reply]

ADV MYBURGH SC: Okay.

10 “On a normal working day, I used to pick Mr Singh up at his home in the morning around 06:30 in Wendywood and from there, driving to the Carlton Centre.

After work, I would drop him off at his home again...”

You confirm that in your earlier testimony, correct?

MR SINGH: That is correct.

ADV MYBURGH SC: The next paragraph 32:

20 “During the course of the day, I would drive him to meetings or to whichever destination he would instruct me...”

Do you see that?

MR SINGH: That is correct.

ADV MYBURGH SC: You can confirmed that the last time, correct?

MR SINGH: If you say so. I do not recall.

ADV MYBURGH SC: And if you go over the page to 128 at 36, paragraph 36:

“In instances, Singh would drive to the office with his private vehicle, a blue BMW M3 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: That is correct.

10 **ADV MYBURGH SC:** And in fact you confirm that on another occasion in dealing with the Three Rivers Lodge. Do you recall that?

MR SINGH: I do, Sir.

ADV MYBURGH SC: So it certainly does not appear from this and from your confirmation of these paragraphs that you drove yourself during ...[intervenes]

ADV VAN DEN HEEVER: Chairperson, before my learned friend continues, with the greatest of respect to him, what he is trying to put does not exclude what the witness gave
20 evidence. So what Mr Singh's version is, that he occasionally used his own vehicle to do certain things, is not excluded by what the witness said.

CHAIRPERSON: Well, let Mr Myburgh put the question, let Mr Singh answer and we take it from there.

ADV VAN DEN HEEVER: Thank you, Chairperson.

ADV MYBURGH SC: So perhaps I could put it most easily this way. Mr Singh, when you confirmed these paragraphs in your evidence you made no reference to the fact that you would occasionally driver yourself, correct?

MR SINGH: That is correct, Mr Chair.

ADV MYBURGH SC: Yes.

MR SINGH: But that was on the basis, Mr Chair, that we were talking about generally.

ADV MYBURGH SC: Mr Singh, I am still ...[intervenes]

10 **CHAIRPERSON:** No, Mr Singh, if the position was that sometimes you did drive yourself during the week surely you would have said so because otherwise the statement that during the week he would drive you around and your car will be parked the whole week in the basement and you would take it on Friday home and come back with it on Monday would not be correct. You understand?

MR SINGH: I take your point, Mr Chair.

CHAIRPERSON: Yes, okay, alright.

ADV MYBURGH SC: Alright and then there is just two last
20 questions that I want to ask with reference to my hand annotations.

MR SINGH: Before we move off the dates, can we ask exactly what dates were these?

ADV MYBURGH SC: What days of the week?

MR SINGH: Yes.

ADV MYBURGH SC: We can do that. What I asked one of my team members to do yesterday was to determine if any of these days fell within the weekend and what I was advised is that the only weekend day was the 11 October 2014.

MR SINGH: It will be interesting to see the rest of the days.

ADV MYBURGH SC: I beg your pardon?

MR SINGH: I said it will be interesting to see the rest of
10 the days would look like.

ADV VAN DEN HEEVER: I think the witness, Mr Singh and Mr Myburgh is speaking at cross purposes about what Mr Singh is referring to as what days.

CHAIRPERSON: Yes, were you, Mr Singh, wanting to know which of these days would be Monday or Tuesday or Wednesday?

MR SINGH: Yes.

CHAIRPERSON: Not just whether it is a weekday or a weekend, not just that?

20 **MR SINGH:** Yes, Mr Chair.

CHAIRPERSON: Okay, so – or you wanted to know that plus whether it was a Tuesday or Monday or Wednesday or Thursday as well?

MR SINGH: I think, Mr Chair, just the days of the week would be sufficient.

CHAIRPERSON: Ja, what day each one is?

MR SINGH: Yes.

CHAIRPERSON: Oh, okay. Well, maybe one should ask why would that matter because we know that Mr Myburgh asked you the questions because the evidence was that during the week your car would be parked at the basement and the driver would drive you to meetings and drive you around. Why would that – why would knowing which day of the week each date be important or relevant?

10 **MR SINGH:** Well, Mr Chair, to – so my version is, no matter which day of the week it was, I drove to the vault.

CHAIRPERSON: Ja.

MR SINGH: On witness 3's version and based on the evidence that I led before, you are saying that I did not – it have would not been probable that on a weekday I would have driven myself. So a weekday also is a Monday and is also a Friday which meant I had access to my car on a Monday and a Friday based on the version that we had just discussed.

20 **CHAIRPERSON:** Oh, okay, so ...[intervenes]

MR SINGH: So if it is on a Monday and Friday then it concurs with let us call it the evidence of witness 3.

CHAIRPERSON: Would it be about the car ...[intervenes]

MR SINGH: The car.

CHAIRPERSON: Being used on ...[intervenes]

MR SINGH: On a Monday or a Friday.

CHAIRPERSON: Yes, well - no, I understand what you say but except that my recollection is that the dates that appear at page 1757, the information that appears there shows that it was during the date as opposed to after hours or to early in the morning, so it would have been during the time when on witness 3's version the car was parked. So I understand you to be suggesting that look, witness 3 says on Fridays I will take the home.

10 **MR SINGH:** But, Mr Chair, equally, there could be many reasons as to why. I could either be leaving the office early, I had gone out for – okay, I cannot say I went out for lunch because on his version I never went out for lunch without him. I always went out with him. So equally so, Mr Chair, I could have been leaving the office early, let us say at 14.26, for example, if it was a Friday, I could have been leaving the office early. Or if it was on a Monday, for example, and it was ...[intervenes]

CHAIRPERSON: If you were leaving 10.30.

20 **MR SINGH:** Yes, if it was 10.55 on a Monday I could equally be coming late to the office or I could have had meetings and then was coming to the office. So those are plausible explanations as well.

CHAIRPERSON: Mr Myburgh?

ADV MYBURGH SC: Just so that I understand – as I

understand your evidence, on a Monday you could go to work – I mean, you seem to work long hours.

MR SINGH: That is correct.

ADV MYBURGH SC: In fact witness 3 says that he fetched you at what was it, half past six in the morning.

MR SINGH: Around that time.

ADV MYBURGH SC: And he would take you back home and often that would be at ten o'clock or even later.

MR SINGH: Not – well...

10 **ADV MYBURGH SC:** Or sometimes, I beg your pardon. When would you usually get home on a normal working day?

MR SINGH: On a normal working day probably around seven.

ADV MYBURGH SC: Seven, so basically you were on duty from seven to seven.

MR SINGH: That is correct.

ADV MYBURGH SC: And as I understood your evidence, on a Monday you would not get a late start, you would
20 drive your own car occasionally to work. Presumably you left about the same time.

MR SINGH: I could not hear you, Sir?

ADV MYBURGH SC: Sorry?

MR SINGH: I said I could not hear you there.

ADV MYBURGH SC: As I understood the evidence, if you

decided to take your BMW to work on a Monday, presumably you would leave at the same time. There would no reason to go to work late.

MR SINGH: Unless there was a meeting or...

ADV MYBURGH SC: Yes.

MR SINGH: Unless I had a personal commitment, or...

ADV MYBURGH SC: Sure. And then, of course, the same thing applies when you drive back. Just because you are driving your own car would not mean that you would leave
10 early, you would see out the business day in the ordinary course, correct?

MR SINGH: That will be correct.

ADV MYBURGH SC: Alright. Now your earlier testimony also gave rise to the need to get another – a further affidavit from witness 3. Could I ask you please to go to page 1919?

MR SINGH: Of which bundle, Sir?

ADV MYBURGH SC: It is bundle 5C.

ADV VAN DEN HEEVER: Chairperson, we again want to
20 place on record – I understand what my learned friend says that these documents – but we are working off bundles that is disclosed to us. We come here and we would like to follow the evidence based on bundles that were disclosed. That is why my attorney through the course of the week and even last week said please forward us the reference

bundles. It is not good enough to say oh, but we sent you an email with the witness' statement, we would like to follow the evidence so that we know what is happening with reference to a reference bundle.

CHAIRPERSON: Well, I do not know what Mr Myburgh has to say but I do know that evidence leaders when they, as the witnesses comes here, they bring a lot of files belonging to that work stream even when they might not necessarily need some but just to have them at hand. Mr
10 Myburgh, do you want to say anything?

ADV MYBURGH SC: Well, I do know that my learned friend has received an electronic copy of EXHIBIT 23. It may be when I refer to 5B or 5C, it is not easy for her to make that delineation. But I am referring to page 1919 of EXHIBIT 23. Mr Singh, are you there?

MR SINGH: I am, Sir.

CHAIRPERSON: Did you say 1919?

ADV MYBURGH SC: Yes and that, DCJ, is in your bundle 5C.

20 **CHAIRPERSON:** Okay.

ADV MYBURGH SC: So if you go to paragraph 5 and page 1920, witness 3 says:

“In summary Mr Singh probed the testimony relating to me having identified Mr Matshela Koko and Ms Linda Mabaso at the Gupta residence in Saxonwold

during the period July 2013 to December 2013 whilst I was seconded to the former Minister Mr Malusi Gigaba during his tenure at the Department of Public Enterprises. Mr Singh states that I recognise Mr Koko and Ms Mabaso in 2013 whilst they were not public figures and contends that to be anomaly in my evidence.”

Witness 3 goes on:

10 “I wish to clarify the I misunderstanding that is seemingly being created by Mr Singh in this regard. During my tenure as close protection officer to Mr Gigaba during the period July 2013 to December 2013 I did not know who Mr Koko and Ms Mabaso were at the time. Further, my evidence has not been that I knew who these individuals were in 2013. I only became aware of who they are at a later stage and that point in time when I saw these individuals I recalled that I had seen them on previous occasions and that this during my tenure on the secondment at
20 DPE whilst we were at the Gupta residence with Mr Gigaba.”

Paragraph 8:

“At the time when my secondment at the DPE came to an end I returned to Transnet where I was redeployed as a security manager of Transnet

offices in Carlton Centre in January 2014. July 2014 I was assigned to the office of the Group Chief Financial Officer to perform driver and close protection officer duties until the end of February 2019. During my tenure as close protection officer in the office of the GCFO which is located in the executive for Transnet I came to know of number of individuals either within Transnet or who would frequent Transnet's offices. Further, during the

10 course and scope of my duties as a close protection officer I was exposed to a number of individuals who may be regarded as high profile individuals."

Paragraph 9:

"Regarding Mr Koko, I confirm that I did not know who he is when I saw him at the Gupta residence in 2013. I only began to know who Mr Koko is when Mr Singh was seconded to Eskom during on or about July or August 2015. I provided close protection and driver services to Mr Singh during

20 his secondment at Eskom for a period of approximately two months. It was during this period when I saw Mr Koko at Eskom and I recalled that I had seen him on a previous occasion in 2013 at the Gupta residence in Saxonwold during my secondment."

10:

“Regarding Ms Mabaso I confirm that I did not know who she is when I saw her at the Gupta residence in 2013. When she was appointed as Chairperson of Transnet 2014 I recognised her as someone I had seen before. I recalled that I had seen on a previous occasion in 2013 at the Gupta residence in Saxonwold during my secondment at the DPE.”

Paragraph 11:

10 “I hope the above clarifies this aspect of my evidence before this honourable Commission which evidence I maintain is to the best of my knowledge true and correct.”

Do you have any comment on that?

MR SINGH: Yes, Mr Chair. Mr Chair, this was requested in terms of clarification based on, as Mr Myburgh has said, relating to an anomaly that I had raised in witness 3’s evidence and I would want to say that, Mr Chair, the response seeks to amplify rather than clarify it in my view
20 in that witness 3 now confirms that he had not known either of those individuals in 2013 or who they were in 2013, yet recognising a year and maybe two years later having seen them once, he immediately recognises them as the same individuals that he had seen once at the Gupta residence and I submit, Mr Chair, that that is highly

improbable and I mean, in my case, I do not probably remember people that I saw a week ago and yet witness 3 has the ability to remember people that he has not even spoken to on one occasion but just seen on one occasion but recall them a year to two years later.

ADV MYBURGH SC: Alright, anything else?

MR SINGH: No, Sir.

CHAIRPERSON: It seems a fair point to make, Mr Singh.

MR SINGH: Thank you, Chair.

10 **ADV MYBURGH SC:** I want to turn to another topic and that is your bi travel, personal, private travel. Now I certainly do not intend to re-traverse in any detail the ground that was traversed with you before my colleague Mr Seleka in the Eskom stream but I just wanted to ask you one or two questions and that is about that before I get onto what I want to deal with. Travel Excellence, you dispute that it was the travel agent used by Mr Essa and Sahara Computers.

ADV VAN DEN HEEVER: Chairperson, I am going to
20 object. My learned friend, if he says that Mr Singh disputes that he needs to refer to the evidence where he disputed that.

CHAIRPERSON: No, he is asking it whether he disputes it.

ADV VAN DEN HEEVER: Oh.

MR SINGH: Mr Chair, I cannot, it is not within my knowledge to know whether Mr Essa or Sahara used them.

CHAIRPERSON: Yes.

ADV MYBURGH SC: And how is it that you came to use this particular travel agent? I mean, what we know is it is a small – a one woman show, really, that was joined – Ms Suleiman joined them. Now is it that you picked this travel agency? It is just...

MR SINGH: Mr Chair, as I think I testified before, before
10 the Commission, I do not exactly recall how I ended up with them so that was my testimony at the time, Mr Chair.

ADV MYBURGH SC: So insofar as it is found that Ms Suleiman's evidence is accepted, that she was Mr Essa's travel agent, she was Sahara Computer's travel agent, your evidence is just coincidental that you happened to land up at the same travel agent.

MR SINGH: That is correct, Sir.

ADV MYBURGH SC: And you cannot tell us how that came about?

20 **MR SINGH:** No, Sir.

ADV MYBURGH SC: Now do you dispute Ms Suleiman's evidence that your flights were allocated to Mr Essa's account?

MR SINGH: Yes, Sir.

ADV MYBURGH SC: You do dispute that?

MR SINGH: Yes, Sir.

ADV MYBURGH SC: Did you have yourself any credit facility at Travel Excellence?

MR SINGH: Well, Mr Chair, based on the testimony that we provided previously, I was of the view that I was booking tickets on my own, which I then paid for on my own. I had no recollection or association with the fact that the accounting and administration of Travel Excellence was in fact allocating my tickets to Mr Essa's account.

10 **CHAIRPERSON:** Well, maybe I will ask this question in response to Mr Myburgh's question whether you disputed that Travel Excellence would allocate your bookings to Mr Essa's account, you said yes, you would dispute that. I am not sure whether you truly want to dispute that simply because what he is talking about, Mr Myburgh, is the evidence from the two people from – oh well, the one person from Travel Excellence who was saying internally at Travel Excellence this is what we used to do. So now you did not work for Travel Excellence, how would you know
20 that that is not how they did it?

MR SINGH: From that perspective, I accept that.

CHAIRPERSON: You cannot dispute that, all you might be able to say is as far as you are concerned they had no reason to do that.

MR SINGH: That is correct, Sir.

CHAIRPERSON: But that they factually did that you cannot dispute.

MR SINGH: No.

CHAIRPERSON: Ja, okay. Mr Myburgh?

ADV MYBURGH SC: Yes, thank you, because her evidence was that she considered Mr Essa to be the guarantor of your ticket but I think in line with what the DCJ has asked you, you would say well, I cannot dispute that.

10 **ADV VAN DEN HEEVER:** Chairperson, sorry, I do not want to interrupt Mr Myburgh.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVER: But he just indicated that her evidence was – and I do not recall that she gave evidence or is a referring to the contents of her statement?

CHAIRPERSON: I think he is referring to the contents of the affidavit because obviously the contents of an affidavit is evidence, it is just evidence on affidavit. I think that is what he means, ja.

20 **ADV MYBURGH SC:** Yes.

ADV VAN DEN HEEVER: Because on the last occasion we were made aware that the witness might be called.

CHAIRPERSON: Ja, yes.

ADV VAN DEN HEEVER: I just want to make sure that the witness has not been called in the interim and we were not

given notice of that.

CHAIRPERSON: No, no, she has not been called in the meantime, ja.

ADV MYBURGH SC: Yes, well, Mr Singh, you have the question.

MR SINGH: I am sorry?

ADV MYBURGH SC: Her evidence or her affidavit – her affidavit reflects that she considered Mr Essa to be the guarantor of your tickets.

10 **MR SINGH:** That is correct, Sir.

ADV MYBURGH SC: You cannot dispute that but you say certainly I was – as far as I am concerned, I was transacting with them completely independently.

MR SINGH: That is correct.

ADV MYBURGH SC: So I would like to just hand up a schedule, if I may, this one is slightly better arranged than the previous one, Chairperson, which I would like to use as a roadmap for my examination of Mr Singh. There is a lot of cross-referring and documents are in different places,
20 this would make things easier. I do not suggest that it has any evidentiary weight.

CHAIRPERSON: Yes.

ADV MYBURGH SC: It is simply a means to examination.

CHAIRPERSON: Yes, just for convenience. Okay.

ADV MYBURGH SC: I want to – perhaps I can just

explain this document, Mr Singh, and if you have any questions, please ask me. I have listed six trips which I want to question you on and if we take the first trip, 30 April to 2 May 2014 (BB23, page 26 para 113.3) that is the reference to the 10.6. You will remember in the 10.6 you were asked to answer about various trips.

CHAIRPERSON: I am sorry, Mr Myburgh, I was looking at the document you have just handed up.

ADV MYBURGH SC: Yes.

10 **CHAIRPERSON:** On the file should we go to a particular page?

ADV MYBURGH SC: I have not gone to any page yet.

CHAIRPERSON: Not yet. Oh, okay.

ADV VAN DEN HEEVER: Chairperson, maybe it would be convenient if the witness is referred to his actual affidavit that collates with the 10.6 because it would be easier for all of us to follow.

ADV MYBURGH SC: Ja.

CHAIRPERSON: Okay, that is fine.

20 **ADV MYBURGH SC:** I will get there, I am explaining what it deals with. So 30 April to 2 May, BB23, page 426, paragraph 113.3, that was the reference in the 10.6 and then page 480, paras 52 to 53, that is your answer.

In the column present or flew with, that is the allegation made in the 10.6 that present in Dubai at this

time were Gupta and Essa. Where Ms Suleiman's affidavit deals with the trip, I have paraphrased what she says and then in next column, AS, those are your initials, I have paraphrased what your response was and then really it take me to what I am going to ask you about and that is documents in BB23. So I am really trying to tie the documents to each of the trips.

So I am going to deal with the 30 April to 2 May 2014 trip, then the 3 June to 8 May trip, 7 to 12 August trip, 6 to 9 November trip, 25 February to 1 March trip and 11 to 15 June trip.

Now what I want to just ask you, as I understood your evidence that you gave when you were examined – when Mr Seleka was leading you, as I understand it, you say that all of these trips but for number two were private and personal trips, is that correct?

MR SINGH: That is correct.

ADV MYBURGH SC: Now Mr Seleka did not press you on that but I want to ask you – I mean, what do you mean that they were private and personal trips? What is it that you were doing there? And now we are talking about trips one ...[intervenes]

CHAIRPERSON: I think just to be accurate, I think he did ask him the same question at some stage or another, say please clarify private and personal.

ADV MYBURGH SC: Alright.

CHAIRPERSON: But I think you can [inaudible – speaking simultaneously]

ADV MYBURGH SC: Well, DCJ you will ...[intervenes]

ADV VAN DEN HEEVER: Chairperson, maybe just again for the record. At the time Mr Seleka left it there, Mr Singh made it clear that it is private what his business was there. So that it is just clear for the record and it was ...[intervenes]

10 **CHAIRPERSON:** Oh, ja, maybe Mr Myburgh means that the mere fact that Mr Singh says it is private should not end the question.

ADV MYBURGH SC: Yes.

CHAIRPERSON: So I think – I think – ja, you may proceed, Mr Myburgh.

ADV MYBURGH SC: Thank you. I want to know – my question simply is, what were you doing there?

MR SINGH: Sorry, Sir?

ADV MYBURGH SC: What were you doing there?

20 **MR SINGH:** I was on private business, Sir.

ADV MYBURGH SC: Private business? What business?

MR SINGH: Mr Chair, these were private trips that I was engaged on to either holidays or vacation in some cases.

ADV MYBURGH SC: Sorry?

MR SINGH: Holidays or vacations in some cases.

ADV MYBURGH SC: Private business and holidays are different things, Mr Singh.

MR SINGH: Ja ...[intervenes]

ADV MYBURGH SC: I need to – and I would like you to be – we need to be clear here. What is it that you were doing? You said that trips one, three, five – sorry, one, three, four, five and six were private and personal, they were not business trips. Now what I want to know, what were you doing there?

10 **MR SINGH:** So let me clarify, Mr Chair. When I say they were not business trips, Mr Chair, they were not business trips as it relates to official travel for Transnet purposes. So they were private in that sense. Does that ...[intervenes]

ADV MYBURGH SC: Fine, that I understand. Now I want to know what were you doing there? So, I mean, it is not a difficult question. It is private, yes, I was on holiday. It was private, I went and rode a mountain bike race or I played golf. What is it that you were doing there?

20 **MR SINGH:** So then subsequent you asked what were you doing and I then responded and said I was there on private – as I said, I was there was on private and private – it was my private travel and you asked what did I do and then I said at some stages I was there for vacation.

ADV MYBURGH SC: Yes?

MR SINGH: So...

ADV MYBURGH SC: Holiday?

MR SINGH: On holiday.

ADV MYBURGH SC: Right?

MR SINGH: Okay? On some occasions I was there to –
how can I say - to expand my personal network within the
UIE.

ADV MYBURGH SC: Expand?

MR SINGH: My own ability to, so it was my own private
10 business.

ADV MYBURGH SC: I do not understand.

MR SINGH: So Mr Chair, this ... these line of questioning
was put to me in the parliamentary inquiry, and at that
stage Mr Chair, I explained to the parliamentary inquiry
that at that stage I was engaging with the UIE individual,
and we had common business objectives at the time.

He sought advice, and I sought advice and we
mutually collaborated. That was the reasons for these
trips.

20 **CHAIRPERSON:** So you were undertaking these trips
because there was an individual in Dubai with whom you
were exploring business opportunities?

MR SINGH: That is correct.

ADV MYBURGH SC: So who is this individual?

MR SINGH: Mr Chair, I disclosed the name of the

individual at the parliamentary inquiry. His name was Mr Albulashi. .

ADV MYBURGH SC: Sorry?

MR SINGH: Mr Albulashi.

CHAIRPERSON: You want to spell that for us?

MR SINGH: ALB, if I am correct. ALBULASHI.

CHAIRPERSON: ALBU?

MR SINGH: L.

CHAIRPERSON: L.

10 **MR SINGH:** SHI.

CHAIRPERSON: SHI.

MR SINGH: That is correct.

CHAIRPERSON: Is that the surname or the name?

MR SINGH: That is the surname.

CHAIRPERSON: Okay, have you got the name?

MR SINGH: Mr Chair, I will have to check my record.

CHAIRPERSON: Yes.

MR SINGH: And provide that to you.

20 **CHAIRPERSON:** Okay. Oh, the initials, you remember the initials maybe?

MR SINGH: No sir, I think it was M.

CHAIRPERSON: M?

MR SINGH: M.

CHAIRPERSON: Okay.

ADV MYBURGH SC: So who did Mr Albalushi work for?

MR SINGH: Mr Chair, he is a private citizen. He has his own business interests.

ADV MYBURGH SC: So when you were expanding your network as you put it in the UAE, did it extend beyond Mr Albalushi? You had meetings with other people or how did you extend this network of yours?

MR SINGH: Mr Chair, as it relates to these trips facing point, to the extent that it would require for Mr Albulushi and myself to meet other individuals, that would have been
10 facilitated through him and we would then meet them, yes Mr Chair.

ADV MYBURGH SC: Alright. So you met other individuals?

MR SINGH: Yes.

ADV MYBURGH SC: You were looking for business opportunity?

MR SINGH: Well Mr Chair, in my case it was a case of trying to understand what would I do once I have completed my stint as the CFO of Transnet and it was
20 always my intention that I would look at immigrating from the country in some way, shape or form, in terms of me able to take up some sort of opportunity within the global environment.

ADV MYBURGH SC: Now did you ever have occasioned to open a bank account in the UAE?

MR SINGH: No sir.

ADV MYBURGH SC: Did you ever have occasioned to purchase any property in the UAE?

MR SINGH: No sir.

ADV MYBURGH SC: Now what we do see is that in the space of little over 13 and a half months, 30 April 2014 to June 2015, you frequented Dubai often. Correct?

MR SINGH: That is correct sir.

ADV MYBURGH SC: Now perhaps we are just dealing with
10 this private and personal issue. trip number 2, the 3 June to 8 June.

MR SINGH: That is correct sir.

ADV MYBURGH SC: I understood your evidence, so I am going to go into the detail in a moment, but I understood your evidence to say look, you seem to have, you were not in Dubai the whole time. you were there, you flew to Frankfurt and Heathrow and then for a period of time you were in Dubai.

MR SINGH: That is correct.

20 **ADV MYBURGH SC:** Would that time that you were in Dubai, would that also have been a private and personal trip?

MR SINGH: No sir.

ADV MYBURGH SC: Was that a business trip?

MR SINGH: This was a business trip. This was an official

business trip.

ADV MYBURGH SC: Number two is an official, throughout business trip. Alright. So let us have a look at the first private trip on 30 April. Then three months later you go again on the 7th of August. Three months later you go again, 6th of November.

MR SINGH: Mr Chair, maybe it is opportune at this time while Mr Myburgh is talking about the trip of the 7th of August [indistinct]. Mr Chair, my previous testimony was
10 that I confirmed this trip based on the evidence that had been provided by Ms Sulliman.

On return home Mr Chair, the family had actually indicated to me that I would have probably not been, I actually, we actually did not do this trip, because there was ...[intervenes]

CHAIRPERSON: That is the April one?

MR SINGH: No sir, item 3 on the table.

CHAIRPERSON: Oh, August?

MR SINGH: August 7 to 12.

20 **CHAIRPERSON:** Hm.

MR SINGH: And the reason for that Mr Chair was that there was actually a bereavement in the family, and the bereavement occurred on the 1st of August. There was a ceremony on the 4th of August I think and then there was a final cremation on the 6th of August.

So these dates Mr Chair, are problematic in terms of the fact that I did confirm them, however I did not, I actually did not fly. So we actually did not attend this trip.

CHAIRPERSON: So you say that you certainly did not travel, do that trip?

MR SINGH: Yes sir.

CHAIRPERSON: Okay.

ADV MYBURGH SC: Alright. So we are at November. What we do know, is you then go three months later, four
10 months later. You go in February and then a few months after that you go again in June. So you went there quite often.

Correct?

MR SINGH: What is that?

ADV MYBURGH SC: You went to Dubai often.

MR SINGH: Yes.

ADV MYBURGH SC: Now let us take the first trip. You accept that you went on it. You said that you were unaware of the presence of ...[intervenes]

20 **CHAIRPERSON:** Rajesh Gupta and ...[intervenes]

ADV MYBURGH SC: Mr R Gupta and Mr Essa. Can I ask you please, and I really just want to take you through the documents listed in the right hand column. Can I ask you to go to page 1949. Exhibit 23. Bundle 5C. Now at 1949 through to 1954, there is a series of documents that fall

within this date range of your trip, 30 April to 2 May.

Now could I ask you to go to 1949? You see there is an email in face of it from Ashu. Do you know who Ashu is?

MR SINGH: Mr Chair, if this is Mr Ashu as I have testified before, Mr Ashu Shwala, then I did testify that I had an occasion to meet him.

ADV MYBURGH SC: Ashu Shwala you knew him as a, as working at Sahara?

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

ADV MYBURGH SC: And what position did you know he held there?

MR SINGH: I think he was the CEO or something of the company.

ADV MYBURGH SC: Yes, the CEO, and did you know that he worked in Sahara's offices in Johannesburg?

MR SINGH: Yes sir.

ADV MYBURGH SC: Mr Singh, I can look up your evidence, but when I asked you previously about Sahara
20 and who worked there, was it not your evidence that you did not know? That you assumed that the Gupta's some of the Gupta brothers worked there.

Did you always know that Mr Shwala worked at Sahara's offices in Johannesburg?

MR SINGH: Mr Chair, I do not recall when I got to meet Mr

Shwala, but the reason why I responded to the question of whether I knew him or not, was Mr Seleka was going through this long list of individuals, and that is when I recognised the name, and the Mr Seleka then asked how did you know him and then I said well, I met him at the functions, at the Gupta residence.

ADV MYBURGH SC: Alright. Now when you went to Dubai, in what hotel would you stay?

MR SINGH: Mr Chair, normally at the Oberoi Hotel.

10 **ADV MYBURGH SC:** Okay. So you see that this is an email from Mr Shwala to Tony Gupta, and he is forwarding something from that hotel, the Oberoi Hotel. It says:

“Charge slips PDF. Mr Essa, Mr Gupta, Mr Singh.”

Do you see that?

MR SINGH: That is correct.

ADV MYBURGH SC: And then over the page one sees a series of charge slips.

MR SINGH: I see that Mr Chair.

20 **ADV MYBURGH SC:** If you go to page 1951, you get an invoice. It is addressed to Mr Essa. The right hand says it reflects an arrival on the 29th of April and a departure on the 1st of May, and you will see that that, on the face of this document, that invoice was settled using a Mastercard ended 9115.

Do you see that?

MR SINGH: That is correct.

ADV MYBURGH SC: And then over the page at 1952, you have on the face of it an invoice this time in the name of Mr Rajesh Gupta, also arriving 29 leaving 1 May, and that invoice appears at sorry, 1953 to have been settled also using this Mastercard, 9115. Do you see that? at page 1953.

MR SINGH: That is correct.

ADV MYBURGH SC: If we go to page 19 ...[intervenes]

10 **ADV VAN DEN HEEVER SC:** Chairperson, before my learned friend continue, I would like him to place on record these documents that he is currently referring to. These are documents that were obtained by the investigators or is it in fact documents that were obtained through the Gupta leads, because that impacts on the veracity of the documents.

ADV MYBURGH SC: Yes, thank you. Chairperson, what these documents were sourced from [indistinct], which as you know is the commission's really database of all
20 documentation.

CHAIRPERSON: Ja.

ADV MYBURGH SC: To my learned friend's point, I am advised that these are part of the Gupta leaked documents. what you would know Chairperson is that there is a project within the commission to seek to authenticate the Gupta

leaked documents, and that there are experts working on that.

I understand that that is a project that is headed up by a lady named Anna Mart Nieman, and the intention is to establish the authenticity of these documents.

CHAIRPERSON: Yes, no I am aware of that. That is still to be done.

ADV VAN DEN HEEVER SC: Chairperson, just to confirm. None of these documents has as yet been verified. There
10 is no META data to verify the authenticity of it. it is not being verified by doing investigations in Dubai as an example.

My learned friend is using it as it is, or as it was obtained through the Gupta leaks.

CHAIRPERSON: Okay, no that is fine. Thank you.

ADV MYBURGH SC: Thank you. So Mr Singh, then at 1954 there is reference to it appears another invoice, Rajesh Gupta and then you will see in the middle, accommodation charge and there is reference to you and
20 on the face of it there is a charge to Mr Gupta.

Do you see that?

MR SINGH: That is correct.

ADV MYBURGH SC: So on the face of these documents, what you see is that not only were Mr R Gupta and Mr Essa in Dubai, but they were in the same hotel as you on the

face of the document, and it would also appear that your accommodation was charged to the account of Rajesh Gupta, his part of it and settled.

Do you have any comment on this? And then what we see from the first document at 1949, that certain PDF charge slips were then sent by Mr Shwala to Tony Gupta. Do you have any comment on these documents?

MR SINGH: Mr Chair, these documents I have not seen before. They have not been provided to us previously. I
10 think these were the documents that actually came late last night, if I am not mistaken. Mr Chair, if we can have leave to examine these documents and provide some comments in due course.

ADV MYBURGH SC: But what I want to ask you is do you stand by your version that you, because this you have put in your affidavit. You were unaware of the presence of Mr Gupta and Mr Essa in Dubai in so far as they were there.

MR SINGH: That is correct.

ADV MYBURGH SC: And you, is it your case that you had
20 no knowledge of them being at the Oberoi Hotel at the same time as you?

MR SINGH: No sir.

ADV MYBURGH SC: Now, and you would say I assume you would, that you paid for your own accommodation.

MR SINGH: That is correct sir.

ADV MYBURGH SC: At the Oberoi?

MR SINGH: That is correct.

ADV MYBURGH SC: And are you, have you got any proof of that? Do you have any documentation?

MR SINGH: No Mr Chair, I do not.

ADV MYBURGH SC: Would you have paid in cash?

MR SINGH: That is correct.

ADV MYBURGH SC: I see. Now these networking meetings that you had in Dubai, did they ever include any
10 of the Guptas and Mr Essa?

MR SINGH: No sir.

ADV MYBURGH SC: Did they ever include Mr Shwala?

MR SINGH: No sir.

ADV MYBURGH SC: Alright, then let us go to the second trip. This is 3 June to 8 June. This is my schedule.

MR SINGH: Sorry sir, for the record as well Mr Chair, if you look at as we placed on record Mr Chair, the veracity and obviously integrity of these documents are in question and obviously are being checked. [indistinct] we also point
20 out that the Singh that is referred to here is an ANUJ.

CHAIRPERSON: What page are you looking at?

MR SINGH: Sorry, 1954 Mr Chair.

CHAIRPERSON: 1954. Yes, okay just repeat the point you were making?

MR SINGH: So I am saying that the Singh that is referred

to in this information invoice, is an ANUJ Singh.

CHAIRPERSON: Yes.

MR SINGH: Not an ANOJ Singh.

CHAIRPERSON: Okay.

ADV MYBURGH SC: I assume that is a mistake that is often made in the spelling of your name?

MR SINGH: Well Mr Chair, if you look at the way that the hotel protocol normally work, you are required to use your proof of identification before you actually are allowed to
10 take up your room, and that in international travel it is normally required for you to produce your passport.

If your passport does not record to the reservation that you have, then you have a bit of a problem. So in this case this is not as simple plain way as it is a U versus an O. I think it is a little bit more problematic than that.

CHAIRPERSON: Are you already saying this is not a reference to you or are you saying no, I am not necessarily saying it is not a reference to me, but it may be that it is somebody else?

20 **MR SINGH:** No Mr Chair ...[intervenes]

CHAIRPERSON: Which one are you saying?

MR SINGH: Mr Chair, in the light of, this is what I am saying. In the light of the fact that the veracity of these invoices are questioned Mr Chair, you cannot assume that this is me. I am saying this is not me.

CHAIRPERSON: So you are saying that this is not you?

MR SINGH: No sir, because ANUJ is not ANOJ.

CHAIRPERSON: Mr Myburgh?

ADV MYBURGH SC: Yes, thank you Mr Singh. Let us go to the second trip on my schedule. This one you say is business. 3 June to 8 June. It was alleged that you flew together with Mr R Gupta and my paraphrasing of your evidence and you must correct me if I am wrong, this is not intended to have any evidentiary weight.

10 As I understood your evidence is that you travelled to Frankfurt and Heathrow between 4 and 6 June and you were in Dubai between 6 and 8. You say it was a business trip. You were unaware that Mr R Gupta was on the flight, and then you disputed Ms Suleiman's version.

I do not want to test you on that. Would that accurately summarise it?

MR SINGH: That is correct.

ADV MYBURGH SC: [indistinct] what your evidence was?

MR SINGH: That is correct.

20 **ADV MYBURGH SC:** Alright. Could we please go then to page 1955 of the same bundle. There is a series of documents within this date range, running from 1555 to 1962.

ADV VAN DEN HEEVER SC: Chairperson, just for the record. Is the situation pertaining to these emails similar

as to what was stated earlier, i.e. the emails that is not related or these emails, so we have got invoices and we have got emails.

Are the emails also emails that were obtained from the Gupta leaks?

ADV MYBURGH SC: Yes, they are.

CHAIRPERSON: Okay.

ADV MYBURGH SC: Alright. So we are at 1955 and we need of course to read these emails backwards. If you go
10 to the foot of that page, in fact if you go to 1956, you see it is signed by Ashu. When I say signed, he is the author. So it is from Ashu.

It is to Sarah [indistinct] who I understand is someone from the hotel:

“Hi Sarah. As discussed I would like to book a luxury suite on below dates. Check in 6, check out 9. Guest names, Anoj Singh.”

You see that?

MR SINGH: That is correct.

20 **ADV MYBURGH SC:** And then further up, again from Sarah to Ashu:

“Great speaking to you just now. Please find attached confirmation letter from, for Mr Singh. I am also resending the confirmation letter for Mr Gupta.”

You see that?

MR SINGH: That is correct.

ADV MYBURGH SC: Then if we go to page 1957, you will see that the Gupta in question appears to be Mr Rajesh Gupta. You see that?

MR SINGH: That is correct.

ADV MYBURGH SC: There is a reservation for him, arriving 6, leaving 9 and he was in a presidential suite. You see that?

MR SINGH: Correct.

10 **ADV MYBURGH SC:** If you go to page 1959, this on the face of it is your reservation. You are arriving as you have said to us, on the 6th of June and departing on the 9th of June when you were in a luxury suite. Is that correct?

MR SINGH: That is correct.

ADV MYBURGH SC: Did you in fact stay at the Oberoi Hotel during these or on these dates?

MR SINGH: No sir.

ADV MYBURGH SC: On what dates did you stay at that hotel?

20 **MR SINGH:** Mr Chair, this was an official travel. So this would be the hotel accommodation would have been booked by Transnet Mr Chair and paid for by Transnet and whatever hotel that would have appeared to be at the time would have been the hotel that I stayed at.

ADV MYBURGH SC: Sorry?

MR SINGH: Sorry Mr Chair ...[intervenes]

ADV MYBURGH SC: At what hotel did you stay?

MR SINGH: I was explaining that.

ADV MYBURGH SC: Yes.

MR SINGH: And I was explaining to the Chair that this was an official trip. So the hotel would have been booked by Transnet and paid for by Transnet.

ADV MYBURGH SC: Yes.

MR SINGH: And that is the hotel that I would have stayed
10 in.

ADV MYBURGH SC: Yes, but can you remember what hotel it was?

MR SINGH: No sir.

ADV MYBURGH SC: Or do you know that it was not the Oberoi?

MR SINGH: Definitely.

ADV MYBURGH SC: Why?

MR SINGH: Because I do not think Transnet will use the Oberoi Hotel as one ...[intervenes]

20 **ADV MYBURGH SC**: You do not think they used it?

MR SINGH: No.

ADV MYBURGH SC: Right, and then if you go to 1961, so just perhaps let us pause for a moment. What were you officially doing in Dubai between Friday the 6th of June and Monday the 9th of June?

MR SINGH: Mr Chair, I do not exactly recall but there are a number of reasons as to why one would have been in Dubai. One of the rating agencies that [indistinct] both Eskom and Transnet was based in Dubai.

CHAIRPERSON: Was?

MR SINGH: Was based in Dubai.

CHAIRPERSON: Ja.

MR SINGH: One of the rating agencies. There were frequent, there were some investor road shows that we had
10 done through Dubai during this period of time. I think it was particularly for Transnet, not for Eskom. In terms of exploring the Islamic financing and investor appetite market.

They were also reference visits that I think was arranged by McKinsey in terms of understanding the methods that are used to manage construction projects, because at that time, Dubai was going through a massive construction boom and there were a lot of organisations that had adopted different and innovative and [indistinct]
20 leadership project management type of philosophies.

That is what we would have been looking at doing, in Dubai. But Mr Chair, in terms of exactly this trip, I am not, I do not recall.

ADV MYBURGH SC: You are not sure?

MR SINGH: No.

ADV MYBURGH SC: Okay, and then to finish off these documents, could you go to 1961.

MR SINGH: I am there sir.

ADV MYBURGH SC: And there at the top, in the face of it an email from Mr Essa to Ashu. He is forwarding the Oberoi Dubai, Mr A, PDF. You see that?

MR SINGH: That is correct.

ADV MYBURGH SC: If you go over the page at page 1962, you see some sort of hotel voucher it seems expostay.com.
10 To the Oberoi Hotel. Arrival date 6th, departure date 9. Three nights. You see that?

MR SINGH: I am just trying to figure out where you are. Okay, yes I see that.

ADV MYBURGH SC: Alright, and then if we go to the third trip on my schedule from 7 to 12 August, as I understand ...[intervenes]

CHAIRPERSON: I am sorry Mr Myburgh. The page that you are moving away from was it 1962?

ADV MYBURGH SC: Yes.

20 **CHAIRPERSON:** Yes. that is an accommodation voucher, is that right? Mr Singh?

MR SINGH: That is correct sir.

CHAIRPERSON: And the reservation on the face of it appears to have been done on the 5th of June 2015, and the arrival date was 6 June 2014. Departure date 9 June

and that you were reflected there as the client and the spelling was the correct spelling of your name.

MR SINGH: That is correct.

CHAIRPERSON: Yes, and this was the Oberoi Hotel in Dubai. Okay, alright. Mr ...[intervenes]

ADV MYBURGH SC: Thank you Chairperson.

CHAIRPERSON: ...Myburgh.

ADV MYBURGH SC: Then if we [word cut] 999 schedule, that is 7 to 12 August 2014. As I understand it
10 ...[intervenes]

CHAIRPERSON: What page?

ADV MYBURGH SC: 7 to 12 August Chairperson, 2014, the third trip on my schedule.

CHAIRPERSON: Oh, okay, alright, yes. That is the one he says he didn't undertake.

ADV MYBURGH SC: So as I understand it previously Mr Singh, and you must correct me if I am wrong, when Mr Seleka was examining you I understood that you accepted that you went on this trip but you had issues with the
20 invoices and you pointed out a whole lot of discrepancies.

MR SINGH: Yes sir.

ADV MYBURGH SC: If I understand your evidence today you say that when you returned home and you discussed this with members of your family and you came to the conclusion that actually you incorrect, you hadn't engaged

on this trip.

MR SINGH: That is correct.

ADV MYBURGH SC: But you had intended to.

MR SINGH: That is correct.

ADV MYBURGH SC: Could I take you please to page 1781, now that's earlier in the file.

CHAIRPERSON: 1781? Record the page right Mr Myburgh.

ADV MYBURGH SC: Yes, 1781 Chairperson.

10 **CHAIRPERSON:** Okay, I've got it.

ADV MYBURGH SC: I want to ask you a few questions in relation to the documents you find at 1781 through to 1784.

MR SINGH: 1784.

ADV VAN DEN HEEVER: Chairperson is this in Bundle 23, because we don't have those pages in our bundle.

ADV MYBURGH SC: This is Exhibit 23, 1781.

CHAIRPERSON: It is the bundle that we have been using this morning 5C. Okay.

ADV MYBURGH SC: So what you find at 1781, perhaps
20 you must start at the bottom, reservation ...[intervenes]

ADV VAN DEN HEEVER: Chairperson sorry again to interrupt, we don't seem to have that – those documents, and my attorney also says the same, so ...

CHAIRPERSON: Have you got the right bundle?

ADV VAN DEN HEEVER: Yes Chairperson we have got it

on line, well not online, we have downloaded the reference bundles that were sent to us electronically and if we go through it we don't seem to have it.

CHAIRPERSON: You don't have page 1781?

ADV VAN DEN HEEVER: No, ours ends at ...

CHAIRPERSON: Yours ends where?

ADV VAN DEN HEEVER: Just bear with me for a second. No, so on this bundle we have got 1971 but if you look at ...[intervenes]

10 **CHAIRPERSON:** Well if you've got 1971 you should also have 1781, the page that Mr Myburgh has referred us to is 1781 and then you go up to 17 ...[intervenes]

ADV VAN DEN HEEVER: Chairperson if you can just bear with us.

CHAIRPERSON: H'm.

ADV VAN DEN HEEVER: So 1719 in BB23 seems to be a document – I just want to go to the start of it, it is Alistair Chauby's submissions to the Commission, now 1788 and then it goes to 1789, Chairperson I ...[intervenes]

20 **CHAIRPERSON:** What do you have at 1781?

ADV MYBURGH SC: Chairperson I see it is almost lunch time, perhaps this is something that my learned friend and I can sort out and not hold up the Commission.

CHAIRPERSON: Yes, okay, alright. Let us just get those things sorted out so when we come back we can just run

smoothly.

Okay we are going to adjourn for lunch and we will resume at two. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay, let us continue.

ADV MYBURGH SC: Thank you Chairperson. Mr Singh we were dealing [no audio] ...

10 **CHAIRPERSON:** Okay, alright.

ADV MYBURGH SC: Thank you Chairperson. Mr Singh we were dealing with the 7 to 12 August 2014 trip that you say you planned but did not undertake. Before lunch I think I had taken you to page 1781 of Bundle 5C, Exhibit 23.

You see at the foot of that page from the Oberoi Hotel on the 4th of August there is a reservation which is attached over the page and it reflects a reservation confirmation for Mr Anoj Singh, arrival date the 7th of
20 August departure date the 12th. So those were the plan days, dates of your trip, correct?

MR SINGH: Mr Chair, I do not recall the exact dates of the planned trip but I guess if it is those dates then it is those dates.

CHAIRPERSON: Sorry, Mr Myburgh I am at 1781 but I

suspect you are not there on that page.

ADV MYBURGH SC: 1781, the reservation, his confirmation is at 1782, Chairperson.

CHAIRPERSON: Oh, okay alright, yes.

ADV MYBURGH SC: And was it your - had it been your intention to stay at the Oberoi Hotel?

MR SINGH: Not that I recall.

ADV MYBURGH SC: But as I understood your evidence, that is where you stayed when you went on personal
10 private trips to Dubai.

MR SINGH: Yes, sometimes it was for vacations we did stay at other hotels.

ADV MYBURGH SC: I beg your pardon.

MR SINGH: At some stages when they were vacations we did stay at other hotels.

ADV MYBURGH SC: But when you were there on this expanding your network, you stayed at the Oberoi?

MR SINGH: Yes.

ADV MYBURGH SC: So Mr Singh is this then another
20 coincidence because on the face of it, this was also the Gupta's hotel where they stayed, I do not mean they owned it but they also stayed there are lots of hotels in Dubai, I have not been there as often as you but they are lots.

MR SINGH: That is true, sir.

ADV MYBURGH SC: So is this to another coincidence,

coincidentally you were with their travel agent, coincidentally you stay at the same hotel.

ADV VAN DEN HEEVER: Chairperson, I am going to object, I have not heard any evidence led before this Commission, where my client testified that the – Travel Excellence was the travel agency of the Gupta's.

CHAIRPERSON: I am not sure that Mr Myburgh said it was the travel agent of the Gupta's.

10 **ADV MYBURGH SC:** Chair, perhaps I should refine that, what there is evidence of is Travel Excellence being a travel agent of Mr Essa and Sahara Computers, so let me qualify it that way. Now is this a coincidence then Mr Singh that of all the hotels in Dubai, you just happen to stay at the one that they seem to also stay at?

MR SINGH: I guess so Mr Chair.

ADV MYBURGH SC: Could I ask you, you go to Dubai often. How many hotels do you think they are in Dubai?

MR SINGH: Lots.

20 **ADV MYBURGH SC:** When you mean lots like how many?

MR SINGH: Hundreds.

ADV MYBURGH SC: Hundreds?

MR SINGH: Yes.

ADV MYBURGH SC: And how many travel agents are there in Johannesburg do you think?

ADV VAN DEN HEEVER: Chairperson, really I am going to object to this line of cross examination. It is – let me just stop there before I say something that I should not.

CHAIRPERSON: No, that is fine.

ADV VAN DEN HEEVER: If my learned friend wants to put...[intervene]

CHAIRPERSON: That is fine, well, I guess we all know there are lots.

MR SINGH: Yes.

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

ADV MYBURGH SC: Thank you. I do not want to convert you into some sort of expert I am sorry. So what we then going back to page 1781, in the middle:

“Dear Ashu.”

That presumably is Chawla:

“Please find attached the revised confirmation letter with double occupancy.”

And then there is a response from him at the top of the page.

20 “Please swipe the card for all charges.”

Have you got any comments to make on these documents?

MR SINGH: Well Mr Chair, if you look at 1781, for example Mr Chair.

CHAIRPERSON: I am sorry when I look at?

MR SINGH: 1781.

CHAIRPERSON: Ja.

MR SINGH: What is anomalous in this email, Mr Chair, is that the email right at the bottom, if we look at the – there is from Oberoi Dubai reservations, and there is an email address and then sent to - sent Monday 04 of August 2014 for 11pm to Sarah. So that timestamp is for 11pm. Yet if you then look at the email then in the middle of the day, you see from Sarah to Ashu but that is a 2:17pm.

I am not too sure how Sarah send something to
10 Ashu before reservations, actually send it to her for 11pm. So, again, Mr Chair the anomalies in these documents continue, as we have discussed, and pointed out in the past.

Then, Mr Chair, again, if this was the planned trip and the planned trip obviously did not materialise. Again, I am not too sure why Mr Ashu is charging anything, because it was just being a matter of having to cancel the reservation.

ADV MYBURGH SC: But when did you cancel the trip, do
20 you know it might have been shortly before you left?

MR SINGH: I would not recall it.

ADV MYBURGH SC: Yes, did Mr Chawla ever book hotel accommodation for you?

MR SINGH: No.

ADV MYBURGH SC: Ah, let us then deal with the fourth

trip on my list 6 to 9 November and it was stated in the 1060 that you flew on the same flight as Mr Essa and what you said about that, in your evidence is that you did not deny that he was on the same flight but you were not aware of this, is that right?

MR SINGH: That is correct.

ADV MYBURGH SC: When you flew to Dubai, did you fly business class or did you fly economy class?

MR SINGH: I would think if I recall correctly it was
10 business.

ADV MYBURGH SC: Did you fly business class?

MR SINGH: Yes.

ADV MYBURGH SC: And what airline would you usually fly?

MR SINGH: It would be Emirates.

ADV MYBURGH SC: So this is not really a matter of not having seen Mr Essa at the airport, he would have may or may not have been in business class.

MR SINGH: Probably.

20 **ADV MYBURGH SC:** So let us deal with...[intervene]

ADV VAN DEN HEEVER: Chairperson, just for the record there is also first class, so there is a very big distinction between first class and business class, to who can see who and who has got access to it.

ADV MYBURGH SC: Alright.

CHAIRPERSON: Yes.

ADV MYBURGH SC: Did you fly - what is it first class or did you fly business class?

MR SINGH: Me?

ADV MYBURGH SC: Yes.

MR SINGH: No, as I said business class.

ADV MYBURGH SC: Yes, not first class.

ADV VAN DEN HEEVER: The probability or possibility exists, that whoever else was on the flight that my learned
10 friend refers to could have flown business class or for that matter economy.

CHAIRPERSON: Yes, hang on – you remember that you will get a chance to re-examine.

ADV VAN DEN HEEVER: Chairperson, I know that I have got an opportunity to re-examine but I am also need to prevent unfairness and speculative and innuendo being put to the witness.

CHAIRPERSON: Well obviously, you can object but I am just saying you can object in certain circumstances but I
20 am saying just remember that you have that opportunity to re-examine later on and obviously when you re-examine, if you think there is something that was not put correctly to the witness and then you can use that opportunity to put it correctly. Yes, Mr Myburgh.

ADV MYBURGH SC: Thank you, Mr Singh I now want to

take you to the other bundle, Bundle 5B also part of Exhibit 23. Would you please turn to page 770, seven, seven, zero?

MR SINGH: I am there, sir.

ADV MYBURGH SC: So what we see at the foot of 770 is a reservation confirmation and if you go over the page, at 771 you will see that you are reflected as the guest arrival date, Friday 7 November.

CHAIRPERSON: I am sorry I...[intervene]

10 **ADV MYBURGH SC:** 771, Chairperson.

CHAIRPERSON: 771, okay I think she did not hear that, okay I have got 771 on Transnet Bundle 5.

ADV MYBURGH SC: Thank you, 771 reflects the reservation confirmation you as the guest, arriving 7 November, departing 9 November. Do you see that?

MR SINGH: Yes, sir.

ADV MYBURGH SC: Did you stay in the Oberoi Hotel during those - over that period?

MR SINGH: Yes.

20 **CHAIRPERSON:** Just try and speak up Mr Singh.

MR SINGH: Sorry, Mr Chair I was just far away - let me just do this again, like when we did last.

CHAIRPERSON: Okay, Alright.

ADV MYBURGH SC: If I can take you to page 770 there is Lima from the hotel to Ashu:

“Please find below the confirmation letter for Mr Singh.”

And then from Ashu at the top of the page on 6 November to Sanjay Grover. Do you know him?

MR SINGH: No, sir.

ADV MYBURGH SC: You say you did stay in the Oberoi on these dates?

MR SINGH: Yes.

ADV MYBURGH SC: Can I take you then to the fifth trip
10 on my list. That is a trip from the 25th of February to the
1st of March. It was recorded in the 10.6 that Mr Rajesh
Gupta and Mr Essa, were present in Dubai over this period
and your evidence was that you were unaware of their
presence, correct?

MR SINGH: That is correct, sir.

ADV MYBURGH SC: I would like to take you to two sets
of documents in relation to this trip. The first you find at
pages 775 in the same bundle that you in through to 782.
But let us start at 775 from the hotel, dated the 23rd of
20 February:

“Dear Mr Ashu.

Greetings from the Oberoi, Dubai we are pleased to
confirm airport transfer as requested from Mr Singh
as an additional supplement of AED 200 per car, per
way.”

Do you see that?

MR SINGH: I do, sir.

ADV MYBURGH SC: When you stayed at the Oberoi, would you use the hotel transfer as a means of getting to and from the hotel?

MR SINGH: I did occasionally but not on all of it.

ADV MYBURGH SC: And you see that that is a response to the email at the foot of the page from Ashu to reservations that says:

10 "Please arrange airport pickup for the same, arrival flight EK766."

You see that?

MR SINGH: That is correct.

ADV MYBURGH SC: And then the reservation confirmation reflects you as arriving on the 24th of February and leaving on the 26th off February. You see that?

MR SINGH: Page you are reading, sir?

ADV MYBURGH SC: Page 776.

20 **MR SINGH:** 776, yes.

ADV MYBURGH SC: Can I take you please to page 780/

MR SINGH: Seven eight zero?

ADV MYBURGH SC: Seven eight zero. Now, this is on the face of it an invoice.

MR SINGH: Sorry, seven I do not have 780.

ADV MYBURGH SC: Seven eight zero.

MR SINGH: I do not have it.

CHAIRPERSON: I also do not have it, I have got 779 and then 782, no 780 and 781 are not here.

ADV MYBURGH SC: Alright, well, it seems that Chairperson I am going to have to arrange hard copies of these two missing pages overnight.

CHAIRPERSON: Ja.

ADV MYBURGH SC: I will come back to this tomorrow.

10 **CHAIRPERSON:** Okay.

ADV MYBURGH SC: But perhaps Mr Singh...[intervene]

CHAIRPERSON: Would they be able to - I think they can organise it whilst you are going on if there is a copy available.

ADV MYBURGH SC: Chairperson, do you have 782?

CHAIRPERSON: I have got 782.

ADV MYBURGH SC: Alright, and that - so what you will see Mr Singh when we get the document 780 and 781 are two pages of an invoice and then there is another invoice
20 at 782. Are you at 782 now?

MR SINGH: Yes, sir.

ADV MYBURGH SC: You see it is in your name, it is addressed to – or the company is reflected as Sahara Computers. You see that?

MR SINGH: I do, sir.

ADV MYBURGH SC: And the arrival and departure dates is 24 February and 1 March, and it reflects payment using MasterCard 8816. You see that?

MR SINGH: I see it.

ADV MYBURGH SC: And you see that it appears that Ms Nike[?] joined you on this trip?

MR SINGH: That is correct.

ADV MYBURGH SC: Is that correct?

MR SINGH: That is correct.

10 **ADV MYBURGH SC:** Did you pay for this yourself?

MR SINGH: Yes, sir.

ADV MYBURGH SC: Do you have any proof of that?

MR SINGH: No, sir I do not.

ADV MYBURGH SC: Would you have paid cash?

MR SINGH: Yes, sir.

CHAIRPERSON: That R18 309,00 that - was that, would that be the total of everything namely what you paid on departure when you checked out?

20 **MR SINGH:** That is correct sir, except that it is not rand's
it is...[intervene]

CHAIRPERSON: Huh?

MR SINGH: Sorry, except that it is not rands as you mentioned.

CHAIRPERSON: Oh...[intervene]

MR SINGH: It is...[intervene]

CHAIRPERSON: What is the Dubai money again I forget?

MR SINGH: Dirham's

CHAIRPERSON: Okay, and what is the exchange rate more or less between them?

MR SINGH: Probably about fifty-four to sixty thousand.

CHAIRPERSON: Sorry?

MR SINGH: Between fifty and sixty thousand.

CHAIRPERSON: Between fifteen thousand rand?

MR SINGH: No, no between fifty and sixty thousand rand.

10 **CHAIRPERSON:** Oh, okay but you – so you say 18,309 Dubai currency would be about 50 to R60 000,00 in South African currency?

MR SINGH: That is correct, sir.

CHAIRPERSON: But are you saying that you carried about

50 to R60 000,00 of cash that you used to pay?

MR SINGH: No, Mr Chair, the arrangement I explained to you previously with Mr Abalutshi, was the arrangement that we had a quid pro quo that...[intervene]

20 **CHAIRPERSON:** I am sorry, the arrangement that you had with whom?

MR SINGH: The arrangement that we - that I explained to you previously with Mr Abalutshi.

CHAIRPERSON: Ja.

MR SINGH: Would be in the vein of the fact that or the

advice and consultations that I was providing to him at the time. He would then reimburse me in terms of being able to pay for my accommodation and expenses in Dubai at the time.

CHAIRPERSON: Well, I do not remember you mentioning the arrangement about payment for accommodation, I remember that you told us about him, ja. So you say the arrangement was that he was paying you for consultations that you had with him, but the arrangement was that
10 instead of him paying - giving you the money he would pay for your accommodation?

MR SINGH: Well, Mr Chair, he would physically provide me the cash and I will settle the bill but the arrangement was that for the times that I was there, given the fact that it was a mutually beneficial arrangement that he and I had, in terms of exchange of information that I would pay for my travels and he would pay for the accommodation at the time.

CHAIRPERSON: So - but you say you paid cash?

20 **MR SINGH:** Yes.

CHAIRPERSON: 50 to R60 000,00 cash at the hotel?

MR SINGH: Yes.

CHAIRPERSON: And you say you got that cash from him?

MR SINGH: Yes.

CHAIRPERSON: And he gave it to you, in cash?

MR SINGH: Yes.

CHAIRPERSON: Mr Myburgh.

ADV MYBURGH SC: Alright, so, Mr Singh, what - this is part of your moonlighting. So you - just so that I understand this, are you telling me that whilst you were the Group Chief Financial Officer at Transnet you would go to Dubai and you would then advise and consult with this gentleman, and he would then pay you in this instance the equivalent of R60 000,00 to settle your hotel bill?

10 **MR SINGH:** Yes, Mr Chair.

ADV MYBURGH SC: What is it you were advising and consulting about?

MR SINGH: Mr Chair, there were various topics as I said in my case, Mr Chair, I was really looking to establish myself

in an environment other than South Africa and Dubai was an environment where a lot of South Africans expats settle down. The Dubai environment is an environment that is
20 known for its - as a financial hub and that was the reason I engaged in a relationship with Mr Abalutshi.

CHAIRPERSON: Was it his idea or your idea that he should give you cash and not electronically transfer money to you or in any other way, whose idea was it?

MR SINGH: Well, Mr Chair, in terms of establishing bank

accounts and the like in the UAE it is problematic if you are not a resident. So it was an understanding that we came to at that point in time, as a matter of convenience.

CHAIRPERSON: But whose idea was it?

MR SINGH: I cannot exactly recall Mr Chair.

CHAIRPERSON: It just seems very peculiar that in South Africa witness 3 has said that you used to go to the Gupta residents and collect cash and that cash would go to Knox Vaults not to the bank and the lady from Travel Excellence,
10 the travel agency says in her affidavit there were certain times, a number of times when you had to settle certain invoices relating to bookings that they have made for you, you would call them and say send the driver and the driver would come there with cash and from her evidence sometimes it is not small amounts of cash.

Now you are in Dubai want and you are supposed to settle the hotel bill which is quite high 50 to R60 000,00 and you use cash to settle it on your version.

MR SINGH: Mr Chair, I think maybe it is
20 worthwhile...[intervene]

CHAIRPERSON: It is like you are Mr Cash.

MR SINGH: Mr Chair, I think is worthwhile explaining the environment in Dubai, I think the environment in Dubai is relatively less like South Africa, in that cash is a very common currency of payment, and even large sums of cash

and large transactions are actually sometimes settled in cash.

And I guess it is because of the safety factor in Dubai is much better than here so you obviously have the latitude of, you know, settling in cash rather than using electronic funds transfer unlike what we use here, so I think that will probably explain the reason why cash is a more frequent mechanism that is used to settle transactions in Dubai.

10 **CHAIRPERSON:** But of course, you would realise would you not or you concede that, therefore Mr – or witness 3's evidence of you having cash, taking cash from the Gupta's, the residence, Gupta's residence to Knox Vaults - in other words not any other form of money but actual cash is consistent with the form of money that you like using, you like using cash.

ADV VAN DEN HEEVER: Chairperson...[intervene]

MR SINGH: Mr Chair...[intervene]

CHAIRPERSON: Well, from what you have said to me it
20 looked like you liked – you have preferred dealing in cash, not cheques and electronic transfers, am I wrong?

MR SINGH: Not necessarily, Mr Chair.

CHAIRPERSON: You also use the other means?

MR SINGH: Yes, I use cards, I used electronic funds transfers, I use debit orders like every other person.

CHAIRPERSON: Okay, alright, thank you.

ADV MYBURGH SC: So Mr Singh I just want to take you back. I mean, I understand how you were trying to make connections in Dubai. But what I still do not have clear my mind is what advice, consultative advice were you giving to this connection of yours in Dubai that was to the value of - we are throwing the figure of R60 000,00 around, to pay the hotel bill? What advice?

MR SINGH: Well, Mr Chair, he was - as I said, it was a
10 mutually beneficial relationship. He is a self-made businessman, has interest in property and various retail travel endeavours, or businesses and he was looking to expand and one of the areas that he was looking to expand into was Africa.

And South Africa being the gateway into Africa, he was looking to understand if there were opportunities to expand into South Africa, and more so into Africa and obviously, my background in terms of understanding the South African environment, having the exposure to the - let
20 us say, logistics environment in South Africa because of Transnet proved to be valuable to him, as well as obviously...[intervene]

CHAIRPERSON: Please speak up so that it will be recorded, ja.

MR SINGH: Yes, and also the financial background that I

carried with that, obviously, was of interest to him to understand, how does he go about actually doing and setting up these potential businesses that he may actually want to endeavour in coming into South Africa.

CHAIRPERSON: When did you meet this man and where and how?

MR SINGH: Mr Chair, I think it was...[intervene]

CHAIRPERSON: For the first time.

MR SINGH: I do not recall exactly when Mr Chair, but it
10 was as a - if I recall, it was at a networking function that I attended in Dubai. I think it was one of the business trips that I had undertaken with Transnet and there was a networking dinner that we needed to attend.

And there was an open session where people had to, could - there was a panel, and then there was questions and answers that we could then pose to the panel. And we engaged with the panel and I had asked a couple of questions, and I think, Mr Abalutshi was also part of the session, and post that session, he came up to me and said,
20 listen, he understands that I am from South Africa and that is how we got speaking, and then got to understand my background, and so on, that is how it happened Mr Chair.

CHAIRPERSON: Mr Myburgh.

ADV MYBURGH SC: So thank you. Just on page 782.

MR SINGH: Seven?

ADV MYBURGH SC: 782, you - we were dealing with this invoice. It reflects there on the face of it, payment by way of a MasterCard ending at 8816, I take it that is not your card?

MR SINGH: No, sir.

ADV MYBURGH SC: Would you keep this file open at 782 and then could you turn to the other file, please? Right to the back to page 1971.

MR SINGH: 71?

10 **ADV MYBURGH SC:** 1971.

CHAIRPERSON: That is on Transnet Bundle 5(c).

ADV MYBURGH SC: That is correct Chairperson.

CHAIRPERSON: Okay.

ADV MYBURGH SC: You see there you see a picture of a credit card.

MR SINGH: Yes.

ADV MYBURGH SC: A Mastercard, correct?

MR SINGH: That is correct.

20 **ADV MYBURGH SC:** And do you see that it ends with the digits 8816?

MR SINGH: I see that.

ADV MYBURGH SC: Now if you go to page 1870 there is a document there that reflects that that is actually Sanjay Grover's credit card. You see that?

MR SINGH: I see that.

ADV MYBURGH SC: Because he was authorising the payment at the time at a different hotel and he puts out his card number and there is his name, do you see that?

MR SINGH: I do Sir.

ADV MYBURGH SC: Chairperson we have managed to get copies made of pages 780 and 781 if I could perhaps hand that up to your?

CHAIRPERSON: Thank you.

ADV MYBURGH SC: Associate and ask her to put it in your
10 file. Has Mr Singh been – Mr Singh I think you have been given 780 and 81 would you not just put that into File 5(b) please? So those documents perhaps I could just take you to them. There is nothing there of any particular interest because it is the first two pages really of the invoice that concludes at 782. You see that?

MR SINGH: That is correct Sir.

ADV MYBURGH SC: Now there is some additional documents that I want to take you to in relation to this trip. You find those documents in Bundle 5(c) and could I ask you
20 please to turn to page 1963.

MR SINGH: 5(c)?

ADV MYBURGH SC: Ja.

MR SINGH: 1963? 1963.

ADV MYBURGH SC: 1963 running through to 1971. Are you there? 1963 are you there?

MR SINGH: Yes Sir.

ADV MYBURGH SC: So that is on the face of it is an email from your travel agent Ms Suleiman on the 25th of February to Ashu and it is cc'd to you.

"Please see attached air ticket for Ms Nike."

She did go on this trip with you as you have already said, correct?

MR SINGH: Yes Sir.

CHAIRPERSON: I do not see cc to him Mr Myburgh I see cc
10 to Salim Essa.

ADV MYBURGH SC: Sorry to Mr Essa.

CHAIRPERSON: Ja.

ADV MYBURGH SC: I beg your pardon. It is cc'd to Mr
Essa do you see that?

MR SINGH: That is correct.

ADV MYBURGH SC: You want to comment on this?

MR SINGH: No Mr Chair I do not want to comment on it.

ADV MYBURGH SC: I beg your pardon.

ADV VAN DEN HEEVER: I cannot hear my client
20 Chairperson.

CHAIRPERSON: Yes speak up Mr Singh.

MR SINGH: Sorry Mr Chair. I think it is because of this
00:04:18. Let me do this.

CHAIRPERSON: Yes. You can bring it closer if possible.

ADV MYBURGH SC: You want to comment on this

document?

MR SINGH: Yes Mr – No Sir.

ADV MYBURGH SC: So just so that I understand.

CHAIRPERSON: Sorry did you say no?

MR SINGH: No.

ADV MYBURGH SC: Just so that we understand it as of the 25th of February 2015 Ms Nike was actually working for Sahara Computers, correct?

MR SINGH: That is correct.

10 **ADV MYBURGH SC:** And her boss would have been Ashu Chawla?

MR SINGH: I would not...

ADV MYBURGH SC: You described him as the CEO.

MR SINGH: Yes.

ADV MYBURGH SC: I see. And then if we go to 1964, 1964 over the page there is an air ticket flying on the 25th of February returning on the 1st of March and business class, is that right?

MR SINGH: That is correct.

20 **ADV MYBURGH SC:** So just that I understand it is it your evidence that you paid for this ticket?

MR SINGH: Sorry.

ADV MYBURGH SC: Is it your evidence that you paid for this ticket?

MR SINGH: No.

ADV MYBURGH SC: Not. Alright. Who paid for it?

MR SINGH: I would assume Sahara Computers.

ADV MYBURGH SC: Sahara Computers?

MR SINGH: Yes.

ADV MYBURGH SC: Right. I see.

CHAIRPERSON: Why do you only assume that it was Sahara Computers? Were you not travelling with Eva, was she travelling alone?

MR SINGH: I think she arrived a couple of days later Mr
10 Chair if you look at the date.

CHAIRPERSON: Sorry.

MR SINGH: I say Mr Chair if you look at the date I think she arrived a couple of days later compared to myself.

CHAIRPERSON: She arrived after you had ...

MR SINGH: Yes.

CHAIRPERSON: She arrived after you?

MR SINGH: Yes 25 when is the 25th? I am not too sure what the date of my flight was.

CHAIRPERSON: Yes. Maybe Mr Myburgh can remind us
20 when did Mr Singh travel?

ADV MYBURGH SC: Well – yes the annotation on my schedule of trip 5 and this is what was in ...

MR SINGH: This is 25.

ADV MYBURGH SC: And this is what was in – what was in the 1006 was 25 February 1 March.

CHAIRPERSON: Oh okay.

MR SINGH: Oh yes, yes I see that. No I think we did then travel together.

CHAIRPERSON: Yes.

ADV MYBURGH SC: But...

CHAIRPERSON: In which case I would image you would know whether she was paid for by – or you – both of you were paid for by Sahara Computers?

MR SINGH: No that is why I say she was probably paid for
10 Sahara because she was not paid (inaudible).

CHAIRPERSON: Ja okay. On herself?

MR SINGH: Yes.

CHAIRPERSON: You –

MR SINGH: No by Sahara.

CHAIRPERSON: Yes no what I mean is are you saying Sahara paid for her but not for you – you paid for yourself?

MR SINGH: That is correct. Sorry I could not hear the last part.

CHAIRPERSON: Okay. I am asking whether you are saying
20 Sahara Computers paid for Ms Nike?

MR SINGH: Yes.

CHAIRPERSON: And you paid for yourself your own travel expenses.

MR SINGH: That is correct yes.

CHAIRPERSON: Okay. Mr Myburgh.

ADV MYBURGH SC: So this was not a business trip that Ms Nike was undertaking this was a personal trip?

MR SINGH: I think Mr Chair if I recall correctly there was some business associated with this trip with Ms Nike that she was undertaking there but details of which I – I do not have the details.

ADV MYBURGH SC: You do not have the details?

MR SINGH: No.

ADV MYBURGH SC: I see. Alright so let us go to page
10 1966. So there is an email in the middle of the page from Sanjay Grover but then at the top of the page from Ashu to Tony Gupta forward Oberio Dubai copy of your invoice AS those are your initials, correct?

MR SINGH: Could be.

ADV MYBURGH SC: If we then go over the page one finds an invoice on the face of it addressed to you in the name of the company Sahara Computers, correct?

MR SINGH: Correct.

ADV MYBURGH SC: Reflects an arrival on the 24th of
20 February and a departure on the 1st of May. It reflects at the foot of the page a debit for the picking up of Ms Nike, correct? The foot of 1965 the collection of her presumably at the airport.

MR SINGH: 196.

ADV MYBURGH SC: 1967

MR SINGH: 1967 yes.

ADV MYBURGH SC: You confirm that?

MR SINGH: That is correct.

ADV MYBURGH SC: And then if you go 1968 is a continuation of the bill. We get to 1969 another bill coming to 18 000AED which you have told us already is some R60 000;00.

MR SINGH: And this is the same – one and the same one right.

10 **ADV MYBURGH SC:** This is for a different trip.

MR SINGH: No it is the same trip.

ADV MYBURGH SC: No but before we get to that did you pay the bill on this trip Mr Singh 25 February to 1 March – did you pay it?

MR SINGH: Yes Sir as I have mentioned before.

ADV MYBURGH SC: And how did you pay it?

MR SINGH: It was paid in cash.

ADV MYBURGH SC: And where did you get the cash from?

20 **CHAIRPERSON:** I think it is the same one that we have covered Mr Myburgh. Remember when I asked him whether it was his idea or ..

ADV MYBURGH SC: Oh I beg your pardon. Yes.

CHAIRPERSON: Yes we – we have asked him those questions ja.

ADV MYBURGH SC: Yes Chair. And I have taken you – I

am sorry to the credit card the 8816.

MR SINGH: Yes.

ADV MYBURGH SC: And I have showed you that it is Mr Grover's card so I beg your pardon. I am not going to tax you twice about it. And then could we please go to the last trip on my list and that is the 11 to 15 June trip. It was again alleged this time that Mr A Gupta and Mr R Gupta were present in Dubai together with Mr Essa and you testified that you paid for the ticket, you referred to certain discrepancies
10 and invoices and you say that you were unaware of their presence in Dubai.

MR SINGH: That is correct.

ADV MYBURGH SC: I want to take you please to a series of documents again in relation to this final trip. Could we start by going to page 1785?

MR SINGH: 1785.

ADV MYBURGH SC: 1785.

MR SINGH: 17?

ADV MYBURGH SC: 1785.

20 **MR SINGH:** Yes.

ADV MYBURGH SC: There you find a reservation confirmation in your name arriving on the 13th of June and departing on the 15th of June you see that?

MR SINGH: That is correct.

ADV MYBURGH SC: Again at the top you see there is an

email from Ashu and it is sent this time to Sanjay Grover. Reservation confirmation at the Oberoi Dubai Anoj Singh you see that?

MR SINGH: That is correct.

ADV MYBURGH SC: And could I take you in relation to this trip then to page 1972. At 1972 there is at the top on the face of it an email from reservations on the 11th of June to Ashu. It says re booking for Sahara Computers. Dear Mr Chawla as per our telecon we have duly amended the
10 reservation for Mr Anoj Singh as below. And then it sets out that you were in a luxury suite, you see that?

MR SINGH: Where is that?

ADV MYBURGH SC: Did you stay at the Oberoi Hotel...

CHAIRPERSON: Just remember to come closer to the mic when you respond Mr Singh.

MR SINGH: Sorry. Yes.

ADV MYBURGH SC: Did you stay again at the Oberoi Hotel during this June trip of yours?

MR SINGH: Yes I did.

20 **ADV MYBURGH SC:** Did you stay in a luxury suite?

MR SINGH: I do not recall Sir.

ADV MYBURGH SC: Now on that page 1972 it refers to Room 2 you see that?

MR SINGH: Sorry on 1 – on 17?

ADV MYBURGH SC: 1972 the page that we just talking

about.

MR SINGH: Where is it?

ADV MYBURGH SC: Under Room 02 talks about a – the lux city room and says it includes breakfast etcetera and the last bullet point says as per your request we will try and have the rooms arranged near to each other. Do you have any idea who that person or other person might have been?

MR SINGH: No Sir.

ADV MYBURGH SC: If we go over the page to 1973 an
10 email from Reservations the previous day subject re booking for Sahara Computers. Dear Mr Chawla greetings from the Oberoi Dubai we have duly noted the change in departure date of Mr Gupta and the reservation has been amended accordingly. You see that?

MR SINGH: That is correct.

ADV MYBURGH SC: And then if I could take you please to page 1976. So at the foot of the page of 1976 we see the reservation confirmation for Anoj Singh we have already dealt with that and the attachment but I just want to direct
20 your attention to the top of the page where there is an email from Ashu on the 11th of June to Salim Essa do you see that?

MR SINGH: I see that Sir.

ADV MYBURGH SC: So Mr Singh just so that I understand your position in relation to all of these – these invoices do I understand you to be saying that they are – all of them are

not authentic?

MR SINGH: That is correct Mr Chair because the question (inaudible).

ADV MYBURGH SC: You need to go – you going to need to speak up.

MR SINGH: Sorry – sorry yes Sir. We questioned the authenticity of these documents Mr Chair.

ADV MYBURGH SC: And you do so on the basis that you say well Gupta was not there, Essa was not there, Chawla
10 did not arrange my booking, who arranged these bookings?
We know that you stayed at this Oberoi Hotel – how did you make your bookings?

MR SINGH: Mr Chair there were sometimes made by myself or they were made by Mr Abelushi.[?]

CHAIRPERSON: Made by yourself or other – sometimes by who?

MR SINGH: By Mr Abelushi.[?]

CHAIRPERSON: Ja. Okay.

ADV MYBURGH SC: And just as much as you question the
20 authenticity of these invoices do you have any invoices of your own?

MR SINGH: Not for the period in question but I think I do have one or two invoices Mr Chair.

ADV MYBURGH SC: But not in relation to these trips?

MR SINGH: No, no.

ADV MYBURGH SC: Alright. So you put your eggs...

ADV VAN DEN HEEVER: Chairperson before my learned friend move on just for our own understanding I – on page 1876 my learned friend refers to an email and I have taken note that there is a lot of attachments to this email can he just direct us to where we can find these attachments?

ADV MYBURGH SC: We – we have not come across these attachments. When I asked the investigators and I will take a further instruction what I was told is that this is a series of
10 – when I say we have not come across them what I was told it was a series of like marketing type – you can go to this restaurant or you can go to that restaurant. I will take an instruction on that and see if – if they can be found.

CHAIRPERSON: Okay.

ADV MYBURGH SC: And if they are found Chairperson we will then add – add them in.

CHAIRPERSON: Yes that is fine ja.

ADV MYBURGH SC: Into this bundle.

CHAIRPERSON: Well of course only if they are relevant.

20 **ADV MYBURGH SC:** Yes.

CHAIRPERSON: Ja.

ADV MYBURGH SC: Well we will share them with our learned friend and then we can make a call on that.

CHAIRPERSON: Yes because...

ADV VAN DEN HEEVER: Then a last point in this regard re

this particular email is an example has no reference to the hotel itself – to the Oberoi or the travel agency that we referred to earlier. So I again just wish to confirm is this particular email between Ashu of Sahara and Salim Essa is it also an email that came from the Gupta Leaks?

ADV MYBURGH SC: Yes I think that we have made that clear Chairperson.

CHAIRPERSON: Ja okay.

ADV MYBURGH SC: Alright so what I was saying just before
10 my learned friend made her point is that you really put all your eggs in the basket of the authenticity of – or the lack of authenticity?

MR SINGH: That is correct.

ADV MYBURGH SC: Of these invoices is that right?

MR SINGH: That is correct Sir.

ADV MYBURGH SC: Now I would like if I may to go back to this schedule.

CHAIRPERSON: Just one second.

ADV MYBURGH SC: This is page...

20 **CHAIRPERSON:** Mr Myburgh.

ADV MYBURGH SC: 1757.

CHAIRPERSON: Sorry Mr Myburgh sorry. I just want to make sure that we are on the same page Mr Singh or I mean on the same page as you are. When you challenged the authenticity of these invoices and emails are you saying

somebody must have fabricated these invoices and emails they are not genuine?

MR SINGH: That is correct Sir.

CHAIRPERSON: Yes and – and you – you are not sure who might – who that might be or are you saying whoever they purported to have come from must have manipulated them?

MR SINGH: Well Mr Chair as confirmed they come from the leaks.

CHAIRPERSON: Yes.

10 **MR SINGH:** So we do not exactly know who the leaks (inaudible).

CHAIRPERSON: Yes. Okay alright. Mr Myburgh.

ADV MYBURGH SC: Yes thank you. Could I ask you please to go back to page 1757 and in particular the – the annotated page that I handed up.

MR SINGH: This one?

ADV MYBURGH SC: Ja.

CHAIRPERSON: 1571?

ADV MYBURGH SC: 1757.

20 **CHAIRPERSON:** Okay.

ADV MYBURGH SC: That is the Knox Vault customer – customer visit schedule Chairperson.

CHAIRPERSON: Okay I am getting confused whether it is 15 (speaking over each other).

ADV MYBURGH SC: Sorry 17 – 1757 I might have got them

mixed up myself.

CHAIRPERSON: Ja okay alright. Okay I have got it. Oh –
ja I have got it.

ADV MYBURGH SC: So what I...

CHAIRPERSON: That is the – that is the document we
looked at where you blocked.

ADV MYBURGH SC: Yes and I – if you still have my
annotated page.

CHAIRPERSON: Ja that is the one.

10 **ADV MYBURGH SC:** It might be easier.

CHAIRPERSON: Ja. I have got it.

ADV MYBURGH SC: Now Mr Singh you ascribed at a point
in your evidence the fact that you got more and more boxes
to the fact that you were going through a divorce. Can I just
ask you when is it that you got divorced?

MR SINGH: I think it was sometime in 2017 or 2018.

ADV MYBURGH SC: So it was a long time – it was some
years after those bracketed visits.

ADV VAN DEN HEEVER: Chairperson in fact the witness'
20 evidence was – it was at the time he went through a
separation he did not use the word divorce.

ADV MYBURGH SC: Alright. No well that is fair enough.
So you were divorced in 2017 or 18?

MR SINGH: That is correct.

ADV MYBURGH SC: So at – my next question I was going

to ask you was when did you leave the marital home?

ADV VAN DEN HEEVER: Chairperson maybe at this point because there is other persons involved we should consider that this evidence not be publicly broadcasted. It is somebody else's – there is a third party involved who is not part of these proceedings. There is children and this is private. When you deal with Chairperson as – when it comes to marital issues that is indeed private.

CHAIRPERSON: Well the question of the dates I do not see
10 that it should be a problem. The date when she – he left the marital home. I do not think that – should be a problem. Okay you can answer that Mr Singh.

MR SINGH: Mr Chair – exactly recall but as I said it was the process of separation of a period or as it – as you can see extended period. But I do not recall exactly when that date would have been.

ADV MYBURGH SC: But in what year?

MR SINGH: Mr Chair I do not know.

CHAIRPERSON: You do not remember the year either.

20 **MR SINGH:** No.

ADV MYBURGH SC: So...

CHAIRPERSON: Well if you say that then it looks like then you would not be able to rely on that to say during one of these visits you – you used – you may have gone to Knox Vault to put in some personal items because you were

leaving the marital home because that suggests you know when it was and it would coincide with this period.

MR SINGH: Well Mr Chair when I responded at the time I said I – it would have coincided with this period – with this timing.

CHAIRPERSON: Yes but when you say that you are giving the impression that you know that you left the marital home around this time.

MR SINGH: Well then...

10 **CHAIRPERSON**: But based on what you have just said it looks like you have no idea even which year.

MR SINGH: I seem to recall it was in this period of time so it will probably have been in 2014 if I am pushed to give a year.

CHAIRPERSON: Yes, no, no you are not being pushed to say one or another you just need to give your evidence truthfully as you - as you know it.

MR SINGH: As I would recall it Mr Chair to the best of my ability it would be around 2014.

20 **CHAIRPERSON**: My Myburgh.

ADV MYBURGH SC: Alright. So it is around 2014. So what I just wanted to ask you is how your evidence in relation to Knox Vaults started is by me saying to you but why do you store valuables at Knox Vault and your answer is well this is a crime ridden country and as a family we decided that these

valuable items must be stored at Knox Vaults. Now your evidence seems to progress when you show and well you taking a large box – two more large boxes then another large box then an extra extra large box. Then it progresses to well I am going – I will get my language right through a process of separation and I am actually storing my personal affects there not my valuables. Is that correct? Do I have your evidence correct?

MR SINGH: That is correct.

10 **ADV MYBURGH SC:** So the whole purpose of Knox Vaults at the end was to store your personal affect that is what you ascribe the increase in the boxes?

MR SINGH: That is correct.

ADV MYBURGH SC: But yet when I asked you at the beginning what you use Knox Vaults for you did not say anything of this sort. It is only when you confronted with how you incrementally increase your holding of these boxes that you then – you value it why?

MR SINGH: Well as I explained to you before Mr Chair I
20 think originally I did not really recall the number of boxes that I had there. I did cover the aspect of saying in some cases personal effects were stored. Maybe as I explained the extent and – the extent to which and the – as I – as I explained the measure and extent that has now been explained to me this is when I now realised that this is what

was happening at the time.

ADV MYBURGH SC: So Mr Singh in 2014 when you left the marital home where did you go to live?

MR SINGH: Mr Chair I was living with Ms Nike at the time.

ADV MYBURGH SC: So why did you then not just leave your non-valuable personal effects at her house? Why did you have to place your non-valuable personal effects at Knox Vaults? I mean did you...

MR SINGH: Mr Chair at the time Ms Nike had a relatively
10 small apartment and so it was not practical to store items there.

ADV MYBURGH SC: Sorry. Mr Singh we talking about five – five boxes you do not need a triple garage and a golf cart to store those.

ADV VAN DEN HEEVER: Chairperson I am going to object. It is unnecessary to get sarcastic with the witness.

ADV MYBURGH SC: So I will – let me rephrase my questions. You do not need a lot of storage space within a house to store that do you? I mean you must accept that?

20 **MR SINGH:** Equally so Mr Chair and equally so is that the choice of me storing my personal effects that was still subject to a separation in an environment that was not – let us say an environment where Ms Nike was. It was also a choice I had to make at the time, given the circumstances.

ADV MYBURGH SC: But Mr Singh, what are we talking about here, personal effects? What personal effects? Look, you have excepted that they are not valuable.

MR SINGH: Well, they may have been valuable for me.

ADV MYBURGH SC: No, who – what personal effects were they?

ADV VAN DEN HEEVER: We would – sorry, Chairperson. Let the witness answer. It does not help to interrupt him when he is busy giving an answer.

10 **CHAIRPERSON:** Answer Mr Singh.

MR SINGH: Mr Chair, there were various items of documents, personal effects, like, you know, computers, radios. If I recall correctly, there was an antique – how can you call it – a box of sorts that I needed to store in there. So they were really personal effects Mr Chair that I stored in there and documents as I said before, from what I can recall. I do not recall particularly, at this stage, Mr Chair.

CHAIRPERSON: Mr Myburgh.

20 **ADV MYBURGH SC:** Yes. So you accept these are not valuable things?

MR SINGH: No, sir.

ADV MYBURGH SC: Just Mr Singh ...[intervenes]

CHAIRPERSON: Is no, yes in this case? When you say no, you mean yes?

MR SINGH: [laughs] Yes, Mr Chair.

CHAIRPERSON: [laughs] Yes? You mean yes?

MR SINGH: Yes.

ADV MYBURGH SC: So you have, it seems a few boxes of not valuable personal effects. What you suggesting you do, you go off to Knox Vault and then at the cost of – it was, I think we agreed, R 10 000,00 a year you hire an extra extra-large box to put in these non-valuable goods.

MR SINGH: That is correct, sir.

10 **ADV MYBURGH SC**: And when I first you ask what you used it for, you accept, you never mentioned this at all.

MR SINGH: Yes, sir.

ADV MYBURGH SC: Yet, it now becomes your case as to predominantly what was being stored in the boxes.

MR SINGH: That is correct, sir.

ADV MYBURGH SC: I see. When you went on these trips to Dubai that you style as personal or private. Did you ever meet anybody from SCR in Dubai?

MR SINGH: No, sir.

20 **ADV MYBURGH SC**: And I have already mentioned ...[intervenes]

CHAIRPERSON: I am sorry. That answer was no?

MR SINGH: No, sir.

CHAIRPERSON: Okay.

ADV MYBURGH SC: And I ...[intervenes]

MR SINGH: So when you say CSR, China Services Railways, I assume?

ADV MYBURGH SC: Yes.

MR SINGH: Yes.

ADV MYBURGH SC: ...did you meet anyone from any railway company in Dubai?

MR SINGH: Except – Transnet, no. No ways.

ADV MYBURGH SC: Sorry?

MR SINGH: No other companies.

10 **ADV MYBURGH SC:** You said something about Transnet?

MR SINGH: I thought I would say no railway companies that traded with Transnet but I did not meet any railway companies at all.

ADV MYBURGH SC: And you have said that you did not meet any of the Gupta brothers?

MR SINGH: No, sir.

ADV MYBURGH SC: And you did not meet Mr Essa?

MR SINGH: No.

ADV MYBURGH SC: And you did not meet Mr Chawla?

20 **MR SINGH:** No.

ADV MYBURGH SC: Now just on that, I mean being Ms Nike's boss. Presumably you knew this man?

MR SINGH: As I said, I did not.

ADV MYBURGH SC: Sorry?

MR SINGH: As I said I did not.

ADV MYBURGH SC: Yes, but did you meet him?

MR SINGH: At the Gupta residence, ja.

ADV MYBURGH SC: You met him at the Gupta residence?

MR SINGH: Yes.

ADV MYBURGH SC: During these cultural ...[intervenes]

MR SINGH: Yes.

ADV MYBURGH SC: ...or religious functions?

MR SINGH: [No audible reply]

ADV MYBURGH SC: Who else did you meet there?

10 **MR SINGH:** I think I already testified before, Mr Chair. It was the Gupta family members. I do not recall meeting ...[intervenes]

ADV MYBURGH SC: Well, it has been extended here to Mr Chawla.

MR SINGH: Yes.

ADV MYBURGH SC: So he was part of the Sahara?

MR SINGH: Yes.

ADV MYBURGH SC: What other businesspeople linked to the Gupta's did you meet there?

20 **MR SINGH:** I do not recall specifically, Mr Chair, meeting any other businesspeople.

ADV MYBURGH SC: You did not meet Mr Essa?

MR SINGH: Sorry?

ADV MYBURGH SC: You did not meet Mr Essa?

MR SINGH: No, sir.

ADV MYBURGH SC: So these Diwali functions – and you must correct me if I am wrong. I mean, it seems to be a very important day on the religious calendar.

MR SINGH: Yes, sir.

ADV MYBURGH SC: And if I understand correctly. When you invite someone to celebrate Diwali with you, would you typically invite those people that are important and close to you or would it be an all come situation?

MR SINGH: It depends, sir. In my case, it is relatively a
10 personal affairs and it is really very close family members only.

ADV MYBURGH SC: But you went to celebrate Diwali with the Guptas?

MR SINGH: No, Mr Chair, I said that I attended various religious functions at their house. I did not specifically mention the Diwali function.

ADV MYBURGH SC: No, you did.

MR SINGH: No, sir.

ADV MYBURGH SC: That is how I come to ask you about
20 it.

MR SINGH: In this file?

ADV MYBURGH SC: You can have a look at the transcript. But so are you now saying and perhaps I have it wrong, you might have referring to some other religious function. Are you now saying you did not go to celebrate

Diwali with the Guptas?

MR SINGH: Mr Chair, I may attended one or two of them. Maybe one. But I do not, off-hand, recall attending a Diwali.

CHAIRPERSON: So what were the cultural events that you went there for?

MR SINGH: Mr Chair, if you look at the Hindu calendar. The Hindu calendar has many – I mean for example now, we are in a period of what is called Ram Navami which is
10 religious function that requires you to observe a nine-day period and this would normally either come in the beginning of a play or ending of a play during this nine-day period. So if you look at the religious calendar there are number of these religious ...[intervenes]

CHAIRPERSON: Just mention maybe three or four for me.

MR SINGH: But as I said ...[intervenes]

CHAIRPERSON: The names.

MR SINGH: As I said there is Ram Navami now.

CHAIRPERSON: Ja?

20 **MR SINGH**: There is Saraswathi, there is Diwali, as mentioned, again there is another Saraswathi(?) which is later in the year. So, yes, there is a number of days Chair.

CHAIRPERSON: I guess, maybe for those who are not Hindu maybe to highlight the most ...[intervenes]

MR SINGH: The most popular.

CHAIRPERSON: ...well-known.

MR SINGH: The most well-known, yes.

CHAIRPERSON: Yes, okay alright.

ADV MYBURGH SC: So apart from not mentioning...
When I asked you about these, you said: Well, the ones
that come to mind is obviously the Diwali function.

MR SINGH: Well, when you asked, I answered generally.

ADV MYBURGH SC: Mr Singh, and you see, because I
have been asking you about: Do you not just invite your
10 nearest and dearest to Diwali? And you then suggested,
well, you did not go to Diwali at the Guptas but you did,
correct?

MR SINGH: I am trying to recall, sir.

ADV MYBURGH SC: You said – I asked what the
functions it were? You said: Well, the functions that
comes to mind is obviously the Diwali functions.

MR SINGH: Yes, you asked what were those religious –
what were the religious functions and I said one of the
obvious ones was Diwali. I did not say I attended the
20 Diwali function.

ADV MYBURGH SC: Well ...[intervenes]

ADV VAN DEN HEEVER: Chairperson, is my learned
friend referring to the transcripts, so that we can just have
a look at the relevant pages.

ADV MYBURGH SC: Chair ...[intervenes]

CHAIRPERSON: Ja.

ADV MYBURGH SC: ..let me read the full ...[intervenes]

ADV VAN DEN HEEVER: He does not need to read the full, he can just refer us ...[intervenes]

ADV MYBURGH SC: I actually want to read the full ...[intervenes]

CHAIRPERSON: Ja, maybe you must start by explaining ...[intervenes]

ADV MYBURGH SC: It is at page 2012 of the transcript of
10 12 March 2021, Day 360.

MR SINGH: Mr Chair, while ...[intervenes]

ADV MYBURGH SC: So if I could just start, please?

CHAIRPERSON: I am sorry. Mr Singh, oh some water. Will somebody please give Mr Singh some water?

ADV MYBURGH SC: So what we – I was going to read from the foot of page 24.

20 “Mr Myburgh: And which members of the Gupta family would you interact with on these occasions that you attended the Saxonwold residence?

Mr Singh: Mr Chair, 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.

Mr Myburgh: Let me turn rather – perhaps I could just ask you. These cultural and religious functions that you attended, did they typically after hours or on the weekends?

Obviously, on any particular religious day.

Mr Singh: Well, the ones that come to mind is obviously the Diwali functions and the Diwali function were depending on when the occasion of Diwali would fall in the... [And so it goes on.]

10

Mr Myburgh: Alright. Did you have occasion to visit Sahara Computers?...”

So that was the question around Diwali. I just want to get it clear from you. Did you go to the Guptas and celebrated Diwali with them, yes or no?

MR SINGH: Look, this is my response. I do not recall going but maybe I did. I do not recall.

ADV MYBURGH SC: And from your own perspective. You have a sense that the Guptas invited those people close to them to these functions or did they adopt an all come approach?

20

MR SINGH: I think Mr Chair, for the ones I attended, as I explained previously, there were a number of people that attended. How and who and how they selected people to be invited, I would not know that.

ADV MYBURGH SC: And would my understanding be correct and please tell me if I am wrong. If you celebrate Diwali and in this instance with the Guptas, then you are not celebrating it with your own people and family, is that right?

MR SINGH: That is correct.

ADV MYBURGH SC: So in these instances when you went to the Guptas, you choice to go and celebrate Diwali with the Guptas instead of your own family, instead of those
10 nearest and dearest to you.

MR SINGH: Well, hence I am saying Mr Chair but I do not recall attending a Diwali function at the Guptas because my – as I have testified, in my case I celebrated with my nearest and closest family as opposed to doing it, you know, with let us say other people that I am not as close to as my immediate family.

CHAIRPERSON: What is your experience, generally speaking? Is that when people celebrate Diwali, they celebrate them with family and those close to them or is it
20 that they celebrate them with whoever comes in? You know, in my culture, for example, if there is a wedding or something and you have slaughtered a cow you do not issue invites

MR SINGH: Yes.

CHAIRPERSON: You know. Even a strange who is

walking passed, if they see that there is a wedding, there must be food, there must be meat. They take a detour and they come into your house.

MR SINGH: [laughs;

CHAIRPERSON: Nobody asked them: Who invited you? Who are you?

MR SINGH: Yes, sir.

CHAIRPERSON: Ja. And the idea is, everyone who comes must be given food and if anybody leaves without
10 being offered food, that is something very bad.

MR SINGH: Yes, sir.

CHAIRPERSON: So in that setup that I am talking about, anybody can come. So with the Diwali, what is your experience? Is it that people celebrate them with family and those who are close to them or is it that anybody that can come?

MR SINGH: Well, Mr Chair I think it depends. Certainly in my case, it would be those closest to me, whether it is in the neighbourhood at the time because it is characterised
20 by exchanging of you know eats and those type of things. So wherever you are actually during that time you actually visit people as well.

So if you have acquaintances, you probably go and exchange, you know, these eats with them. They will come to you or you would go to them. The neighbours

would – if you had dinner, the neighbour may join you or you may join the neighbour because as you know that Diwali in the evening there is firework and stuff like that and then it becomes more of a communal type of thing with the kids and everybody else. So that is probably what my experience is.

But I am not too sure what the setup at the Guptas is for example because I do not think I could just pitch up there and just arrive and say I am here and I want
10 to participate in the Diwali festivals, for example. Because they are, I would assume, you will have to – like I have been invited. So I go when I am invited.

CHAIRPERSON: Since you did attend on your version various cultural events or functions at the Gupta residence. Do you know of any reason why you might have not attended Diwali?

MR SINGH: Mr Chair, because of my preference to celebrate it with my closest as you would say family.

CHAIRPERSON: H'm.

20 **MR SINGH:** So it is a special day.

CHAIRPERSON: H'm, h'm.

MR SINGH: So we dedicate it to the...

CHAIRPERSON: H'm. The other cultural events would not be events or to celebrate with family those closest to you.

MR SINGH: Not necessarily Mr Chairman.

CHAIRPERSON: H'm, okay.

MR SINGH: No.

CHAIRPERSON: Mr Myburgh.

ADV MYBURGH SC: So Mr Singh, just to follow on those questions. What I just want to ask you is. I do not follow you why the Gupta's invited you to these events because it is your evidence and you must correct me if I am wrong, is that you never went to the Guptas, other than when you
10 were invited to religious or cultural events. You did not interact with them at all.

MR SINGH: Yes, sir.

ADV MYBURGH SC: What would have caused them then just to invite you? You have nothing to do with them but when a religious or cultural event came up, you are on the guest list. How did that happen?

ADV VAN DEN HEEVER: Chairperson, my learned friend might forget the evidence of the witness was that he did in fact meet them at the TNA breakfasts. That is how he got
20 to know them.

ADV MYBURGH SC: Yes?

MR SINGH: So, Mr Chair, I mean, equally so. It could be asked why did the Guptas invite me to the wedding?

CHAIRPERSON: To what?

MR SINGH: You know, to the Sun City wedding, for

example.

CHAIRPERSON: H'm?

MR SINGH: I do not know why he invites me to the Sun City wedding but I did not attend. So I guess the same could be asked.

ADV MYBURGH SC: But did they invite you to the wedding?

MR SINGH: Yes, sir.

ADV MYBURGH SC: Oh, I thought they did not invite you
10 to the wedding.

MR SINGH: No, I said they did but I did not attend.

ADV MYBURGH SC: So you, as you have said, you cannot explain why they would have invited you to the wedding?

MR SINGH: No.

ADV MYBURGH SC: And you cannot really explain, correct me if I am wrong, why they invited you to these religious and cultural events?

MR SINGH: Mr Chair, they are of Hindu descent. I am of
20 Hindu descent as I have explained before or just right before. I got to know them through the TNA breakfasts and that is how the relationship grew. And you would normally invite people of similar culture to these religious events.

CHAIRPERSON: So did you end up being close to them, the Guptas?

MR SINGH: Well, Mr Chair I think we need to define close.

CHAIRPERSON: Yes.

MR SINGH: Ja.

CHAIRPERSON: Did you – I think you did indicate about how many times you might have gone there.

MR SINGH: Yes.

CHAIRPERSON: You said about ten or eleven ...[intervenes]

10 **MR SINGH:** Yes.

CHAIRPERSON: ...or twelve times or whatever. Over what period, do you remember?

MR SINGH: I think that was about over an three or four year period.

CHAIRPERSON: About three or four year period which might mean you would have gone there on average about three times a year or so. Well, that does not strike me as people that you are unfamiliar with. Maybe that is the way to put it.

20 **MR SINGH:** I would agree, sir.

CHAIRPERSON: If you visit ...[intervenes]

MR SINGH: Yes, I would visit.

CHAIRPERSON: ...them for three times a year. How far did you live from where they were? How far were you?

MR SINGH: Ja, well, I guess from – I live in Wendywood

Mr Chair.

CHAIRPERSON: Ja. And what kind of time in terms of distance ...[intervenes]

MR SINGH: I would say it is probably not more than 20 – 30-minutes.

CHAIRPERSON: Ja. Okay alright. Mr Myburgh.

ADV MYBURGH SC: Thank you. So You say that you Lift a marital home In about 2014. You went to stay with Ms Naidoo. She, we know - we will come to the dates in a
10 moment, but in 2015, She is employed at Sahara Computers. You have accepted that. So was that the time where through your relationship with her you started to interact more with the Guptas, You started to interact Mr Chawla.

MR SINGH: No, sir.

ADV MYBURGH SC: Did you never go out to dinner for example with someone from Sahara Computers?

MR SINGH: No.

ADV MYBURGH SC: And go along with Ms Nike?

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

ADV MYBURGH SC: But perhaps I can just deal with that. you gave evidence and you did say dates were not your thing. you see that she was employed there in 2013 or in 2014 and that she left in 2015. you see it a year and a half or two. but from what we have been able to determine

it seems that Ms Nike, in fact, commenced employment at Sahara on the 1st of January 2015 or at the beginning of January 2015.

ADV VAN DEN HEEVER: Chairperson, before the witness answers. can my learned friend maybe she few relevant documentation with us that they obtained so that we can have a look at it ourselves? It was not disclosed to us, it was not mailed to us. We would like to have a look at it before he continues with this line of questioning.

10 **ADV MYBURGH SC:** I am absolutely happy to do that if it is in dispute. I'm referring to her LinkedIn profile which was shown by one of the investigators yesterday. I mean, I do not know if this is a big issue. I mean, I am not suggesting - I am not trying to criticise you for not getting the dates spot on but I am - we can just deal with this issue.

Does the date accord now with your recollection that she started there in January 2015? what I have also seen and I can produce if you want is her resignation from
20 Transnet. She resigned, I think it was ...[intervenes]

ADV VAN DEN HEEVER: Chairperson, the same situation goes, with respect, to the resignation. We have not been ...[intervenes]

CHAIRPERSON: You will get Ms Van den Heever, you will get it. But Mr Myburgh can ask him in the meantime and

Mr scene can answer what do nursing but he doesn't know.

ADV MYBURGH SC: So, I... Ja, I do not know
...[intervenes]

CHAIRPERSON: Just repeat the question.

ADV MYBURGH SC: I do not think that it needs to be
contentious. Let me tell you what I have seen and I am
happy - of course I will provide you with the
documentation. what I was showing yesterday and my re
collection is not necessarily - but I was shown a letter of
10 resignation by Ms Nike from Transnet.

I think it was - she resigned on the
3rd of November and she spoke about giving a months'
notice and I think she says in a letter that would expire on
the 4th of December. And I thought that is interesting
because it wasn't a calendar months' notice. and then I
was shown the LinkedIn profile which reflects...

I am assuming it is still the current one oh it
might be a historic one that reflects that she started at
Sahara Computers – certainly - I am not sure if it said the
20 1st of January but it said January 2015. Do you want to
comment on that or you can say nothing until I show you
the documents.

MR SINGH: No, no I - If it is a document then it is a
document.

ADV MYBURGH SC: does that accord go with your

recollection?

MR SINGH: If it is documented then yes I do.

ADV MYBURGH SC: Okay. And when did she leave because I suppose now I need to adjust things assuming that is correct, when did she then leave Sahara Computers? Would that have been a year and a half two years from then?

MR SINGH: I would think probably around that time, yes. It would then be around 2017.

10 **ADV MYBURGH SC**: Around?

MR SINGH: Around 2017, that would be.

ADV MYBURGH SC: Oh, 2017. So at the time that you worked for Eskom for example, she was then working at Sahara Computers?

MR SINGH: That is correct.

ADV MYBURGH SC: And her boss at Sahara Computers, who was that?

MR SINGH: I think it would have been Mr Chawla.

ADV MYBURGH SC: Sorry?

20 **MR SINGH**: I think it would have been Mr Chawla.

ADV MYBURGH SC: and did she work together with the Gupta brothers?

MR SINGH: I am assuming to the extent that she needed to. I would assume so.

CHAIRPERSON: I am sorry you ...[intervenes]

MR SINGH: I said to the extent that she would needed to.
I would assume that you would have.

CHAIRPERSON: H'm.

ADV MYBURGH SC: Mr Singh, Just turning to a different topic. I am informed that really at the outset of the Commission's work, there was a time where you intended to cooperate with the Commission and you in fact volunteered an affidavit which was shown to some investigators and I think some members of the Legal Team
10 on a sort of a show and tell basis. do you recall that?

MR SINGH: Mr. Chair, this was subject to a confidential legal and privileged process that we have undertaken and I'm not too sure why this is being brought up now.

ADV MYBURGH SC: Well, what I want to find out is why did you withdraw your cooperation?

MR SINGH: It was again based on legal advice At the time which was legally privileged and we decided to discontinue the engagement with the Commission.

ADV MYBURGH SC: And you still have that affidavit?

20 **MR SINGH:** No.

ADV MYBURGH SC: Oh, how can you say that with such certainty?

MR SINGH: Because I don't think we ever produced an affidavit.

ADV MYBURGH SC: I see. And who were your attorneys

at the time?

MR SINGH: Thomson Wilks(?).

CHAIRPERSON: Sorry?

MR SINGH: Thomson Wilks.

CHAIRPERSON: H'm.

ADV MYBURGH SC: How did Ms Nike's employment with Sahara come about?

ADV VAN DEN HEEVER: Chairperson, would this not be the kind of questions that should be directed at her? With
10 the greatest of respect, why must ...[intervenes]

CHAIRPERSON: Well, Ms Van den Heever. Mr Singh might know because there is a version that he had a relationship with the Guptas, a certain relationship with the Guptas. Of course, he has a certain version. But it is a legitimate question. Do you know it happened Mr Singh?

MR SINGH: I think Mr Chair she had accompanied me to one of the functions and she had got chatting to the people that were there and she had expressed an interest in – her area of expertise was project management in IT. So I
20 guess that was the catalyst of that but further than that, Mr Chair, I am not too sure.

CHAIRPERSON: She had accompanied you when you had gone ...[intervenes]

MR SINGH: On one of the occasions.

CHAIRPERSON: On one of the occasions?

MR SINGH: Yes.

CHAIRPERSON: Okay alright. And there she had spoken to one of the Gupta people?

MR SINGH: I would assume so Mr Chair.

CHAIRPERSON: Ja, okay alright.

ADV MYBURGH SC: Thank you. I want to move now to a different topic and that relates to your FNB salary account. Could you please go to Bundle 5(c), page 1568?

MR SINGH: 15...

10 **CHAIRPERSON:** 1568, Mr Myburgh?

ADV MYBURGH SC: 1568. Yes, Chairperson.

CHAIRPERSON: Okay.

ADV VAN DEN HEEVER: Chairperson, maybe this is an opportune moment before my learned friend starts with this line of questions. I did approach him this morning pertaining to this particular issue and maybe this argument should be dealt with *in camera* because it relates to an issue that we say is an infringement of our client's right to privacy under the Constitution and there is a number of
20 issues we would like to raise in that regard. I was hoping that I could sort this out with my learned friend *inter partes* but seemingly he has decided to go ahead and I would like to be offer the opportunity to make certain submissions to you.

CHAIRPERSON: You want to apply for the evidence

relating to his bank accounts to be held *in camera*?

ADV VAN DEN HEEVER: No, Chairperson. I want to make certain submissions to you but because of the content of what my learned friend is to put, I think that should be *in camera*. We are objecting to him being questioned on his private bank account details. We – I have told my learned friend this morning already. I object to it be included in the bundles.

He was never informed of the fact that his bank
10 records are being subpoenaed. I do not believe there is a lawful basis for it be subpoenaed. There is no allegations that there was anything corrupt, untoward pertaining to these bank statements. And for the investigators or whoever to have subpoenaed this ...[intervenes]

CHAIRPERSON: Okay do not make your submissions now. We are going to take an adjournment at four as we normally do. Maybe should take it now a ten minutes adjournment and then when I come back I will hear what you have to say and I will hear what Mr Myburgh has to
20 say. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV MYBURGH SC: ...proposed to my learned friend.

CHAIRPERSON: Maybe you can just adjust your mic, it seems to – ja.

ADV MYBURGH SC: Yes. I have proposed to my learned friend that one way of eventually resolving this issue is that one might remove the bank accounts or statements and then just deal with the matter on the basis of Fundudzi report, Mr Benjamin's affidavit and an Excel spreadsheet that is attached. I understand that that is not acceptable to them. So it does not seem that we can resolve this impasse and ...[intervenes]

CHAIRPERSON: Well, if the impasse is not resolved, if I
 10 am asked to make a ruling, I will make a ruling. The Commission is involved in an investigation of great public interest where there are allegations of corruption, there are allegations of certain people having given certain people money, sometimes large amounts of money in order to do wrong things and there is taxpayers' money involved, so if I have to make a ruling, I will make a ruling. I accept that there can be issues of privacy and so on but if I have to listen to argument I will hear argument and make a ruling but we cannot spend too much time and not
 20 proceeding with the [indistinct – dropping voice]

Obviously things can be sorted out that is relevant, sometimes things cannot be sorted out and when you are involved in something that involves public interest and public money, not every solution is - you know, a solution has got to be based also on an appreciation that are not

just issues of privacy they are also issues of public interest.

So if you are happy to deal with the matter in the way you say you were proposing to them, at least for now maybe while there is a reflection on the issue of bank statements then we could do that but it may well be at the end that the issue that needs to be confronted might have to be confronted but it may well be that it will not be necessary to confront it.

10 So but if they have an objection to you even dealing with it in this way, you might have to see whether you – I should make a ruling whether you can deal with it in that way for now without necessarily making a ruling on whether you cannot use the first approach you intended to use, so – but I do not know what you propose to ...[intervenes]

ADV MYBURGH SC: Well, perhaps I should hear from my learned friend.

CHAIRPERSON: Yes.

20 **ADV MYBURGH SC:** She seems to have an overall objection. I hope I am characterising the position correctly.

CHAIRPERSON: Yes.

ADV MYBURGH SC: And want to see the subpoenas before she decides what her client should do. Just to

place that on record, DCJ. The investigators are here, they have made requests for these subpoenas. We are waiting to hear when we will be able to produce them by – I am told that these were amongst the very early subpoenas in the Commission, so they need to be dug up, but we are hopeful that that could certainly be done overnight. I am sure it could.

CHAIRPERSON: Okay, okay. Ms van den Heever?

ADV VAN DEN HEEVER: Chairperson, thank you. Our
 10 approach is a very simple approach, we do have certain rights under the Constitution and I understand what you say, Chairperson, there is some public ...[intervenes]

CHAIRPERSON: Interest.

ADV VAN DEN HEEVER: Interest that is at play but public interest must be weighed up against your right to privacy. What I propose to my learned friend – and I do have an objection to him going to only the conclusions and Mr Benjamin's affidavit because what is contained in their flow directly from the bank statements, I said to him we wish to
 20 see all the bank statements, the subpoenas that is here, I want to understand the basis on which subpoenas were applied for obtained and what exactly was subpoenaed. We still have a recourse, Chairperson.

CHAIRPERSON: Ja.

ADV VAN DEN HEEVER: To, for instance, take a review

process pertaining to this particular issue.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVER: But I can – once we have had the subpoenas, we are sensible people and we have had a look at it, then we can possibly advise our client in our different direction but for us to sit here and just go ahead nilly willy without properly being appraised of what happened, having had the opportunity to properly consult on those with the client and taking a proper instruction is
10 not fair to the client and it is at this stage I would submit is highly prejudicial to him especially when it would have been a simple exercise to inform him on the fact that those subpoenas were issued so that he at that stage already when this happened could have exercised any rights that he had.

So we say – and we respectfully submit that we be given an opportunity to look at the subpoenas and make an informed decision and until that stage to force him to deal with something that flows from the bank statements that we
20 say we have not even seen the subpoenas would be highly prejudicial.

CHAIRPERSON: The bank statements, he has seen those I assume for some time.

ADV VAN DEN HEEVER: He has not seen them for some time, we recently got to know of them, Chairperson.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVER: But that is not the issue.

CHAIRPERSON: Ja.

ADV VAN DEN HEEVER: The issue is not an isolated set of bank statements that they want to present or present evidence on, it is about the conspectus of what – and I do not want to put – to argue or to try and make submissions on behalf, we know what the position is here.

CHAIRPERSON: Ja.

10 **ADV VAN DEN HEEVER:** But we have a right to also deal with issues in a correct and proper manner protecting our own interest and our rights as afforded in ...[intervenes]

CHAIRPERSON: Yes, tell me, let us assume – what would be the best scenario for you when you see subpoenas?

ADV VAN DEN HEEVER: Chairperson, I would like to see the subpoenas. I need to understand the basis for it.

CHAIRPERSON: You want to see whether the bank statements were obtained legally, is that correct?

ADV VAN DEN HEEVER: Chairperson, it does not even go
20 to that. I am entitled to see the subpoenas, I can only make ...[intervenes]

CHAIRPERSON: You may be entitled but I want to see what the connection is between seeing the subpoenas and the evidence not proceeding despite the fact that you have seen the bank statements. That is the connection that I

want to understand.

ADV VAN DEN HEEVER: Chairperson, I would like the opportunity to see them and then make submissions to you. I cannot make submissions to you as to where I will go with it without seeing the statements.

CHAIRPERSON: But you see, if you do not - if you cannot enlighten me on that I remain in a position where I do not see the connection, you see? Whereas what I am trying to see is whether you have a case for me to say Mr Myburgh
10 should not lead that evidence until you have seen the subpoenas but if I do not see the connection, I cannot assist you. So that is why I was asking what is the connection?

ADV VAN DEN HEEVER: Chairperson, my understanding is that the Commission has a while ago already issues subpoenas in respect of various bank statements. They now wish to elevate one of the bank statements to a certain position. I need to see the other bank statements that were subpoenaed because you cannot expect of my
20 client to answer questions in isolation, number one.

Number two, I need to ensure that the subpoenas were done properly, they were in respect of certain time periods, in respect of certain bank accounts with certain fundamental underlying reasons to subpoena them.

CHAIRPERSON: Ja. Okay, basically it is two things you

say. One, to the extent that there may be other bank statements you would like to see them.

ADV VAN DEN HEEVER: I would like to see the subpoenas, Chairperson.

CHAIRPERSON: Ja, well I am saying too.

ADV VAN DEN HEEVER: And then the bank statements if they were obtained.

CHAIRPERSON: Ja, so you want to see the subpoenas in order to see what they covered and whether they were
10 legal, you know? And two, you want to see other bank statements to the extent that there may be other bank statements.

ADV VAN DEN HEEVER: Chairperson, may I just take an instruction from my attorney before we...?

CHAIRPERSON: Okay.

ADV VAN DEN HEEVER: Thank you, Chair.

CHAIRPERSON: Mr Myburgh, what do you want to say?

ADV MYBURGH SC: Chairperson, I am not sure that I have much to say, I mean, other than – I am not sure that I
20 understand the argument, to be frank, because if what my learned friend at best for her it seems is going to try and suppress this evidence because these subpoenas at best were somehow irregular and that presumably is the best of ...[intervenes]

CHAIRPERSON: Ja, but if they were irregular I am sure

the discretion.

ADV MYBURGH SC: Well, that is the one thing. The other thing is, is it does not do away with the Fundudzi report, Fundudzi report is a public report, it says ...[intervenes]

CHAIRPERSON: Yes and it has not been set aside.

ADV MYBURGH SC: It has not been set aside, they had the bank accounts, they analysed them and they actually asked Mr Singh for his input.

10 **CHAIRPERSON:** Yes.

ADV MYBURGH SC: And he said that all of the amounts in that account came from - in relation to Transnet or Eskom.

CHAIRPERSON: Yes.

ADV MYBURGH SC: So, I mean, what we did was to double check Fundudzi's work and yes, we have produced more detail but I cannot see where this takes us to.

CHAIRPERSON: Well, the one thing we can explore – I think there are two options. I do not see my way to saying
20 let us stop. I think there are two options. One option is whether you are able to deal with other issues for the rest of the time that we have for today and then tomorrow hopefully there would be no issues anymore because maybe whatever subpoenas there are would have been looked at and there would be no problem. That is one

option.

But if the position is that we either deal with this or lose the time, then there is the difficulty but to the extent that the matters are already in the Fundudzi report, which has not been set aside, I would be inclined to say that that could be dealt with.

So what is the position, is it possible for us to use the time we have on issues other than this?

ADV MYBURGH SC: Yes.

10 **CHAIRPERSON:** Or is it not possible?

ADV MYBURGH SC: Of course it is possible, DCJ, to move – to change gears and to deal with something else.

CHAIRPERSON: Yes, okay.

ADV MYBURGH SC: We can then hopefully get the subpoenas overnight.

CHAIRPERSON: Yes.

ADV MYBURGH SC: My learned friend can then make a call on this tomorrow.

20 **CHAIRPERSON:** Okay, okay, I think let us do it that way then.

ADV MYBURGH SC: So understand there is another witness at five.

CHAIRPERSON: Yes, yes.

ADV MYBURGH SC: So I can certainly, of course, deal with something – try and deal with something discreetly in

that half an hour if that is what you have in mind.

CHAIRPERSON: No, that is fine, let us do that.

ADV MYBURGH SC: Thank you.

CHAIRPERSON: Ja, okay.

ADV MYBURGH SC: I want now to turn – I will come back to the salary account one way or the other tomorrow. I want to turn to discuss with you two things that you have dealt with in your affidavit and that is, what seems to be a kind of an important overall context in relation to the
10 various acts of procurement that we are going to be examining in the balance of your evidence.

So I want to start off by dealing with the market demand strategy, the so-called MDS. I understood from one of your affidavits that you were actually involved in the development of this strategy, is that correct?

MR SINGH: That is correct.

ADV MYBURGH SC: And what was the role that you played in that?

MR SINGH: Mr Chair, at the time I occupied the position
20 of the Acting CFO of Transnet.

CHAIRPERSON: The position of?

MR SINGH: Acting CFO of Transnet.

CHAIRPERSON: Yes.

MR SINGH: And ...[intervenes]

ADV VAN DEN HEEVER: Chairperson, my client my speak

into the mic, we cannot hear this side. Please.

CHAIRPERSON: Yes, yes.

MR SINGH: Sorry, Mr Chair, the affidavit that we are referring to, do you know which one it is?

ADV MYBURGH SC: If you want to go there you go there but I want just to deal with in a general way.

MR SINGH: Oh, okay.

ADV MYBURGH SC: And to actually find out from you precisely what the MDS entailed and how significant it was,
10 not into your job but to the work really of Transnet at this time.

MR SINGH: Okay. I think, Mr Chair, as I was explaining, at the time I was the Acting Group Chief Financial Officer of Transnet and one of the functions that I had at the time was like we spent an inordinate amount of time discussing the corporate plan on the Eskom side, a big chunk of my time was also taken up preparing the corporate plan for Transnet and at the time there was also a change of the board, so a new board had taken over at the time. I think
20 that coincided with Minister Gigaba taking over as Minister of Public Enterprises.

CHAIRPERSON: Do not lower your voice.

MR SINGH: Sorry, Sir, let me get this closer. So that should be better.

CHAIRPERSON: I do not what the technicians had done

yesterday, I do not know whether afternoon everybody was speaking very loud, I think the mics had been adjusted so at least maybe they should adjust yours.

MR SINGH: Well maybe, Mr Chair, it is just because of the way I sit.

CHAIRPERSON: Ja, okay, well they are hearing, if they are able to adjust remotely where they are then we can hear you because you lower your voice. Okay, alright, just continue.

10 **MR SINGH:** So, Mr Chair, there was some how can I say, criticism from the new board relating to Transnet's ability to unlock the value in the economy vis-à-vis the fact that the logistics chain plays a very critical – is a very critical component of actually enabling economic growth.

To the extent that the rail system is fully capacitated or it does not have excess capacity to the extent that the ports do not excess capacity, to the extent the pipelines do not have excess capacity, your economy is constrained and our economy, being an export-driven
20 economy to the extent that the world economy is let us say enjoying a boom, the South African economy is constrained by the capacity that the logistics system actually has so that was one of the bottlenecks that the board had actually identified in that Transnet was basically a bottleneck to economic growth.

So in responding to the preparation of the corporate plan, Mr Chair, we decided to understand to what extent if we were to enable the economy and un-bottleneck the constraints that were perceived to be there from a capacity perspective in the rail and the port and the pipeline business, what would be – what would Transnet look like and, Mr Chair, that basically evolved into what we now call the market demand, Chair.

So basically, instead of constraining or instead of
10 planning to what we called at the time contracted demand, we planned now to market demand. So if there was market demand for 100 million tons of rail asset, whether we had a contract for it or not, we were planning to actually put the capacity in place on the basis that it would have been taken up. Okay?

So that was the difference between let us say the historic planning scenario and the new planning scenario which was out of the market demand strategy.

Mr Chair, one of the reasons why the board was
20 critical of the planning scenarios and why we were a bottleneck to the economy is that they felt that the country actually missed out an opportunity in terms of participating in the commodity boom that preceded the financial crisis and the commodity slump.

So from that perspective, Mr Chair, we then said

okay, let us unconstrain the planning parameters and see what comes out of it and basically, Mr Chair, that then led to the development of the market demand strategy, the market demand strategy was counter-cyclical interview strategy so it actually invested ahead of demand so it would perceive demand to peak in three years from now. The investment decision for that commodity to peak in three years had to happen now because there was a lead time in terms of being able to actually plan and execute the
10 projects that are required to make sure the demand actually happens. So that was the explanation of counter-cyclical investment strategy.

The plan was premised on a R300 billion capital spend, Mr Chair, and that was for the whole of Transnet being Transnet Freight Rail, which is the rail entity, Transnet National Ports Authority, Transnet Port Terminals and Transnet Pipeline as well as Transnet Engineering and the biggest chunk of the spend, Mr Chair, was allocated to Rail and the biggest chunk of the Rail investment was
20 allocated to locomotives.

In the Ports business the biggest chunk of the capital was allocated to the – if I recall correctly, the widening and deepening of the harbours on the Transnet National Ports Authority side.

On the Transnet Port Terminal side it was related

to container stacking areas, maintenance of container stacking areas, improving efficiencies in the ports and certain crane acquisitions as well.

On the Transnet Pipeline side it was continuing with the new multiproduct pipeline which is the Johannesburg to Durban petroleum pipeline but obviously transports petroleum products from the coast to England.

Mr Chair, that was also linked to a – I think it was R110 or R120 billion funding programme over the five year
10 period.

So, Mr Chair in a nutshell, that was the market demand strategy in terms of how it impacted Transnet and how it impacted let us say the broader economy.

CHAIRPERSON: Okay.

ADV MYBURGH SC: I just want to follow up. In your affidavit – actually you can go there if you would like, this is at bundle 5B, page 472, paragraph 15.

MR SINGH: Sorry, page number 472?

ADV MYBURGH SC: 472.

20 **MR SINGH:** Yes.

ADV MYBURGH SC: You say at paragraph 15, under the heading Market Demand Strategy:

“I confirm that the planning and development of the market demand strategy, MDS, was the initiative and work product of myself and the corporate

finance department of Transnet.”

Do you confirm that?

MR SINGH: Yes, Sir.

ADV MYBURGH SC: Then you spoke about 300 billion capital expenditure and chunks of it. What chunk of that 300 billion was allocated to Freight Rail?

MR SINGH: I do not recall offhand right now but I will probably say probably half of it or more than half of it.

ADV MYBURGH SC: And of that half that was allocated to
10 Freight Rail, what chunk of that was allocated to locomotives?

MR SINGH: I would think probably 60 to 70 billion.

ADV MYBURGH SC: Sorry?

MR SINGH: 60 to 70 billion.

ADV MYBURGH SC: So would have been about...

MR SINGH: Half of the half.

ADV MYBURGH SC: Half of the half. So ...[intervenes]

MR SINGH: 35%.

ADV MYBURGH SC: If a 150 billion was allocated to
20 Freight Rail, about half of that was allocated to Freight Rail, about half of that was allocated to locomotives.

MR SINGH: If I recall correctly.

ADV MYBURGH SC: Okay. And ...[intervenes]

MR SINGH: Sorry, Mr Chair, if we – before we move off paragraph 15, I think you did give some context in terms of

the wording of paragraph 15. The context of this first paragraph relates to the conceptual thinking and conceptual work, so it was initial planning that this refers to because the corporate planning process, as we understand is a very different complex and detailed process.

ADV MYBURGH SC: And from the evidence that has been given before the MDS was announced in April 2011 the investment itself commenced a year later in April 2012.

10 Does that accord with your recollection?

MR SINGH: It probably will, yes.

ADV MYBURGH SC: By the time that you were then seconded from Transnet to Eskom one was about three years into the MDS.

MR SINGH: That is correct.

ADV MYBURGH SC: And I take it that the MDS, speaking broadly, would probably have been your most important task or function in those years.

MR SINGH: Well, executing the corporate plan would
20 have been, whatever was contained therein would have been, yes.

ADV MYBURGH SC: Ja. I want then to talk a little bit about the BADC and delegations of authority. Now Mr Forman gave evidence about this, I just want to see to what extent you might agree. Historically his evidence was

that historically the board, including subcommittees, did not have any delegation of authority when it came to procurement-related matters, there had been a decentralised procurement system in place. As I understand, that is at an operational level, a divisional level. Does that accord with your recollection?

MR SINGH: Mr Chair, I would hazard to say that I do not recall in terms of – which period are you talking about specifically?

10 **ADV MYBURGH SC:** Well, before 2011.

MR SINGH: Before 2011. There were acquisition councils at a group level as well, if I recall correctly.

ADV MYBURGH SC: And then ...[intervenes]

MR SINGH: I am not too sure what the board levels were.

ADV MYBURGH SC: Alright. What he testified to is that in 2011 the board then acquired these procurement powers and a special subcommittee of the board was created, that being BADC. That I think you deal with in your affidavit.

MR SINGH: Yes, Mr Chair, that I confirm that yes, the
20 BADC was a product of the board.

ADV MYBURGH SC: So a subcommittee of the board.

MR SINGH: Yes.

ADV MYBURGH SC: And did you sit on the BADC?

MR SINGH: No, Sir.

ADV MYBURGH SC: Okay.

MR SINGH: I was not a member of the BADC.

ADV MYBURGH SC: And perhaps you could just help us understand the composition of obviously an important body within Transnet. What was the makeup of the BADC? What sort of qualities were the board looking for because some of the board members sat on the BADC. What qualities qualified one to be a BADC member?

MR SINGH: Mr Chair, I would be speculating if I gave a response because the – I will be corrected, I may be
10 mistaken, but I think the composition of - let us leave own the BADC but the composition of any of the board subcommittees I think took place in a committee called the Corporate Governance and Nominations Committee and that committee would sit and decide, you know, based on the PO's mix of the board which members would be suitable in which committees. As far as I recall, that is how it happened.

ADV MYBURGH SC: Alright. And then the evidence was that the BADC's approval authority was increased in 2012
20 to tenders up to 2 billion with the board being required to approve tenders above that. Does that accord with your recollection?

MR SINGH: Mr Chair, the delegations would have been a function of a delegation of a party framework, yes.

ADV MYBURGH SC: Ja. And then what we know as well

is that Mr Sharma was appointed as the Chair of the BADC in August of 2012.

MR SINGH: Mr Chair, I am not exactly sure of the date but I am aware that Mr Sharma was the Chairman of the BADC.

ADV MYBURGH SC: And for how long did he serve as the Chairperson of the BADC?

MR SINGH: I do not recall, Mr Chair.

ADV MYBURGH SC: Would it have been for a number of
10 years?

MR SINGH: I would think so, Sir.

ADV MYBURGH SC: What we do know when we come to the locomotives I think in '13/'14 he was the Chair of the BADC.

MR SINGH: That is correct Sir.

ADV MYBURGH SC: Now did you know Mr Sharma?

MR SINGH: Prior to his non-executive role as a director, no.

ADV MYBURGH SC: But you came to know Mr Sharma in
20 his role as a director?

MR SINGH: That is, yes that is correct.

ADV MYBURGH SC: And to what extent would you interact with him?

MR SINGH: At board meetings or BBC meetings or if there were any other board strategy sessions, that was it.

ADV MYBURGH SC: Did you know of any relationship between Mr Sharma and Mr Essa?

MR SINGH: No sir.

ADV MYBURGH SC: Okay, then the evidence has been that in 2013 the DOA added bid adjudication to BADC powers and delegated authority to certain individuals to prove how value transactions, yourself and the GCE.

MR SINGH: That is correct sir, but not only us. I mean other executives also had powers.

10 **ADV MYBURGH SC:** Ja, your approvals authority in 2013 as I have it was 750 million and the GCE's was up to a billion.

MR SINGH: You will have to be a bit more specific because if you look at the delegation of authority framework.

ADV MYBURGH SC: Yes.

MR SINGH: There are a number of sub categories within the delegation and each of them have different values. So if you are referring to capital it would be a number. The
20 problem with capital it would be a number, unapproved capital would be a different number for example.

Funding would be a different number for example.

ADV MYBURGH SC: Well, let me then ask you. When I asked you that your approval authority was up to 750 million, which of those things did that relate to?

MR SINGH: I think Mr Chair, we did attach the delegation of authority frame work in one of our affidavits. Maybe if we can quickly go to that.

ADV MYBURGH SC: Mr Singh, the actual number is not important to me. I mean the point that I make is that in 2013 specific individuals were then given authority to conclude how value transactions, that number ... you had a certain number, presumably the GEC had a higher number.

Is that right?

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

ADV MYBURGH SC: So what I have read in the evidence and what has been referred to is that to an extent you kind of became a one person acquisition counsel through this authority. You want to comment on that? You do not agree?

MR SINGH: No, no.

ADV MYBURGH SC: In 2016 BADC approval authority had now been increased to three billion, the board retained authority for tenders above this. Would you confirm that?

20 We know that you left in 2015, in the middle of 2015.

MR SINGH: Yes, when was the increase?

ADV MYBURGH SC: I talked about 2016.

MR SINGH: Ja, no.

ADV MYBURGH SC: Alright. Both BADC, yourself and the GCE had the powers to award tenders on confinement. Is

that correct?

MR SINGH: Mr Chair, the confinement delegation of authority was changed at the request of the BADC at some point in time where the confinement delegation was removed from all group, well from all officials other than the GCE and the BVC and the board.

ADV MYBURGH SC: Alright. Now Mr Frolick in his evidence testified that his so called one person acquisition counsel and the wide spread use of the confinement
10 process were amongst the areas of concern. Problem areas that he identified which the new PPM, procurement procedures manual, seeks to address.

You want to comment on that?

MR SINGH: Yes. Mr Frolick was the, how can I call it? The procurement governance guy at Transnet and at the request of actually the board he undertook an exercise to understand how the procurement environment within Transnet can actually be strengthened and one of the recommendations was that the confinement process was
20 being flouted.

I am not too sure when exactly he did the exercise, but I think that was one of the issues that he led the board to remove the delegation from all executives other than the group chief executive and the BBC and the board.

ADV MYBURGH SC: So I mean, I presume that the

confinement process is open to abuse by unscrupulous individuals potentially.

MR SINGH: I guess it is open to interpretation because like with every procedure there is, or every policy there is a procedure and the procedure is open to interpretation in terms of are you applying.

ADV MYBURGH SC: Now I want to turn to the 1064 locomotives and the big picture as I call it. I mean it really lies very much at the heart of my examination of you and I
10 want to start off by dealing with the transaction advisors, but before that I want to just explore this, the big picture.

I want to start out by just discussing your role and perhaps the easiest way is just for me to put to you what I think it was and then you can tell me if I am right or wrong. It seems that you played from what I can see a central role in the appointment of the transaction advisors in the formulation of the business case, in the tender evaluation and negotiation process, in the conclusion of the LSA's with the four OEM's, in the approval of the increase in the
20 ETC and then in the funding arrangements, the 50 billion rand funding arrangement that was put in place.

Would that be an accurate summary of your various roles and interactions?

MR SINGH: Sorry, if I could just repeat those. You basically say the central role in the appointment of the

transaction advisors.

ADV MYBURGH SC: Ja.

MR SINGH: Formulation of the business case, right?

ADV MYBURGH SC: Ja. Tender valuation and negotiation process.

MR SINGH: Tender evaluation and negotiation.

ADV MYBURGH SC: Conclusion of the LSA's with the four OEM's which then flows from that, the approval of the increase in the ETC and the 50 billion rand funding
10 arrangements that were put in place.

MR SINGH: Mr Chair, if I can respond. In terms of the central role on the transaction advisors, Mr Chair the transaction advisors, I was the business requester for the transaction advisors. So from that perspective, I would be receiving their service.

So from that perspective I would need to, I would have needed to be engaged from time to time in terms of what was happening on that procurement event. If I cannot say I played a central role Mr Chair, because I was not the
20 people that sat and evaluated the tenders for example.

I did not choose a successful tender, but did I deal with matters that emanated from, that flowed there from, yes I dealt with issues that flowed from that process. Formulation of the business case Mr Chair, the business case was always owned by or business cases are always

owned by the asset owner.

The asset owner in this case was Transnet Freight Rail. So Transnet Freight Rail basically owned the business. Because of the size of the procurement event, at that stage when the business case was developed was 38 billion.

It needed to have board approval and obviously ministerial ... now in those cases group of where we sat at group at the time took an interest in those type of business cases, from the time they were incepted so that when it gets to group and to the board, you do not have a disparity between business case that is used that is not of quality or that have missed a whole lot of, how can I call it?

Issues that needed to have been dealt with. So yes, in terms of my role as the CFO, I was involved in the business case and the formulation thereof. Tender evaluation and negotiation Mr Chair. Tender evaluation I was not part of. I was not part of the tender evaluation teams, of the functional teams that were put together to evaluate the tenders.

So if you had to ask me did I see a tender document, Mr Chair no I did not. Did I evaluate a tender document, no I did not. So from that perspective the tender evaluation process was undertaken by the cross function evaluation teams and they produced [indistinct].

I think Mr Chair, in our roles, the output of those tender evaluation teams, would have probably come across Mr Gama's desk, my desk and Mr Molefe's desk which then would have went through to the board and the BADC accordingly.

So that is the role in terms of the evaluations. In terms of the negotiations Mr Chair, and I would take the negotiations and the conclusion of the LSN, put them together because they basically negotiations was the input
10 and the output was the LSA or the locomotive supply agreement.

So Mr Chair, yes there I did play an intimate role in the negotiation or the, let us call it post tender negotiations. That will probably be the more technical term and the conclusion of the LSA. In terms of the interest in ETC Mr Chair, critical role.

I do not know it is up for interpretation but again the increase in ETC Mr Chair, is an output of the negotiation and LSA process and locomotive supplier
20 process and the [indistinct] of this management, this risk management framework and the delegation of authority.

In terms of, Mr Chair again the increase in ETC, because it is a capital equipment purchase, the increase in ETC would normally have to go through the, again the capital organisation within the business unit, the capital

organisation in the group, go through the approval structures of the capital investment committee at group level and then obviously follow its way through to the board and if need be the minister.

So from that perspective again it was like function as CFO to oversee the capital approval process as well. In terms of the funding arrangement Mr Chair, one of the core functions of the CFO function is the funding and obviously, as I said the 300 billion rand capital plan came I think with
 10 a hundred or 125 billion rand [indistinct] over the five year period.

So the funding arrangements relating to the loco's would yes, be part of my functions and yes it would have occupied a good part of my time.

ADV MYBURGH SC: So from what we have seen, you were a member of the locomotive steering committee. Is that correct?

MR SINGH: Mr Chair, this committee was envisaged but it actually never existed or was never, how can I say
 20 constituted.

ADV MYBURGH SC: And then there is also a reference in evidence, and we can come back to who was supposed to sit on it and who was not. There has also been reference to a subcommittee of the locomotive steering committee. Was that something also that did not get off the ground, or

was there a subcommittee and the evidence there I think reference has been made to you, Mr Gama and Mr Singh.

Was there a subcommittee?

MR SINGH: Mr, Mr Gama and?

ADV MYBURGH SC: Sorry and Mr Molefe.

MR SINGH: Oh.

ADV MYBURGH SC: Ja.

MR SINGH: Okay. So I think that again it was not a formal subcommittee. Once the board had made the decision to
10 short list and given us the decision to negotiate, they delegated to Mr Molefe the authority to negotiate but not conclude.

ADV MYBURGH SC: Sorry, will you not just repeat that, I did not hear you?

MR SINGH: I said once the board had taken the decision to short list the four successful tenderers, they had delegated the authority to Mr Molefe as the GCE to negotiate ...[intervenes]

ADV MYBURGH SC: Yes.

20 **MR SINGH:** With the suppliers, the four short list suppliers, but not conclude the contract. So Mr Molefe in turn requested that Mr Gama and myself engage with this negotiation process and provide feedback to him on a daily basis, so I had a basis as we required to do so.

So again, it was not a formal steering committee,

but that is how it came about.

ADV MYBURGH SC: We have got I think two minutes or so left. Could I just take you, whilst we are on that. Perhaps we can just finalise that discreet topic. Could you please turn to page 1520?

MR SINGH: Of the same bundle?

ADV MYBURGH SC: Yes. Sorry, this is in 5C. Are you in 5C?

MR SINGH: 1520?

10 **ADV MYBURGH SC:** 1520, ja. I think this is what you are dealing with at the foot of that page, at paragraph 57.

MR SINGH: Yes.

ADV MYBURGH SC: So you say the board of directors delegated authority to finalise the negotiation process of the short listed bidders of the GCE.

MR SINGH: That is correct.

ADV MYBURGH SC: Do I understand you to have said that the delegation was to finalise, but not to conclude?

MR SINGH: That, if I am correct in my recollection.

20 **ADV MYBURGH SC:** And then you go on to explain that the GCE then requested the board, Gama and yourself to conduct the day to day engagements and negotiations with the shortlisted bidders, the OEM's and this is post tender negotiations as I think you termed it.

Is that correct?

MR SINGH: Yes, when the short listing was done.

ADV MYBURGH SC: And then at 59:

“Part of this negotiation process was a full complement of Transnet Employees which included the TRF team, Transnet engineering team, Danie Smith, Lehur and the financial negotiation team and of course myself, Gama and or Giyane if Gama was unavailable.”

You go on to say:

10 “Giyane was the procurement subject matter expert and acted as Gama’s designated representative when Gama could not attend the negotiation sessions. From time to time I also provided an update to Gama and Brian Molefe of what transpired during these sessions, particularly pertaining to material issues, such as the decisions taken, etcetera.”

You confirm that?

MR SINGH: That is correct.

20 **ADV MYBURGH SC:** Then would it be fair to say that you were the chief negotiator?

MR SINGH: Mr Chair, I do not think that would be accurate as we did not have any decision making powers, both Mr Gama and myself. The delegated authority was Mr Molefe, so he had the authority resting with him. In terms of the

interactions with the four OEM's, in terms of the amount of time spent, yes I spent the most of time with them.

ADV MYBURGH SC: Ja.

MR SINGH: In terms of the way that the interaction between Mr Gama and myself was undertaken, I dealt with more the financial issues and the financial consequences thereof and Mr Gama dealt with the more [indistinct] issues and the consequences of the locomotives arriving, but because he was the asset owner, my decisions I had to run
10 by him because at the end of the day he was paid for that, if you understand and then ultimately if we then agreed, we would then feedback those decisions and those issues back to Mr Molefe.

ADV MYBURGH SC: Chairperson, I finished this topic. I am happy to go on if you want me to but I see it is five o'clock.

CHAIRPERSON: Yes. I have seen the evidence leader come in, but I do not know if the witness is ...[intervenes]

ADV MYBURGH SC: Yes, he is over there.

20 **CHAIRPERSON:** Yes, okay.

ADV MYBURGH SC: Yes, he is here.

CHAIRPERSON: He is here. Ja, I think maybe let us adjourn so that I can resume after some minutes and then I deal with the Denel work stream. So tomorrow we will, let us work on the basis that we will start at ten, but there is a

possibility that I might want us to start at half past ten, which may well be most welcome to all of you if there are issues to be scratched out tomorrow morning.

But if it is going to be half past ten instead of ten I will let Mr Myburgh know and then he will let everybody know.

ADV MYBURGH SC: Thank you Chairperson.

CHAIRPERSON: Ja, so we will then adjourn the day session for today. We adjourn.

10 **HEARING ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: Good evening Mr Kennedy, good evening everybody.

ADV KENNEDY SC: Good evening Chair.

CHAIRPERSON: Good evening Ms Brown.

MS BROWN: Good evening Chair.

CHAIRPERSON: Thank you for availing yourself to assist the Commission again.

MS BROWN: Thank you Chair.

20 **CHAIRPERSON:** Thank you. I understand there are legal representatives for Ms Brown?

ADV KENNEDY SC: Yes Chair.

CHAIRPERSON: Maybe they can put themselves on record.

COUNSEL FOR MS BROWN: Chair W Dethenga[?] for Ms

Brown, I am today assisted by People from the Bar, Mr Thabiso Segagi[?].

CHAIRPERSON: Thank you, okay.

ADV KENNEDY SC: Thank you Chair, may I ask that the witness be asked to take the oath or affirmation?

CHAIRPERSON: Yes, please administer the oath or affirmation.

REGISTRAR: Please state your full names for the record.

MS BROWN: My name is Lynette Brown.

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

MS BROWN: No.

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

MS BROWN: Yes.

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.

20 **MS BROWN:** So help me God.

LYNETTE BROWN: [d.s.s.]

CHAIRPERSON: Thank you. Yes you may proceed Mr Kennedy.

ADV KENNEDY SC: Thank you Chair. Good evening Ms Brown.

MS BROWN: Good evening Advocate Kennedy.

ADV KENNEDY SC: Ms Brown as the learned Chair has already indicated you assisted the Chair in the proceedings of the Commission previously in relation to some of the other entities. This evening my questions will be focused specifically on Denel, which was also a State owned corporation under the Public Enterprises Ministry when you held the position as Minister, is that correct?

MS BROWN: You're right.

10 **ADV KENNEDY SC:** And Ms Brown is it correct that you have been provided with a number of documents for purposes of this evening's hearing?

MS BROWN: Are these the documents Exhibit W27 onwards?

ADV KENNEDY SC: That's correct.

MS BROWN: Yes I have.

ADV KENNEDY SC: And is it correct that the version that you have similar to ours has page numbers both on the top left and the top right?

20 **MS BROWN:** I am on a – I have them on a computer so yes I have numbers on the left and right.

ADV KENNEDY SC: Okay now for purposes of the questioning we are going to focus simply on the top left, so you can ignore the top right numbers.

MS BROWN: Yes, but you will have to give me the page

Advocate.

ADV KENNEDY SC: Yes indeed.

MS BROWN: Because ja, so that I can add a page into the computer.

ADV KENNEDY SC: Fine, so I am going to start with an affidavit that you signed and you will find that – if we look at the top left hand page numbers, Denel12-703, I am only going to use the last digits of the number for convenience, but can you look out for the affidavit where it starts at page
10 703, it is your second supplementary affidavit.

MS BROWN: 703, you just have to give me one moment, I have my second supplementary affidavit.

ADV KENNEDY SC: Do you have it marked 703?

MS BROWN: Yes, yes I do.

ADV KENNEDY SC: And if I can ask you then to turn ahead to page 736, sorry 735 where it appears that your signature was made.

MS BROWN: I have that.

ADV KENNEDY SC: Do you have that? Do you confirm
20 that this document is your affidavit that you signed before a Commissioner of Oaths, it is referred to as your second supplementary affidavit.

MS BROWN: Yes, I do.

ADV KENNEDY SC: Thank you. I believe this affidavit may have already been introduced in another stream of

evidence Chair, but for the record just to avoid any possible doubt in that regard may I then just ask the witness to confirm the contents of the affidavit and then I will ask for it to be admitted as evidence in this stream.
Ms Brown ...[indistinct]

MS BROWN: I confirm that it is.

ADV KENNEDY SC: That the contents are correct factually.

MS BROWN: Factually correct.

10 **ADV KENNEDY SC:** Right thank you very much. Chair may we then ask for this document together with its annexures to be admitted. We have taken the liberty of including this as Exhibit W27 in Denel bundle 12, and we would ask for its formal admission.

CHAIRPERSON: You say as Exhibit 27?

ADV KENNEDY SC: W27.

CHAIRPERSON: W27. The second supplementary affidavit of Ms Lynette Brown starting at page 703 is admitted as an exhibit and will be marked as Exhibit W27.

20 **ADV KENNEDY SC:** Thank you Chair. Now Ms Brown it appears from your affidavit that you deal with a number of SU's relating particularly to the appointment of boards of directors to various State owned entities, correct?

MS BROWN: Correct.

ADV KENNEDY SC: We as I have indicated are going to

focus this evening only on the Denel Board appointments and is it correct that you were provided with a copy of what has been referred to as the Fundudzi report, you in fact refer to that in your affidavit.

MS BROWN: Yes, I have been provided with Fundudzi report by the Commission.

ADV KENNEDY SC: Yes, and you were then given an opportunity to comment on the Fundudzi report where it raised various facts or comments or views in relation to our
10 role and the role of people such as your PA in the process leading up to the appointment of the various Boards, is that right?

MS BROWN: That's right.

ADV KENNEDY SC: Now we are going to look particularly at the comments that you raised in relation to the Denel Board as I have indicated. May I take you in your – I am sorry may I just indicate for the record Chair that the Fundudzi report has already been introduced into evidence in previous hearings by this Commission.

20 May I take you Ms Brown to page 710, it is paragraph 26 of your affidavit.

MS BROWN: I am there.

ADV KENNEDY SC: And here just above – in fact sorry paragraph 28, just above 28 you have a heading “the appointment of the Denel Board during 2015”, correct?

MS BROWN: That is so.

ADV KENNEDY SC: And you refer in paragraph 28 to an application that you submitted to the Commission to give evidence on the testimony of Mr Getatso Klakudi[?], and you say I have described the appointment of the 2015 Denel Board I have nothing to add in terms of the process.

MS BROWN: Yes.

ADV KENNEDY SC: Now that arose as I understand it from the evidence that Mr Klakudi gave previously arising
10 from the Fundudzi Report is that right?

MS BROWN: That is so.

ADV KENNEDY SC: Now we are going to have a look in a moment at some of the particular individual aspects that you have raised some concerns in your affidavit, and I would like to take you to the relevant paragraphs so that you can explain the concerns and how they arose. Your first concern arising from the Fundudzi Report is this, in paragraph 28 you say I am puzzled by the insinuation in paragraph 14.6.12 on page 61 of the Fundudzi Report and
20 you quote it Ms Brown, you say it reads:

“In her response Minister Brown failed to deal with the fact that the 10 CV’s were not sent to the Minister’s office as they were instead sent to David’s personal email address.”

And you say:

“Incidentally my response also answers the Commission’s request to explain Ms Kim Davids’ role in the appoint of directors to State Owned Entities.”

Correct?

MS BROWN: Correct.

ADV KENNEDY SC: And then you proceed to deal with the role of Ms Kim Davids. Now you will recall that in the Fundudzi report there was detailed reference to the
10 process that was followed according to the documents – the documentary trail that Fundudzi followed of a number of emails and various other documents that related to nominations of people to the Board of Denel as well as the actual process of approval of those nominees and by you as Minister and then ultimately a further approval that was given by the Cabinet. Do you recall that was dealt with in the Fundudzi Report?

MS BROWN: Yes.

ADV KENNEDY SC: Now one of the things that they
20 commented on in the Fundudzi Report was the role that Ms Kim Davids played in the process of receiving nominations, forwarding them to you for consideration and then also the fact that there were certain email addresses that appeared of concern or interest to the Fundudzi investigators. One was Ms Davids ...[intervenes]

MS BROWN: No.

ADV KENNEDY SC: Sorry?

MS BROWN: Sorry, I am sorry to interrupt you.

ADV KENNEDY SC: Carry on, one was the email address of Ms Davids. Now what did you want to say?

MS BROWN: I wanted to just say that what I know in the department that the server was often off.

ADV KENNEDY SC: Yes.

MS BROWN: And they often used their own addresses,
10 their private addresses, but – and Fundudzi actually asked me for the role of the appointment of directors, of Kim Davids' role in the appointment of directors to State Owned Companies, they didn't ask me anything about the CV's that were sent, so I responded to the question of the – I mean I have written it in all fairness, Fundudzi's written question to me was a simple one, it did not ask me to deal with the fact that CV's were sent to Ms Davids email, all that was asked of me was the role in the appointment of both members and I said there was no role for her except
20 for her to be able to pass on whatever CV's, whatever names, what comes in, whether it's through a walk-in or it is sent via email, all she had to do was pass it in to legal ...[indistinct].

ADV KENNEDY SC: Let's just be clear, Ms Davids was at that stage your PA, is that right, your secretary?

MS BROWN: Yes.

ADV KENNEDY SC: What was her ...[intervenes]

MS BROWN: My PA.

ADV KENNEDY SC: Her official title was that PA to the Minister.

MS BROWN: PA to me.

ADV KENNEDY SC: Right, so is it correct that as PA she would then be receiving certain documents that were ultimately addressed to you as Minister she would receive
10 it as your PA and then be responsible for passing that on to you when required and processing any further steps such as a reply, is that right?

MS BROWN: Not really Chair, in fact Advocate Kennedy I am finding it very disconcerting that I see my own face and I can't see you, so I am not sure if – I see my own face twice, there we go, there I see you.

CHAIRPERSON: Oh you see us now.

MS BROWN: I am not talking to a real person Chair.

CHAIRPERSON: But you can see him now.

20 **MS BROWN:** I can Chair thank you very much.,

CHAIRPERSON: And you can see me as well?

MS BROWN: I can't.

CHAIRPERSON: You can't see me?

MS BROWN: I can't see you – there I can see you. There I see you now Chair, but for a while I was only seeing

myself.

CHAIRPERSON: Oh [laughing].

ADV KENNEDY SC: Well I suggest it is a blessing that you don't see me here. Alright, let's get back to the issue. So yes is there anything else you want to add in relation to Ms Davids role?

MS BROWN: That's all I actually want to say, is that she didn't have to see me, now I am seeing me again so now I am saying that – she didn't have to give it to me, she just
10 needs to pass it on, it was in essence it didn't matter whose CV came in, they had to go to Legal and Governance.

ADV KENNEDY SC: Legal and Governance I think that's also been referred to in the Fundudzi Report as LGR, is that right?

MS BROWN: Well we used to call it the Legal & Governance Unit but it is in essence the Legal Governance and Risk Unit

ADV KENNEDY SC: Right, and right now she in fact gave
20 the same explanation that you gave in relation to the use of a personal email, she in fact is reflected in the Fundudzi Report as saying that sometimes her departmental server was down as you indicated and she would then use her own email address, but one of the other points that was raised in the Fundudzi Report is an email address that she

received some documents from and you deal with that in your paragraph 31, if I may read it into the record, you say she, it is referring to Ms Davids:

“She has no other role to play other than the one I described. This is not a matter of job description but a simple matter of common sense. I had responded that I do not know what Infoportal1@zofu.com is. It is unfair that I seem to be expected to locate and explain Ms Kim Davids
10 alleged interactions with that address.”

Now of course what Fundudzi have commented on is the fact that a number of documents, and we’re going to look at a few in a moment, in fact were sent to Ms Davids whether or not to her departmental email address or her private email address from this particular email address that is referred to here, the Infoportal address in its short term like that.

Now of course there has been evidence led in the Commission previously about this particular email address
20 having featured in various other matters and the apparent link between that email address and the Gupta Associates, such as particularly Mr Essa and Mr Chauler. You have indicated in your affidavit that you were not aware of this email address, have you since learnt ...[intervenes]

MS BROWN: No.

ADV KENNEDY SC: Sorry? Carry on.

MS BROWN: I am sorry I am ...[intervenes]

ADV KENNEDY SC: Yes, if you can just wait for the question. Have you since learnt of the connection between that email address and the Gupta Associate?

MS BROWN: Well I don't think I know who that email address belongs to, I still don't know who it belongs to, it sounds like it could be him, I have listened to some of the sessions on the Commission during the Eskom period and
10 in essence it's I listened to somebody yesterday speaking on – an IT forensic expert speaking on Ms Daniels' records and that there could have been another number and I am assuming that's probably what you are referring to but I can't tell you that I know who that – and I don't want to speculate, because I am under oath and I don't want to speculate about who the Infoportal address relates to, it is not on my computer, it was on Ms Davids' computer.

ADV KENNEDY SC: I understand your position Ms Brown. Were you aware at the time that there was
20 correspondence being received by Ms Davids from this particular email address?

MS BROWN: No.

ADV KENNEDY SC: And so you wouldn't have been aware if there is a connection between that email address and the Gupta Associates, you weren't aware of that at the

time and you are not able to comment on that now as I understand your position?

MS BROWN: I can't comment on it now.

ADV KENNEDY SC: Yes, may I just ask you this though, if the Commission finds on the basis of the evidence was led, of which you obviously have no personal knowledge, that this was a Gupta linked email address you feel now, with the benefit of hindsight any concern. Do you have any comment to make on the possibility that Ms Davis may
10 have been receiving correspondence from a Gupta linked email address about such sensitive matters as the nomination and appointment of Board members?

MS BROWN: Of course it would be disturbing to me.

ADV KENNEDY SC: And if you had known about that at the time what might you have done?

MS BROWN: Well I am in a court case at the moment for having asked Ms Davids to leave, I haven't opposed the court matter but I do – I have – so I am not sure what I would have done, I mean it is speculative and it is
20 speculation but I would have acted.

CHAIRPERSON: I guess the one thing you should be able to say with confidence maybe is that at least you would have called for an explanation?

MS BROWN: Of course Chair I thought the Advocate wanted something harsher.

CHAIRPERSON: No, no, that may be so but
...[intervenes]

MS BROWN: I am absolutely, I would have asked.

CHAIRPERSON: And then depending on the explanation
you might have taken whatever action you deemed
appropriate.

MS BROWN: Exactly.

CHAIRPERSON: H'm.

ADV KENNEDY SC: Thank you. Ms Brown what was the
10 system in place for the appointment of Board Members to
entities such as Denel.

CHAIRPERSON: Is somebody just disturbing you?

MS BROWN: I have the television on, somebody has the
television on and I can hear myself speaking somewhere,
so ...[intervenes]

CHAIRPERSON: So you have asked them to take – to
switch it off ja.

MS BROWN: I am very sorry about that.

CHAIRPERSON: Okay, no that is alright.

20 **ADV KENNEDY SC:** So you were able to see yourself
twice and hear yourself twice.

MS BROWN: I can hear myself twice, it sounds terrible.

ADV KENNEDY SC: Okay Ms Brown the question is
...[intervenes]

MS BROWN: Sorry what is the question?

ADV KENNEDY SC: Yes, let me repeat it, at the time you – sorry may I just ask at what – roughly at what stage did you become Minister of Public Enterprises, can you recall roughly the date that you took up that office?

MS BROWN: That was one of the most traumatic days for me, so I will never forget it, 26th of May 2014.

ADV KENNEDY SC: 2014.

CHAIRPERSON: Did you say traumatic Ms Brown, I thought that was promotion? I thought that was a
10 promotion.

MS BROWN: It fell squarely in the middle of a NASREC Conference ...[indistinct] of the scale of – I don't want to speak about it, whoever wants to become a politician should speak to me next time.

CHAIRPERSON: [laughing]

ADV KENNEDY SC: Ms Brown of course that was about a year before the Denel Board appointments were made that we are looking at here, is that right?

MS BROWN: Yes, yes.

20 **ADV KENNEDY SC:** So when you arrived as Minister and then when you proceeded to undertake various Board appointments, including Denel was there a particular system that you followed for the receiving of – or invitation for nominations and application and did you have such a system and how did you follow it?

MS BROWN: Yes well there was a system in place. Let me please also say Advocate Kennedy, or Chair actually, there was a system in place and this system, and I heard denial of this as well, but as far as I was concerned the system was to advertise with clear or let's step one step back, every three years Denel, any of the State owned companies boards came up for renewal or rotation, they call it rotation. So for – so it is for rotation or retention.

Now when I arrived, so it is not something I do just
10 because I am – I woke up one morning and think it's a good idea to rotate the Board. The Department tells me that it is now, the Board has been in place for three months – three years – and we now have to assess the Board and do all of those things.

Then at the same time we put out an advert for – to open it up, now I have heard somebody, I can't remember who it was, saying that they ...[indistinct] this, but I was told by the Legal & Governance Unit that the risk was not sufficient for what we were requiring and that it would be
20 good and I thought it was good anyway, to open up the list so that we could have – that list is happening.

The Legal and – so then the advert, it usually runs for about two weeks or so and then the Legal & Governance Unit receives themselves, or, which is more popularly done is that it comes to the Minister's office,

whether it is in Pretoria or in Cape Town and they either drop it or they email it.

This is all in my mind, this is what I believe happened. I made actually – it was – remember this process isn't a process that was actually carved in stone, this is a process that developed within – it was a convention – it developed within this – the Department of Public Enterprises and so I followed that one as well, and then I would get a shortlist of the names, because
10 everybody applied, hairdressers, you know people who were working, everybody applied and so there were always a whole number of people who applied for the Boards, so what would happen is that the Governance Unit within the Legal & Governance Unit, will receive this and they will sift through all the – they will sift through all the CV's and if there are no CV's if there are names with telephone numbers, where somebody nominates somebody they will go the extra mile, and then I would get the matrix, a very large sheet that says these are the people who actually
20 qualify for the portfolio, whichever portfolio it is.

Chair this happened seven years ago, that's my recollection. Now I think – okay let me just leave it at that.

ADV KENNEDY SC: Alright, thank you. Ms Brown there is reference in these papers to your indicating when asked

by Fundudzi that there were a few people who had actually approached you to be appointed to the Denel Board and you indicated in your response that you then gave them directions as it were to the Legal & Governance Committee where they should submit their applications formally. Is that correct?

MS BROWN: Well I either did that or I gave them – I never knew their numbers and I wouldn't give out details, private numbers to not – yes strangers to them, but not
10 strangers to me, so I would give my own office's number and tell them to write to my own office.

ADV KENNEDY SC: Right.

MS BROWN: Or send an email to my own office. There were not a large number of people who did that.

ADV KENNEDY SC: Right, now you have touched on the broad approach that was followed or the system that had been followed from the past into this stage, can I ask you to what extent did you take into account, if at all, the particular skills and qualifications of individual applicants
20 or nominees and a possible need to have a balance between the skills of people who would sit on one of your Boards, on that payroll.

MS BROWN: I think it's - Chair I think it is an incredibly important – that was what the matrix constituted because in the advert it would tell you that we need people with

financial skills, legal skills. We need people with knowledge in aviation. We need people in with knowledge in energy. We need people and so forth. So there was a wide – we need people with forensic capabilities. We need people with internal audit capabilities.

Now I cannot look it was seven years ago I cannot really remember what exactly went into the adverts and I do not have any documentation for it.

ADV KENNEDY: Yes.

10 **MS BROWN:** But I think that is a crucial and a very important part of appointing boards.

ADV KENNEDY: Right. Now you then proceed in your affidavit to make some comments on the appointment of Mr Daniel Mantsha as Chairman of Denel. You see that at the foot of page 711?

MS BROWN: 3.2?

ADV KENNEDY: In fact the headings at the foot of page 711 and then 712 paragraph 33 is your comment. Now...

MS BROWN: Yes.

20 **ADV KENNEDY:** It is correct is it not that Mr Mantsha was nominated as a new board member in 2015 and also as chairperson? Is that correct? Ms Brown. It looks like we have lost her. We have lost the connection.

CHAIRPERSON: It looks like she is frozen.

ADV KENNEDY: Yes.

CHAIRPERSON: I think the technicians will attend to it.

MS BROWN: Nominated as Chair and board member.

CHAIRPERSON: Oh okay you – you had frozen Ms Brown so we did not hear what you were saying except what the few words you have just mentioned now as you ended your response. So please start your response afresh.

MS BROWN: Okay. I am saying that it was seven years ago and I remember him being nominated as a board member but I think from amongst the group I cannot remember really.

10 **ADV KENNEDY:** You will – I am not sure if he was nominated as chair and board member. I think he was just nominated as board member. To you Chair and to Advocate Kennedy this was seven years ago I do not remember the granular details.

ADV KENNEDY: No I fully understand that. My question was simply that you approved the appointment of Mr Mantsha as both a director and as chairperson from mid.

MS BROWN: I did.

ADV KENNEDY: From mid-2015 is that correct?

MS BROWN: In 2015?

20 **ADV KENNEDY:** Yes. Now can I take you now to another document page 767 one of those that were furnished to your legal team yesterday.

MS BROWN: Well after nine.

ADV KENNEDY: Yes we are sorry that it came at a fairly late stage.

MS BROWN: Time – I ...

CHAIRPERSON: Did you not say last time Ms Brown you are – did you not say last time that you are...

MS BROWN: I am not placing any objections.

CHAIRPERSON: You are retired. Did you not say last you are retired? How can you complain about time. You have got all the time. 767 you said?

ADV KENNEDY: Yes Chair.

CHAIRPERSON: Yes okay.

10 **ADV KENNEDY:** Ms Brown do you have 767 yet?

MS BROWN: I do have it.

ADV KENNEDY: That is a cabinet memorandum. It is dated the 11th of May 2015.

MS BROWN: Yes.

ADV KENNEDY: Now that is as I understand it from the document is a document that would have been generated from within your department and with your approval to then submit your decision to appoint various members of the new board to cabinet for its final approval. Is that right?

20 **MS BROWN:** Yes that would be – that would be so.

ADV KENNEDY: As Minister you were the Minister of State representing the state as the nominal shareholder in Denel, is that right?

MS BROWN: Yes.

ADV KENNEDY: So in terms of your...

MS BROWN: Shareholder representative.

ADV KENNEDY: Shareholder's representative that is correct. So in ordinary company law you as the shareholder or the shareholder representative you would have the decision making powers to appoint board members but because this was a government owned entity on whose behalf you were the shareholder's representative you presumably would then put it to cabinet for its approval, is that right?

10 **MS BROWN:** Yes I – I would take it to the ANC Deployment Committee and then I will take it to cabinet.

ADV KENNEDY: Right. And – and it was then sent to cabinet over – only once you had approved the appointment of these individuals to the board and Mr Mantsha as chairperson in particular, is that right?

MS BROWN: Yes.

ADV KENNEDY: Right now this memorandum helpfully sets out the – the persons who were now approved by you and were now being put to the cabinet for approval and if I can
20 take you to the next page 768 you will see at paragraph 5 headed Discussion.

MS BROWN: Yes.

ADV KENNEDY: Now I am not going to read everything into the record but effectively it refers to the need to rotate members or to appoint new members and it seems that was

decided was that one of the outgoing board members was selected for re-appointment, is that correct?

MS BROWN: I – well yes it is – I can see it now yes.

ADV KENNEDY: Right and in fact it was a Mr Motseke I believe we see that in 5.2 that he would be...

MS BROWN: I see that there.

ADV KENNEDY: That he would be re-appointed for the purpose of continuity. But apart from him there were nine other members of the outgoing board who were not to be re-
10 appointed is that right?

MS BROWN: That is so.

ADV KENNEDY: Right. Now the document then says and here I would like to read it into the record if I may?

“It is recommended – this is paragraph 5.3 it is recommended that Mr Daniel Mantsha be appointed as non-executive director and chairperson of the Denel board and Mr Tamsanqa Msomi and then it gives all the rest of the names that is Msomi, Mahumapelo
20 that is Mr Tanyame I think it is, Mahumapelo, Ms Pinkie Mahlangu, Lieutenant General Nkabinde retired, Ms Mpho Kgomongoe, Ms Khumbudzo Ntshavheni and Ms Mandindi and Ms Mokoena be appointed to the board with effect from 14 July – I beg your pardon 24

July 2015 for a period of three years subject to annual review by the Minister of Public Enterprises.”

That is what was recommended.

MS BROWN: That is – yes, yes.

ADV KENNEDY: Right. And then what is then set out from paragraph 5.4 is the profiles of the new nominees and the first is that of Mr Mantsha 541. It says:

10 “Mr Daniel Mantsha obtained BJuris in 1991
and LLB in 1993 both from the University of
Venda. Mr Mantsha is an attorney who has
acquired valuable experience over the years
in corporate finance, transactional advising,
business management, commercial law,
media and communication. He has
participated in major transactions such as
advising the City of Johannesburg on issuing
the first municipal bond in the African
continent corporatisation of Eskom as well as
20 a transactional advisor to the National
Department of Labour on procurement of IT
systems. Mr Mantsha is recommended for
appointment as non-executive director and
chairperson of the Denel board. He brings
expertise in transactions, business strategy

and law to the board. His CV is herewith
attached as Annexure B1.”

Now we have not included the CV just to try and keep
the documentation slim here. Were you satisfied on the
basis of this summary of his background that Mr Mantsha
was a suitable person to be appointed as chairperson of the
Denel board?

MS BROWN: A decision I made seven years ago Chair it – I
– I signed off on this document so the whole document I
10 supported. The assumption – the only assumption I can
make is that whoever is appointed to this committee that
they have all been vetted and they all are – that they all
have been vetted and they all have the – the application – or
the expertise that they say they have and that my
department would have done that.

ADV KENNEDY: What is the committee – I beg your pardon.

CHAIRPERSON: But what – I am sorry Mr Kennedy. But Ms
Brown why would you make an assumption about that? Why
would you not satisfy yourself that it has been done? It is
20 such an important thing.

MS BROWN: How will you – I need to satisfy myself other
than through a well-equipped, well run department. I had no
reason to believe that any of the – especially that unit in
particular that any of them would put forward and not check
– or not vet in the way they are supposed to do so. In fact

the vetting does not only happen with them but it has also happened at – takes place with an external audit. I am just not sure what you mean Chair.

CHAIRPERSON: No you see ...

MS BROWN: What was it that you think I was supposed to do?

CHAIRPERSON: You see if you have to make a decision – an important decision such as either appointing or recommending members of a board you must satisfy yourself
10 that anyone you recommend or you appoint is suitable and appropriate to be appointed. Okay.

Now you cannot satisfy yourself on important things by making assumptions. You have got to say I want to be satisfied. If somebody for example – if it is important that somebody should have for example a certain degree you cannot or you should not just be happy with a line from in his CV that he has or she has the degree you need to see proof of the degree. You should not make an assumption when it comes to important matters.

20 So I do not know whether when you said you assumed whether that was deliberate or whether it was a manner of talking but I expected you to – I would have expected you to satisfy yourself that certain important requirements that they needed to comply with or meet before you could recommend them or appoint them were met and

your department should place before you documentation that would satisfy you. That is what I am talking about.

MS BROWN: Yes and we – they have both an external – they have an internal arrangement where they do the vetting and then they have an external arrangement. Then I look at it within and I – I am a bit fuzzy in my head about how but I think where they present it to me as a committee.

They have checked the qualifications of the person, they have checked the credit record of the person. They
10 have checked – I mean I cannot remember what they all check but they check a whole number of things so that they vetted – vet these people.

And as – when I came in there was a company called Nexus who would do the external vetting and this has been a process that has taken place for I think a couple of ministers before me as well and I adopted that process too.

So of course if Mr Daniel Mantsha only had a matric and was saying as stay at home for his – or he was a beautician or he – no I do not want to rubbish anybody's jobs
20 but if he was just sitting at home and he had a matric of course I would not approve it but they – they checked whether you were – and I am using him as an example whether he really has a BJuris, whether he had a LLB they check those things.

I asked him that in the meeting. Have you checked

qualifications, have you checked whether or not they participated in major transactions and so forth?

CHAIRPERSON: And you were assured?

MS BROWN: And I was assured. I did not just take the document and sign the document off. I have to apply my mind to the document.

CHAIRPERSON: Mr Kennedy I interrupted you.

ADV KENNEDY: Thank you Chair.

CHAIRPERSON: I interrupted you, you may continue.

10 **ADV KENNEDY:** Thank you Chair. Ms Brown if I can take you to page 773.

MS BROWN: 77?

ADV KENNEDY: 3.

MS BROWN: I have 773.

ADV KENNEDY: That is part of this report that served before cabinet – the cabinet memorandum and that bears your signature, is that correct?

MS BROWN: That is right.

20 **ADV KENNEDY:** So in effect this was confirming that you had approved the appointment of Mr Mantsha and his colleagues to the board with Mr Mantsha as Chairperson and you were effectively recommending those appointments to the cabinet for their approval too. Is that correct?

MS BROWN: Yes that is correct.

ADV KENNEDY: Okay. Just for the sake of completeness

can I take you back to an earlier document at page 740. Do you have that?

MS BROWN: 740 seems to be a description – my – it is just an index.

ADV KENNEDY: No 740 on the top left.

MS BROWN: Yes tell me what – I mean we were going quite fine now. I need to know what the...

ADV KENNEDY: What the document is?

MS BROWN: So it says Control F

10 **ADV KENNEDY:** So it is

MS BROWN: 7?

ADV KENNEDY: 740. It is a decision memorandum.

CHAIRPERSON: Top left page – top left page it is a memorandum from...

MS BROWN: Okay I have it. I have it.

CHAIRPERSON: Have you got it?

MS BROWN: It is the one with Melanchton and so forth.

ADV KENNEDY: Yes.

MS BROWN: Melanchton Makobe

20 **ADV KENNEDY:** That is correct. It came from Melanchton Makobe who was at that stage your acting Deputy Director General LGR, is that correct.

MS BROWN: That is so. Oh well I do not – I cannot remember but it must so.

ADV KENNEDY: No I am just asking you to have a look at it

and just to reacquaint yourself with it. So that is a memorandum that came from Mr Makobe from the LG the Legal and Governance Unit that you have indicated earlier was responsible for processing and making and evaluating and making recommendations on the various nominees, correct?

MS BROWN: Yes this could be so.

ADV KENNEDY: And it was addressed to yourself, you see that?

10 **MS BROWN:** Yes.

ADV KENNEDY: And then if I can take you please to page 742 paragraph 2.2. You have that?

MS BROWN: 742 yes I have got 742.

ADV KENNEDY: And it is paragraph

MS BROWN: Paragraph.

ADV KENNEDY: 2.2 Cabinet memorandum 4 of 2015 appointment of non-executive directors to the Denel board.

MS BROWN: Yes.

20 **ADV KENNEDY:** Now this again refers to the recommendations. This was as it appears from the rest of the document was a motivation to you to approve the appointment of Mr Mantsha as the chairperson and the other individuals as the other directors of the Denel board. Correct?

MS BROWN: Correct.

ADV KENNEDY: And if I can take you to page 745 it appears that you signed that against the word approved within a circle. You see that?

MS BROWN: Yes I would have done that.

ADV KENNEDY: Right.

MS BROWN: I am looking there. Yes.

ADV KENNEDY: And so this approval reflects the process that was reached within the department you then approved the motivation and thereafter what happened was the cabinet
10 memorandum that we have looked at a moment ago is that right?

MS BROWN: That is right.

ADV KENNEDY: Right. Now I am not going into the – into any detail in the text of the document but that simply refers as did the cabinet memorandum to the fact that there needed to be new appointments made to the board only one would be reappointed from the old board, the rest would be fresh appointees and that included Mr Mantsha and that is what the basis on which you approved the recommendation.
20 Correct?

MS BROWN: Correct.

ADV KENNEDY: Now did you know Mr Mantsha before you made this decision?

MS BROWN: No I did not know anybody on that board.

MS BROWN: Nobody at all. Had you not come across Mr

Mantsha?

MS BROWN: No, no I am – I was a parochial provincial politician for most of my life. The last four years I went into national. I have – I have lived and stayed and been the speaker and the premier and everything else in my own province.

ADV KENNEDY: Yes but the question was specifically about Mr Mantsha. Whatever – however ...

MS BROWN: 00:22:22 I have never met Mr Mantsha before.

10 **ADV KENNEDY:** Okay.

MS BROWN: I have never met any of the board members before.

ADV KENNEDY: Right. Were you aware – so you would – but you would have been aware from presumably the CV and whatever the department's LGR unit put up to you including the synopsis of Mr Mantsha's qualifications and his experience.

What – what the good points were in his favour to select him above the others as the chairperson of Denel. You
20 relied on what was – what the information that was given to you.

MS BROWN: I think it was based on information that was given to me.

ADV KENNEDY: Yes.

MS BROWN: I cannot – I really cannot remember what

exactly the reasons were.

ADV KENNEDY: Yes. Because you did not know him personally you just testified so it must have been based on information that was given to you, correct?

MS BROWN: Well information given to me both in the meeting as well as – in the meeting where they present the documentation to me.

ADV KENNEDY: Yes.

MS BROWN: As well as documentation.

10 **ADV KENNEDY:** Yes.

MS BROWN: And then we take it through the process and then we come back and we write up – they write up the final documentation for cabinet.

ADV KENNEDY: Right. Now you were in your second affidavit – can I take you back to page 712?

CHAIRPERSON: 712 Mr Kennedy?

ADV KENNEDY: Yes Chair.

MS BROWN: Yes.

20 **ADV KENNEDY:** You then deal with something that arose in the Fundudzi Report and they commented in the report on the fact that Mr Mantsha had been admitted as an attorney some years before but at some stage prior to his nomination for appointment to the Denel board had been struck off as an attorney. He had later been re-instated as an attorney and you were – you were asked specifically to deal with this

aspect. Now you - – if I may read into the record 33.1 this –

“I have only this to say 33.1 the striking off
occurred in 2007 three years later in 2011
the High Court saw it fit to reinstate him to
the role of attorneys.”

Now were you aware at the time that you approved
the recommendation that he should be appointed were you
aware at that stage or only subsequently that at a particular
point in his career he had been struck off as an attorney?

10 **MS BROWN:** No in fact I think I only got to know about it
after and I did see in Mr 00:25:35 statement that he or
somebody’s statement that they say that they actually told
me.

ADV KENNEDY: Right.

MS BROWN: Now I cannot remember that but I – I heard
about it post when – and that is why somewhere along the
line my spokesperson is called by the media and the media
asked about his background.

ADV KENNEDY: Yes.

20 **MS BROWN:** And so I – and that is how I got to know about
it.

ADV KENNEDY: So that is...

MS BROWN: I did not – and this was one of the difficulties I
had with the vetting process because you know people are
vetted and you do not have all the information. So how – how

can you believe and trust the vetting process? But that happened anyway. So ja.

ADV KENNEDY: So if I understand you correctly as far as you can recall you were not aware at the time that you approved the appointment of Mr Mantsha as chairperson and recommended that for final approval to the cabinet you were not aware of the history that he had for some period been struck off as an attorney.

MS BROWN: You see Chair I would have prepared myself
10 for cabinet if I knew that Mr Mantsha so I cannot – you know it was just seven years – so long ago.

ADV KENNEDY: Yes.

MS BROWN: But I think – I think I got to know about it because I remember something about my spokesperson coming to me and saying that there is a media enquiry about my appointment of Mr Mantsha as the chair. I think it happened that way.

So I immediately phoned Mr Mantsha I did this personally. I phoned Mr Mantsha and I asked him about it. I
20 remember that as well. But then I remember very little else about it.

ADV KENNEDY: Now there – the facts that you record there in paragraph 33.1 the striking off occurred in 2007 three years later in 2011 the High Court saw it fit to reinstate him. You recall where you got that information from?

MS BROWN: I – I cannot remember.

ADV KENNEDY: Okay.

MS BROWN: But I must – I must have had that – I must have gotten that information from Mr Mantsha himself.

ADV KENNEDY: Yes. In fact it is true that he was struck off in around 2007 and around 2011 he was reinstated as – as – on the role of attorneys that – that is factually correct but it was just interested to know where you got the information from.

10 **MS BROWN:** No, no I would have gotten it from either – or I would have asked the spokesperson to do research about – on the matter or I would have handed it over to the legal committee.

I mean to the legal unit within the legal and governance unit. Because somehow I would have gotten that or I would have sent it to my PA and say please send it off to the legal and governance unit, send it off to the spokesperson, send it off to whoever.

ADV KENNEDY: Your affidavit then continues in 33.2

20 “There was no legal impediment or any other impediment that was flagged in the recommendations made to me during May 2015 when he was appointed.”

Now the memo that was sent to you that you signed we a saw a moment ago making the recommendation that certainly

does not indicate that there was any legal impediment to have been recommended or appointed. And in fact, at that stage, factually, it is so that he had been reinstated as an attorney. What you say, though, in 33.3 is:

“Between his readmission in 2011 and 2015, I was and am still not aware of any factor that may have disqualified him from being a director or a chairman of a board...”

MS BROWN: Yes.

10 **ADV KENNEDY SC:** Now let us accept for a moment that there was no reason to disqualify him. What you then go on to is – to go beyond the question of whether he was disqualified from being appointed to a question of whether he should have been accepted, nonetheless. And what you have said in your affidavit is this, 33.4:

“Surely, one must give individuals the benefit of doubt.

The alleged transgressions occurred before 2015 when he was struck off.

20 I would like to believe that he had somehow atoned enough to be readmitted three years later in 2011.

Now to hold it against him that he was struck off eight years ago does not seem fair to me.

I do believe people must be allowed to forget

past transgressions if they have atoned
therefore...”

Now let us leave aside the question of whether
there was any legal disqualification. You are probably
right that there was no legal disqualification of him being
considered for appointment but here you were dealing with
whether it would be appropriate to appoint somebody and
your attitude here seems to be: Well, he must have atoned
for his sins, as it were, because he was readmitted. So,
10 therefore, one should give people a second chance. You
still stand by that view Ms Brown?

MS BROWN: No, Advocate, surely, I stand firmly by that.
You know, so many people go to – look, let me just say I
stand by that rule.

ADV KENNEDY SC: Right.

MS BROWN: Or that view. I am also assuming that it is
quite okay to have an opinion that people can have second
changes.

ADV KENNEDY SC: Yes, but here we are dealing with
20 second chances for what? He was now being appointed,
not only as a non-executive director but also as the
chairperson of a major state organ – a major state entity,
Denel, which had expenditure and revenue involving
hundreds of thousands, if not billions of rands and where
these were public files for which you were responsible.

What I simply want to ask you is. Are you suggesting that if somebody has previously been struck off and the judgment of his striking off in fact reflects that what was serious irregularities in relation to his accounting for clients' funds, are you saying that, well, everybody must get a second chance, not just the ...[intervenes]

MS BROWN: ...this happened after, post-facto.

ADV KENNEDY SC: What happened after?

MS BROWN: When I heard about Mr Mantsha's
10 ...[intervenes]

ADV KENNEDY SC: Yes.

MS BROWN: I actually do – I do believe that people – he was – firstly, let me take one step back. Firstly, Mr Mantsha, three years after he was found guilty of something or he has been struck off the role, three years later his peers at court actually brought him back and disbarred him. I do not know what the legal word for that will be .

ADV KENNEDY SC: Yes, it is struck from the roll.

20 **MS BROWN:** ...and then he is disbarred. So three years later this happens to Mr Mantsha. Now I am asking the question – I am wondering what your question is. What does your question relate to, sir? Is it relating to my morality around it or my moral standing around it or is it relating to a legal standing around it?

ADV KENNEDY SC: Well, unfortunately, Ms Brown I am not here to ask your – to answer your questions here. You are here to answer mine.

MS BROWN: [laughs] That is quite true.

ADV KENNEDY SC: And I am not trying to a cheap shot. What – let me just put this thing in context. The Chairperson has obviously for sometime been hearing masses of evidence about allegations of state capture in relation to entities such as Denel and the Chairperson has
10 heard various testimony relating to various transactions, some of which involved particular decisions taken by Mr Mantsha as chairperson.

For example, the Chairperson of this Commission has heard evidence relating to a transaction in which the procurement officials at Denel were not prepared to sign off their approval because there were various breaches. And ultimately, Mr Mantsha himself, although he was a Non-executive Director, saw fit as the chairperson to sign off approval for a particular transaction.

20 That was a transaction that involved a contract between Denel and an entity know as VR Laser in which the Guptas and their associates as well as the former President Zuma's son had a major commercial interest.

And so the Chairperson of this Commission has heard that evidence. One of the factors the Chairperson

may consider relevant in the report that he will be writing for the benefit of the President and the nation, relates to how such situations – what situations may actually have arisen, whether there was state capture, whether there were irregularities and whether there was proper accountability.

Now one of the issues the Chairperson, no doubt, may consider relevant is how it came about that particular individuals came to be appointed to boards such
10 as Denel. And Mr Mantsha who gave evidence here, a few weeks ago, has confirmed that shortly after he was appointed as chairperson he happens to have taken within a space of a few months a few trips overseas, sometimes onboard a private plane owned by a Gupta owned company or by arrangements made by a Gupta official, Mr Chwala to make bookings, etcetera.

Now one of the concerns the Chairperson may in his wisdom, it is obviously not my function to decide these things, what the Chairperson of this Commission may
20 consider relevant is whether the systems that were in place for the appointment of persons such as Mr Mantsha, the positions that were so serious and so senior and so responsible, whether those systems were adequate systems, whether they were an appropriate of systems, whether they were misused or properly used, whether the

systems may be inadequate.

And the Chairperson may consider it appropriate to make recommendations to the President as to whether there should be changes and safeguards introduced into systems in future to ensure that there are no problems of the thought of nature that may have become apparent during their testimony.

I hope I have made it clear what the context in which my question is being posed. And I am not
10 suggesting that you should take full blame or any blame for anything in particular. I am just questioning you in relation to how you went about your task as Minister. What you knew.

You have already told us that you did not know at the time you approved his appointment that he had been struck off but this paragraph that I have just read out to you from your very own affidavit, suggest that if you had known it would not have been a factor that would have been taken into account by you as something negative
20 which would mean that Mr Mantsha should not be preferred above any other candidate. Do you understand the context in which I am putting it to you?

MS BROWN: I understand the context and I am saying that it is not preferred. It is the fact that it happened and it was now post-facto and I now had to defend the decision

that I have taken.

ADV KENNEDY SC: Yes.

MS BROWN: And having said that. For as long as you have a state-owned company governed by two acts that are almost directly in opposition with each other. The Companies Act which actually says the Minister has the right to appoint a board or the shareholder has – the main shareholder has the right to appoint the board. And the PFMA – then you will not have that problem because then
10 you are leaving it up to the morality or the political believes or the religious beliefs of somebody. You are leaving it up somebody to make a decision based on their own believe of something.

ADV KENNEDY SC: Yes. Well, Ms ...[intervenes]

MS BROWN: And I think it might be useful to actually have a firmer recommendation because in ten years' time I could come back to the commission – I mean, a commission like your own, state inquiry ...[intervenes]

CHAIRPERSON: Or the Brown Commission.

20 **MS BROWN:** [laughs] It could be.

CHAIRPERSON: Ms Brown ...[intervenes]

MS BROWN: [Indistinct]

CHAIRPERSON: ...let us get to the point. Let us get to the point. Let us get to the point is.

MS BROWN: No, the point is ...[intervenes]

CHAIRPERSON: No, no, no. Hang on. I will tell you what the point is that I am talking about. I am understand your evidence to be. As far as you are concerned, the fact that Mr Mantsha had been struck off as an attorney did not matter, as far as you are concerned, in terms of whether he should have been – you should have appointed him as a Director of Denel and on whether you should have appointed him as Chairperson. Is my understanding of your evidence correct?

10 **MS BROWN:** And he as reappointed. Chair, I know – he was reappointed. He was reappointed by his peers in a court, in a high court to be able to do his services three years later again. I actually accepted that. And you are right ...[intervenes]

CHAIRPERSON: So I am right?

MS BROWN: ...to that ...[intervenes]

CHAIRPERSON: Yes.

MS BROWN: ...he has been reappointed by his own peers.

20 **CHAIRPERSON:** Yes.

MS BROWN: In the high court.

CHAIRPERSON: Well, the high court are not his peers. His peers are his attorneys.

MS BROWN: Well ...[intervenes]

CHAIRPERSON: The high court are judges, okay. But

you are right to say he had been reinstated by the high court and of course when the high court reinstated him, it would have heard whether the Law Society had any objection to him being reinstated and the Law Society, which consists of attorneys, would have had a say on whether he should be reinstated. He had been struck off, it seems in 2007 and he was reinstated as an attorney in 2011. You mean that you do not see that as a blot on his record as something wrong, as something negative on his
10 record, the fact that he had been struck off?

MS BROWN: Of course I see it as something negative but I have taken – I took that decision that because – and I fully agree with you - that he has been cleared by the high court and he was now for almost eight years able to practise without having recommitted the crime that he committed into 2007.

CHAIRPERSON: No, Ms Brown. He had not been cleared of his transgressions. He had been found guilty of his transgressions. He had been struck off. For a certain
20 number of years he could not practise lawfully but he had been reinstated. That is not the same as been cleared. You understand that? I can make an example for you. It is like somebody who is convicted of a crime, he goes to prison, serves the sentence and then they are released back to society after they have served... They have been

convicted and that remains on their record. Do you understand that comparison?

MS BROWN: Yes.

CHAIRPERSON: Did you – when you heard that he had been struck off, did you find out what it is that had caused him to be struck off?

MS BROWN: I actually cannot remember, Chair.

CHAIRPERSON: And... You see, for me it would – I would have expected you to have been maybe shocked
10 when you heard after you had appointed him, not only as a Director but as Chairperson of the Board of Denel when you hear that he had been struck off as an attorney before. And that that would have caused you to say: What – why was he struck off? I want to see all the records. Or, I want to hear – I want all the facts.

And I would not have expected you to have forgotten that if you had known what it was because I would have expected that you would have said, but maybe I am wrong, you would have said: Oh, why was I not told
20 about such an important thing?

MS BROWN: Oh, no I did say that Chair. I did raise it with our Legal and Governance Committee.

CHAIRPERSON: H'm?

MS BROWN: Because I – just the fact that that has escaped them, was quite – for me quite complex. I did not

understand that they – why they missed him or why they missed that in particular.

CHAIRPERSON: Yes.

MS BROWN: And I had to then find out afterwards that they have this double vetting and I had to find out afterwards that he actually – and maybe you are right Chair, maybe I should not have appointed him. I – and maybe I should not have appointed him and not held the view that in that I held in 33.4 and 33.5. I mean, maybe it
10 is an important thing when you make recommendations or find people guilty of things, that is something that you will have to put in your recommendations.

CHAIRPERSON: Well, you see, I will be frank with you. I think that to the extent that somebody did not do his or her job to establish that Mr Mantsha had been struck off before and bring that to the attention – to your attention, was very bad. But I hope it is not a situation where somebody was aware of the fact that he had been struck off the role but realised if that was put up, was disclosed, he would not be
20 appointed to the board and decided not to make sure it was disclosed.

And then somebody who had been struck off the roll and had only been reinstated in the past or three years or so was then appointed to the board. But what concerns me, Ms Brown, is that when this fact is brought to your

attention you seemed to have thought that it would not have made any difference. You would still have appointed him even if you had know as a Director of Denel and as Chairperson of the board. That is how I read your evidence. Am I correct?

MS BROWN: No. Chair, if I knew that before I would have taken a different stance on it. The fact that I have now appointed the board and it actually – I think I say it somewhere – I think it came about – it did not come
10 immediately. I was made aware during June that he had been struck off the role.

ADV KENNEDY SC: I am sorry to interrupt.

MS BROWN: I ...[intervenes]

ADV KENNEDY SC: I am sorry to interrupt, Ms Brown. May it just help you and perhaps the Commission to get to that. You are quite right. You did deal with it in 33.5.

MS BROWN: Yes.

ADV KENNEDY SC: You say this:

20 “After he was appointed in May 2015, I was made aware during June 2015 that he had been struck off the roll.

On the considerations I mentioned above, I gave him the benefit of the doubt...”

MS BROWN: Ja.

CHAIRPERSON: Well, that last sentence does not say

you would have taken a different decision if you had known. It says: On the considerations I mentioned above, I gave him the benefit of the doubt. That sentence means, you would have given the benefit of the doubt even if you had become aware of this before. That is how I understand it. What do you say to that?

MS BROWN: I personally feel that I could have given him the benefit of the doubt post the appointment but I – and if I knew it before, I am not – I think I would have appointed
 10 him but I did appoint him even though he – a month after his appointment this issue happened.

CHAIRPERSON: Well, why did you not when you got to hear that he had been struck off the roll, when you got to hear in June after he had been appointed in May, why did you not take the view that we cannot have somebody who had been struck off as an attorney and had been – well, who had been struck off as an attorney, of course he was reinstated – leave the board of such an important SOE?

That is the attitude I would have expected you to
 20 take. Is there something wrong with my expectation? I would have expected you to say: There are so many attorneys whose records are impeccable who have not been struck off. Why can we not find somebody else if we want an attorney as chairperson of the board?

Why should we take somebody who has been

struck off, who was struck off and got reinstated?

MS BROWN: Chair, you might be right about that but I – the point is that I have – I also feel that I have given Mr Mantsha another chance to be able to, for want of a better word, to redeem himself and ...[intervenes]

CHAIRPERSON: But he can redeem himself in his practise as an attorney. The high court gave him a chance to go back to practise. He can redeem himself there. This is an SOE. A very important SOE. You need people of –
10 with good track records and integrity and so on, is it not?

MS BROWN: Yes, Chair. And I mean – and I think that our vetting process will actually ensure that we do have people with good ethics and good moral standing and so forth.

CHAIRPERSON: H'm.

MS BROWN: But it did not happen. And I mean, I cannot – I almost cannot think of answer for you ...[intervenes]

CHAIRPERSON: Yes.

MS BROWN: ...at this point.

20 **CHAIRPERSON**: Yes.

MS BROWN: The point is. I thought, and I say it again, and when I was writing the affidavit, I think that I thought that he was now disbarred from – he was now allowed to practise again after three years of being barred that it would mean that he would be able to – he would have

atoned and he was admitted three years later in 2011 and four years later he gets appointed to the board. I did not think about it in the way you have been thinking about it.

CHAIRPERSON: Yes.

MS BROWN: And maybe I was wrong.

CHAIRPERSON: H'm.

MS BROWN: But I have done that.

CHAIRPERSON: H'm. Okay. Mr Kennedy.

ADV KENNEDY SC: Thank you, Chair. Ms Brown, just to
10 complete this topic and let me ask you this. You indicated at an early stage of your evidence that you, in fact, had a large number of applications. Many people applied to be appointed to the board. Some, in fact, even approached you directly and you directed them to the – your office where they should follow the correct formalities and so forth.

Can you recall why it was that Mr Mantsha particularly stood out? Presumable, if you as the Minister as the shareholder representative are making effectively
20 the decision because your department cannot make that decision. You have to make that decision subject to Cabinet approval but of course you made your recommendation to Cabinet.

Presumable when you as a responsible Cabinet Minister for Public Enterprises are faced with a large

number of people who have either been nominated or who have applied to be appointed to the board and you are choosing who the board should be and who in particular out of them should be the chairperson of the board.

I am just interested to explore with you how would you process that sort of decision? You did not know Mr Mantsha at all from before. You have had his CV and the summary of his experience and so forth given to you, the internal documents.

10 Presumable you would be looking for a chairperson at somebody who is not only a good, well-qualified candidate but somebody who presumable should stand head and shoulders above other candidates in order to appoint him or her as chairperson of the board.

Now if you did not know Mr Mantsha from before, what was standing to his credit? We know – I am going to take you through in a moment the profile of the other people whom you appointed. I think there was three or four other people who were lawyers appointed to this
20 board.

I think the Commission may find it of interest to understand your thought process in deciding why Mr Mantsha stood head and shoulders above the rest. May I start by asking you this? Am I right in assuming that you would not just rubberstamp what was put on your desk by

the committee, by the Legal and Governance People? Is that right?

MS BROWN: Well, they would not put it on my desk. They had presented it to me.

ADV KENNEDY SC: Yes. I accept that and that is all part of the proper process and you should have taken that into account. What I am asking you, though, is. It would not be just a manual rubberstamping of whatever recommendation was put before you. You, presumable, as
10 the real decision maker, subject to ratification or a final approval by the Cabinet, you had to be satisfied that when – whoever recommended to you that Mr Mantsha should be appointed that there was good reason for that. He was the best candidate among the many candidates for the job. Would that be fair to say?

MS BROWN: Yes. I think that was the process where they would identify two or three people. I cannot remember but ja two or three people could be the board chair. And they would be looking at people who had
20 knowledge of big projects, people with knowledge of – ag, a range of issues. Like, people who know about business cases.

ADV KENNEDY SC: Yes.

MS BROWN: People who know how to manage a financial process. As I said, huge projects, financing. Those kind

of people ...[intervenes]

ADV KENNEDY SC: Yes.

MS BROWN: ...who, in essence, will be able to also legally manage the process.

ADV KENNEDY SC: Right.

MS BROWN: So they will be able to do the – they will be able to oversee the contract that or whatever it is that they need to do and they will be able to do so legally.

ADV KENNEDY SC: Yes.

10 **MS BROWN:** So I am not – I am unsure about how the choice of Mr Mantsha or any other board member because it was around that time as well that most of the boards were appointed, you know, late 2014, early 2015. So all six boards had been appointed.

ADV KENNEDY SC: Yes. Let me say immediately that I have no difficulty with your suggestion that you should be looking at people for particular skills. What I am intrigued about is what made Mr Mantsha such a special, especially suitable person because you did not know him, you had
20 CVs from a whole lot of people, as you said although you ultimately retracted people even like hairdressers and so forth applied and then you correctly pointed out of course you should not discriminate against anybody but you were looking for particular skills and let me accept immediately that a legal skill is something useful for a Chairperson to

have, but why Mr Mantsha?

Let me just take you through it. We will see in a moment that there were, as I said, about three other people that you appointed as Chairperson to this board. The other people also had some commendable summaries of their work history and their qualifications. Mr Mantsha does not seem to have been – and I mean no discredit to Mr Mantsha at all, all I am saying is, Mr Mantsha does not seem to have had anything to an objective outside view
 10 that made him stand head or shoulders above anybody else, so ...[intervenes]

CHAIRPERSON: He did not stand out.

ADV KENNEDY SC: He did not stand out, with respect that is so. Now, what was an interesting feature about Mr Mantsha perhaps was that he had in fact for part of his legal career been struck off. Now your affidavit suggests that well, that was neutral, he had been rehabilitated, as it were, he must have atoned for his misdemeanours because he was reinstated. But that at best must be a neutral –
 20 some people might regard it as a serious negative, others might take the more generous attitude that you perhaps adopted saying well, no, I gave him the benefit of the doubt, so that at best was neutral but as the learned Chairperson as you a moment ago, a few minutes ago, he said but there are countless people with totally spotless

records as lawyers, why did Mr Mantsha get it, get this appointment?

Now what I want to throw into the mix well in the question and I am sorry if it getting a bit long but I am trying to explain what I am really looking at. Some people might look at this appointment as being problematic because Mr Mantsha was one of numerous applicants, Mr Mantsha was one of a number of legal applicants, some of whom made it to the board and others presumably did not.

10 Mr Mantsha may be regarded in a negative light because he was struck off – or, at best for him, that is neutral. Then on top of it what we have is the evidence from Mr Mantsha himself who came to explain that he did have a relationship or friendship and business connections outside his board involvement at Denel with the Gupta family, he went to meetings with some of that family, he had business and personal dealing with some of their associates and also with Mr Duduzane Zuma.

20 So would not a layperson looking at this from the outside and the public of course does follow to some degree this sort of thing, is it not reasonable for someone to infer that wait a minute, perhaps the real explanation for Mr Mantsha being appointed as Chairperson was that he was not just a lawyer with a bit of a chequered past, he was a lawyer who also had personal and business

connections with a very well-connected family and their business associates and perhaps the public might have regard to some of the other evidence that has already been presented before the Chairperson in this Commission relating to other state entities where lo and behold it turned out that some of the directors appointed by you, Ms Brown, also had connections with the Guptas or their associates like Mr Salim Essa.

Is it all a coincidence? You are the person who
10 took the major part of the decision to appoint Mr Mantsha and is the sort of the conclusion that I suggested as being a possible conclusion not a reasonable one?

MS BROWN: You would like me to respond to that?

ADV KENNEDY SC: Yes, please.

MS BROWN: You see, if I were to hold the narrative that - now I cannot see you any longer and I do like to speak to you while seeing you.

CHAIRPERSON: The technicians should rectify that.

MS BROWN: Because I am now speaking to myself.

20 **ADV KENNEDY SC:** You are speaking to the Chairperson primarily, Ms Brown.

MS BROWN: Well, also see the Chairperson.

CHAIRPERSON: I am listening to you. You also cannot see me?

MS BROWN: I can see you now, Chair.

CHAIRPERSON: Okay and Mr Kennedy?

MS BROWN: Not at the same time.

CHAIRPERSON: Not yet.

MS BROWN: But I can see ...[intervenes]

ADV KENNEDY SC: But you can hear me, Ms Brown.

MS BROWN: I just do not want to look at myself while I am talking. I might be called narcissist as well.

ADV KENNEDY SC: Perhaps close your eyes then while you answer.

10 **MS BROWN:** The issue is – I am unsure, Chair, the question Mr Kennedy raises. You see, I do not know how much of what you are saying – well, I heard Mr Mantsha and I heard what he had to say and I saw the Gupta Leaks and say about Mr Mantsha but I not very sure that that can be said for all the boards and all the members of boards and of course we are dealing with Denel today and, I mean, some of the Denel people have gone on to do other fabulous things. I mean, we even had a person who is today Minister. Are these all just Gupta appointees? And I
20 mean, I read through the Fundudzi reports and the Fundudzi report says that these people all came to my department and I appointed them because of – I cannot remember, but anyway, I appointed them.

There is no way that I can make a decision on somebody. I mean, I do not feel the way you do and I will

never feel the way you do, Adv Kennedy, about not given somebody a second chance or you, Chairperson, I feel we should be giving people a second chance. I feel there should be enough checks and balances within state owned companies to be able to ensure that whoever is the board members, whoever is the Chair, that the state owned companies will remain in good hands.

Now I am sure – it comes back all the time that these people were linked to the Guptas and these people
 10 were linked to Essa and so on and they – I do not have that orientation, I do not have an orientation that says that – unless they have stolen from the company they must go to jail. If the Guptas have stolen from our companies they must go to – they must be charged, tried and go to jail.

But I feel that – in fact I actually thought even though Mr Mantsha had a number of attributes that I found very difficult to deal with sometimes, I think he was – he dealt with Denel very well and I have seen some of the – the issue of him signing off on Denel Asia, I mean, I heard
 20 it in the Commission which means that oversight in my department is also a problem, if we did not pick that up.

So I do not feel the way you do about - how do I vet somebody and say you cannot belong to – or you cannot be friends with a, b, c and d?

CHAIRPERSON: Well, Ms Brown ...[intervenes]

MS BROWN: Unless I have known that a, b, c and d have actually stolen from the state.

CHAIRPERSON: Well, Ms Brown, what you are saying which you have said quite a few times about giving people a second chance seems to me to amount to this as well. You would have no problem appointing to – you would have had no problem, as Minister, appointing as a director of Denel somebody who may have previously been convicted of corruption or theft because you believe they must be
10 given a second chance. Is that unfair to understand your evidence to be to that effect if one takes what you are saying to its logical conclusion?

MS BROWN: Chair, I think you have taken that logical conclusion already and so I am happy for you to have that logical conclusion from me. I am just saying that I do feel that if in the course of the running of the company the company was run to the ground, like I am seeing today, then I would have acted.

CHAIRPERSON: Yes but ...[intervenes]

20 **MS BROWN:** If it was dependent on Mr Mantsha. I had no way of knowing that Mr Mantsha actually signed the Denel Asia deal because that is not right, it is the officials who – I mean, it is the executive who should be signing, he has no business to be signing that and I did not know that at the time. I am talking about the things that must be done

directly and whether or not a particular person – I am just comparing it.

CHAIRPERSON: Ja.

MS BROWN: And I am just saying to you, Chair, maybe I have done the wrong thing to appoint Mr Mantsha. I do not know.

CHAIRPERSON: No, no, you have – to your credit you have said that it is possible that it was wrong to appoint him. You have made that point. Now you have said – I
10 have taken what you said to its logical conclusion, I am not sure whether you meant I have already made up my mind ...[intervenes]

MS BROWN: I do.

CHAIRPERSON: Okay, what I want to say to you is it is my job to test the evidence that is being given and what I am doing is, test what you are saying against – among other things, logic, so – and I am putting it to you in order to be fair to you to say when you speak like this, I understand you to be saying in effect the following, if you
20 take this to its logical conclusion and then I put it to you to say is my understanding correct? I am giving you a chance to say no, no, no, your logic is not right or you have I misunderstood me, that is not what I mean or to say you know what, Chairperson, when you put it like that, I did not realise, but that cannot be right, I did not realise that that

is what it means, what I was thinking is the following.

So it is not like I have made a decision but I am listening to you, when you give your evidence I test it against among other things logic, as my logic and I am giving you a chance to say no, no, no, Chairperson, you have I misunderstood me or, Chairperson, I do not agree with your logic, here is a flaw in your logic and then I look at that. You might persuade me to say no, no, no, I think you have a fair point. Okay? That is what I am doing.

10 **MS BROWN**: Yes, Chair.

CHAIRPERSON: You understand?

MS BROWN: I understand.

CHAIRPERSON: Ja, okay, alright. Mr Kennedy?

ADV KENNEDY SC: Thank you, Chair. Ms Brown, I think let us take the spotlight away from how you came to make the decision at the time. What I would now like to ask you, is do you feel with the benefit of hindsight that you may have been duped or manipulated by perhaps people within your department to favour Mr Mantsha where you did not
20 know him at all, they give you a CV which did not show any problem in relation to him being struck off, where you did not know at the time that he was – he had some personal and private business connections with Gupta members and associates as well as the then President's son and you did not know at the time that Mr Mantsha, once he was given

the reins of the Chairpersonship of the board then went ahead and approved various deals which you said, correctly, should be done by the executive management, not by directors. Do you feel perhaps that you may have been manipulated or used to push forward somebody like Mr Mantsha?

MS BROWN: I do not think so, I think that I should never give the – I should never blame all of those people around me as opposed to the fact that I might not have had all the
10 facts at hand.

You see, Adv Kennedy, you made a point earlier and you said so many people have been appointed by you – you make that point to me and you said so many people were appointed by me who were linked to the Guptas.

Now I must tell you that I – there is not a column that says do you know the Guptas in the vetting process because I went back, I remember going back to the legal and governance unit and asking how do you determine whether somebody is corrupt or not? Or how can you
20 check that? And they would say this and that and that and that but nowhere can I tell you that somebody was linked to the Guptas. I cannot tell you that before they are appointed unless I actually know them, so I am not sure if – I mean, I should take responsibility for every action that happens in my department because I was the executives

authority, I was not the accounting officer but I was the executive authority.

ADV KENNEDY SC: Right, thank you. Does it not come as a matter of some concern to you that some people might find that there is a possible pattern that applies not only to Denel but other state entities that just is a remarkable coincidence or perhaps something more sinister that number of people connected to the Guptas in fact landed up in key positions such as Mr Mantsha at Denel and
10 others in other state entities? I accept that you have ...[intervenes]

MS BROWN: Well, I had one reference during – I had one reference during - and that was a newspaper article where the whole of Eskom board was linked to the Guptas and I called them up individually and when I got to half of them I did not continue because half of those connections and linkages were not true and so I do not know.

ADV KENNEDY SC: So half were true, were not true?

MS BROWN: I cannot give you a direct answer on it. You
20 know, I can also – there is a lot of a narrative that says that we were all – I mean, I have recalled a Gupta minister, remember, if you follow your logic through because it is the same logic that is in the public space.

So, I mean – and that has doomed me to hell. I will never get a job anywhere, I will never be able to do

anything, I will never – you know and I am captured by the state. So I am doomed. I am not ready to be doomed but I am doomed in this country and that goes for lots of people whose names are connected to me.

So let me say to you that if in any way I feel that I have done what – I mean, what you are saying, that I have appointed all these Gupta people – and I hope that the report will be fair in that we will be able to respond before it becomes public and I also hope that everybody would get
 10 a chance to say whether it is true that they were Gupta people or not and that it is not just an assumption that is being made. I cannot make that decision, I cannot make that assumption for anyone actually unless – like Mr Mantsha who said that he knew them before. I did not know Mr Mantsha knew them before.

ADV KENNEDY SC: Right. Now again I must want to conclude this line of questioning simply by saying this. Do you not feel, though, now that you have heard the evidence – some of the evidence that has come before the
 20 Commission that there may have been some manipulation of the process, perhaps not by you deliberately or even having any responsibility for it but the process may have been manipulated in a way that just happens to have benefited the Guptas in a major way?

MS BROWN: I do not know that, Sir.

ADV KENNEDY SC: Okay.

MS BROWN: You see, I do not know – I am hoping that the Commission will at the end of the Commission's process will give us a lot more clarity.

ADV KENNEDY SC: Yes.

MS BROWN: Because I do not know that. If I sit where I am sitting now and I looked – and I am sorry that I am going to take just three or four minutes. I - in Denel, it is one contract that did not get off the ground that was with
10 the company, that has been with Denel for almost seven years before that. That is what I know about Denel Asia. I think – and I do not want to deal with other portfolios but it is almost - and Eskom, which I know a lot about – it is 4% of a R50 billion per month for 40 years and they have been around I suppose, for the last ten years.

But, I mean, I feel quite strongly that I really would like (a) a real understanding of what it cost to have this – what it cost the state, what it cost each state owned company and – ja, I do not want to continue but I do – I do
20 not have a sense of it. I see contracts in Eskom, I see one contract in Denel that does not get off the ground, I see a number of contracts in Transnet that looks like it also going in the direction and it did not start in my time but it looks like it is also going to the direction that it has some relationship with the Guptas. What collectively and what

cumulatively has that actually meant for this country?

I mean, how much did it cost the country is what I am saying because I do not have - I have an overwhelming sense that almost every company in every one of the state owned companies actually either belong to somebody who left the company and then opened a company and it was largely white and I think that there was an attempt to try and bring in, even though they were foreign, I think so, that there was an attempt to try and rework the economy so
10 that more black people could be participants in that economy.

And I have heard you, Adv Kennedy, on this matter. I think it is quite a serious matter but I think there is that also that we need to – and I am hoping one day that there will be another study that actually shows the effects of the Guptas in the full economy or the full economy as it counts for state owned companies. I am sorry that I took a bit of time.

ADV KENNEDY SC: Thank you.

20 **CHAIRPERSON:** No, that is fine.

ADV KENNEDY SC: Thank you, may I proceed?

CHAIRPERSON: Yes.

ADV KENNEDY SC: I appreciate that you will not have followed all of the evidence that has been led in this Commission on these various state entities including

Denel. I am not going to take you through all of the evidence that has already been presented to the Chairperson in earlier sessions where in fact focus was put on not just the Denel Asia contract which ultimately was not brought into effect, as you have pointed out but other contracts which in fact involved very substantial amounts that Denel granted to VR Laser particularly the platform hulls contract and the Denel Land Systems acquisition. That the Chairperson has already heard evidence on and I
 10 want to suggest to you that your indication that the cost of what may have been inappropriate, may not have been that much, is perhaps a serious understatement.

MS BROWN: No, no, I am not saying it was not that much. I think any corruption in any – it does not matter if it is one cent, is important for us to look at.

ADV KENNEDY SC: Indeed.

MS BROWN: I do not want to misrepresented by – in – by myself maybe or I misunderstood in the Commission.

ADV KENNEDY SC: Thank you for that clarification.
 20 When you did discover in June 2015 of Mr Mantsha's more chequered history as an attorney who had been struck off, did it not occur to you at that stage to say to cabinet just a month ago cabinet approved the appointment or the appointment took effect just a month ago of Mr Mantsha have now discovered something else about him, perhaps

we should reconsider the appointment, perhaps others within cabinet may take a less generous view of giving people a second chance. Did that occur to you at all?

MS BROWN: Well, it was not a convention cabinet but I might – I could have done that, you are right.

ADV KENNEDY SC: Right, right, but did it occur.

MS BROWN: It was not a convention for anyone to be able to just walk into cabinet and put up their hands and say I have made a mistake on this or that and – and so but
10 – I mean, if – I could have done that.

CHAIRPERSON: No, I do not think Mr Kennedy means that you should have brought it to cabinet in that way. You could have brought it an acceptable – in the usual way in which matters that members of the cabinet wish to be discussed at cabinet put it, so there must be – I am sure there is a way how you make sure that a certain matter will be discussed so you could have – I do not know whether your write a memo and get it approved by the President that it can go to cabinet but it could have been done in a
20 way other than the one you described, is it not?

MS BROWN: I did not do that.

CHAIRPERSON: Can I ask you another question, you will remember that earlier on Mr Kennedy referred to the member of the 2015 board who had come from the previous board, I think it was Mr Motseke or – Motseke I think who

was retained. You remember that part of – that discussion earlier.

MS BROWN: I remember, Chair.

CHAIRPERSON: Yes. I think some or other witness has indicated before this Commission that the reason why Mr Motseke was retained and continued under the 2015 board to be a member of the board for the sake of continuity, would that accord with what you would expect, namely that there should be one or more members of the one board,
10 the outgoing board who remain to be part of the new board so as to ensure continuity?

MS BROWN: I think that sort of is where I learnt, I learnt it in the department.

CHAIRPERSON: Yes.

MS BROWN: That I have one or two members remaining for continuity.

CHAIRPERSON: Yes. Do you know what criteria may have been used to choose Mr Motseke out of all the pre-2015 board members to be the one who would continue under
20 the 2015 board?

MS BROWN: I cannot remember.

CHAIRPERSON: You cannot remember.

MS BROWN: I cannot even remember what Mr Motseke looks like.

CHAIRPERSON: Yes.

MS BROWN: So I do not really remember it.

CHAIRPERSON: Do you remember whether in the department ...[intervenes]

MS BROWN: But I ...[intervenes]

CHAIRPERSON: There was a set of criteria for choosing members who would continue in the next board, when the board in which they had served, its term ended. Do you know whether there was a set of criteria to say we must look for somebody who meets this criteria?

10 **MS BROWN:** You know Chair, there is an assessment that is done, and maybe your investigator should get the assessment of the 2014 ...[intervenes]

CHAIRPERSON: Board.

MS BROWN: Denel board. Because I cannot remember the detail of it, but there is an assessment done.

CHAIRPERSON: Yes.

MS BROWN: And look, it is not always listed all the details on the assessment because some things are just personal horrible things that I do not think needs to be said
20 about people.

CHAIRPERSON: But I would imagine that if an assessment is made, then its aim must be to get somebody who is likely to make a meaningful contribution at least in the new board.

MS BROWN: I think so.

CHAIRPERSON: Yes.

MS BROWN: I think you are right.

CHAIRPERSON: Yes. I think the Fendudzi report says Mr Motseke also had some association with the Guptas. I cannot remember the details. When they say something else, if I am not mistaken or some other witness said something else, not so kind about him.

But suggesting that there must have been other board members who were much more qualified or suitable
10 to be, to continue. But you say there were assessments that the department used to make and those assessments may well have been used to ...[intervenes]

MS BROWN: I think so.

CHAIRPERSON: Ja.

MS BROWN: I think that could be one way of the [indistinct].

CHAIRPERSON: Ja.

MS BROWN: And could be one reason.

CHAIRPERSON: Yes, okay alright. Mr Kennedy?

20 **ADV KENNEDY SC:** Thank you Chairperson. Ms Brown, may we now move to a couple of pages of the Fundudzi report.

MS BROWN: I wonder Chair, if it is possible just to ...[intervenes]

CHAIRPERSON: A short break?

MS BROWN: I want to take a comfort break.

CHAIRPERSON: Yes.

MS BROWN: For just two minutes.

CHAIRPERSON: Ja.

MS BROWN: So it does not have to be long.

CHAIRPERSON: Ja, no that is fine. It is ten to eight, let us give it ten minutes. We resume at eight.

MS BROWN: Thank you Chair.

CHAIRPERSON: We adjourn.

10 **INQUIRY ADJOURNS**

INQUIRY RESUMES:

CHAIRPERSON: Okay, let us continue.

ADV KENNEDY SC: Thank you Chair.

MS BROWN: Thank you.

ADV KENNEDY SC: Ms Brown, can I take you in the same bundle to page 746? That is the first title page of the Fundudzi report.

MS BROWN: Yes, I am there.

20 **ADV KENNEDY SC:** Now in the body of the Fundudzi report, we have included only extracts that were relevant to Denel, and there is a discussion from page 748. You have that?

MS BROWN: I am there.

ADV KENNEDY SC: From paragraph 14.3 they deal with the process that was followed in the appointments of

various state entities, including Denel appointments made by you or at least approved by you and they deal particularly with the use of the info port email address that you have already dealt with.

For example at page 754 and effectively what they have provided by way of this report, is evidence that this info port email was indeed connected to Gupta associates and that email address sent a number of nominations to Ms Davids, your PA at the time.

10 Nominations for appointment to the Denel board. You were not aware of that at that stage, is that correct?

MS BROWN: Yes.

ADV KENNEDY SC: You cannot deny that it was, you cannot deny that it was used, but you say you were not aware of that at that stage.

MS BROWN: No, I was not aware of it.

ADV KENNEDY SC: Yes, and if I can now take ...[intervenes]

MS BROWN: I ...[intervenes]

20 **ADV KENNEDY SC:** Yes? Carry on, carry on. Did you want to add something?

MS BROWN: No, no I do not.

ADV KENNEDY SC: Okay. If I can now take you to some of the emails, if I might just have a moment Chair. If I can take you please to page 780.

MS BROWN: 780?

ADV KENNEDY SC: That is correct.

MS BROWN: Yes.

ADV KENNEDY SC: You will see that the very top address section, refers to an email being sent from Kimberley Davids at her Gmail address, to Kim Davids at the DPE.gov address. So she was presumably forwarding to her other email, the email concerned.

MS BROWN: That is correct.

10 **ADV KENNEDY SC:** Now the next email is what interests me. The forwarded message that she forwarded to her other official email address, comes from somebody rather enigmatically titled business man and here we see that the email address is the infoportal1@zoho.com address that we have just dealt with.

MS BROWN: I see that.

ADV KENNEDY SC: It was sent on the 6th of March 2015. The subject is Denel. That was sent from this info portal email address that Fundudzi established was linked to the
20 Guptas or their associates. It was addressed to Kimberley Davids at her gmail.com address which presumably was her private address and she then forwarded as we have seen at the top, this very message to herself at the departmental email.

The list is then given with two columns that then

follows under two headings, gender and member and that is the list of individuals proposed for appointment to the board with Mr Mantsha as Chairman, Tami Motsumi, Johannes Motseke.

Johannes Motseke of course we have already seen is the individual who survived the transition from the old board to the new. Remember that?

MS BROWN: Yes.

ADV KENNEDY SC: And then Jan Shake, somebody called
10 Pierre. There is no surname given. Then Mr Johame, I apologise if I am mangling the pronunciation, Mahuma Pelo, Silence Ntshaveni, Pinkie Mahlangu, Visham Naidoo, Mpho Gomogwe and General Vusi Nkabinde.

You see that?

MS BROWN: I see that.

ADV KENNEDY SC: And then it says:

“Hi. Here is madam’s recommendation.”

She does not say who madam is:

“You have most CV’s, just missing Jan Shake
20 which I will provide tomorrow. Attached for Mpho, Pinkie, General, Silence and Toyami.”

And then there is a final line which says:

“You have CA/auditor/legal/policy/IT defence tech incumbent army defence. So a solid mix of skills.”

That is what this unnamed author of this email indicates. Now there was a suggestion in the Fundudzi report that the person named as Pierre without his surname, was somebody who you had recommended, that the madam referred to in that paragraph just under the list, that he was your recommendation.

The report indicates, I do not think I need to take you to it, indicates that you conveyed to the Fundudzi investigators or at least responded to their report, that you
10 did not know who this Pierre was and you had not recommended him.

Is that correct?

MS BROWN: Well, I had a general position of not recommending people.

ADV KENNEDY SC: Yes.

MS BROWN: There were lots of people that I would have liked to have passed the vetting process.

ADV KENNEDY SC: Yes.

MS BROWN: Because I knew that they, because many
20 ministers tell me that can so and so apply and so and so apply, and I say yes, they can.

ADV KENNEDY SC: Sure.

MS BROWN: And so they apply, but I before the Fundudzi report, I have not seen this report. But I also must say that I think there are names here who if they just now as I

was preparing, not because I have a wonderful memory
...[intervenes]

ADV KENNEDY SC: Yes.

MS BROWN: But some of these names are present and
some did not make it.

ADV KENNEDY SC: Yes, I am going to go into that in a
moment, if you could just indulge me with answering the
question that I was posing to you.

MS BROWN: Ja.

10 **ADV KENNEDY SC:** It was specifically relating to a person
referred to only by his first name of Pierre. You did not
recommend him.

MS BROWN: Yes.

ADV KENNEDY SC: Correct?

MS BROWN: No, I really ... no, I would not have
recommended anybody.

ADV KENNEDY SC: Yes, well I ...[intervenes]

MS BROWN: I feel that everybody should go through the
process of apply.

20 **ADV KENNEDY SC:** Yes, well then perhaps answer this Ms
Brown. Do you know who the Pierre is that is referred to
here?

MS BROWN: Did you know ...[intervenes]

MS BROWN: I am not sure.

ADV KENNEDY SC: Well ...[intervenes]

MS BROWN: I know two Pierre's. I do not know if I ...[intervenes]

ADV KENNEDY SC: Do you know if either of ...[intervenes]

MS BROWN: I know two Pierre's.

ADV KENNEDY SC: Do you know if either of them applied for a position on the Denel board?

MS BROWN: I know two Pierre's and they could have asked me. I do not know.

10 **ADV KENNEDY SC:** You do not know if they applied. Thank you.

MS BROWN: But I do not think they would have applied at all.

ADV KENNEDY SC: Yes. Okay, now so as far as you are concerned, you cannot clarify who this Pierre is. But it certainly was not somebody who you were recommending to yourself, to appoint. Is that fair?

MS BROWN: No, the fact is that whoever wants to join the Denel board must apply.

20 **ADV KENNEDY SC:** Yes.

MS BROWN: That, it would be unfair for me to say I want so and so ...[intervenes]

ADV KENNEDY SC: Ms Brown, if you just indulge me. I am not asking you if it would have been fair for you to have nominated somebody. I have asked you a very simple and

confined question. Did you recommend anybody by the name of Pierre for appointments to the board?

MS BROWN: No.

ADV KENNEDY SC: Thank you. Alright, well let us then go to the exercise that you were suggesting we look at a moment ago, which is when we look at all of the names, so this email we know came from somebody who did not attach his or her name to this enigmatic title businessman from info portal that Fundudzi have evidence, was linked to
10 Gupta associates.

The list here says a number of names who include Mr Mantsha, the first one as Chairman. He in fact was approved. We know that, correct?

MS BROWN: Yes.

ADV KENNEDY SC: Thami Mosumi was also appointed by you, correct?

MS BROWN: Yes.

ADV KENNEDY SC: Johannes Motseki was the person who was on the previous board and who was then re-
20 appointed by you, correct?

MS BROWN: Yes.

ADV KENNEDY SC: Jan Shake is the name that is put forward in this list. You did not appoint him, correct?

MS BROWN: The way you are asking the questions, is I get the list of people and I appoint whoever is on that list.

I make the decision from that list.

ADV KENNEDY SC: Yes.

MS BROWN: And I make it in consultation with my department.

ADV KENNEDY SC: But Ms Brown, I am sorry to interrupt but really time is precious particularly in a commission that ...[intervenes]

MS BROWN: I know, but I cannot allow ... you know sir, I cannot allow you to say you appointed this person correct
10 and then I have to just say yes.

CHAIRPERSON: Well ...[intervenes]

MS BROWN: I mean I would like to, but ...[intervenes]

CHAIRPERSON: Well Ms Brown, if of course you know that you did not appoint him you can say yes I did not appoint him or no, I did not appoint him. If you cannot remember whether you did or you did not, you can say I cannot remember.

So there is a way of giving a short answer, but based on the ... on what you have just said, do you mean
20 that your department would bring you the exact number of names required for appointment and you would then appoint those people.

Or is the position that they would give you more names than you needed to appoint and you would choose from those?

MS BROWN: They would present it to me with the, with a number of people around the table and we will discuss the names and from those names, I would then ... from the discussion we will make the further short list and then I do appoint at the end, where I approve, after it is looked by legal, by governance, by the units and whoever else is on the list.

CHAIRPERSON: So ...[intervenes]

MS BROWN: So yes, in that respect yes I approve it.

10 **CHAIRPERSON:** So the answer is you do, you used to be given a longer list of names than you needed to appoint.

MS BROWN: Yes.

CHAIRPERSON: And through discussion with your department a short list would be, would emerge and that is the list that you would, that is the list of people that you would appoint. Is that right?

MS BROWN: That is right.

CHAIRPERSON: But can you remember or you cannot remember whether you appointed Jan Shake?

20 **MS BROWN:** I do not think we appointed Jan Shake, whoever he is.

CHAIRPERSON: Okay.

MS BROWN: Or Pierre.

CHAIRPERSON: Okay, alright.

MS BROWN: I do not think we appointed him.

CHAIRPERSON: I hope that has helped Mr Kennedy.

MS BROWN: I cannot remember, but I think I do not remember a Jan Shake.

CHAIRPERSON: Hm.

ADV KENNEDY SC: Alright, thank you. If I may continue Chair? If I can just try and help you Ms Brown just to make this perhaps a little simpler. When I interrupted you earlier to try and keep you to a particular question I asked then, you were in the process of saying some names on
10 this list, at page 780 did not make it.

I am agreeing with you. I am not trying to trick you or to disagree with you at all. If I can just get to the bottom line. Of this list of, what is it? It is 11 names. Three did not make it. In other words they are not the names that you approved and put up to cabinet for its approval.

If I can help you the names are Jan Shake, Pierre and Visham Naidoo, but all of the other names, the other eight, were appointed to the new board. Now do you
20 confirm that or can you not remember or what?

MS BROWN: I am absolutely sure, because I remember that ...[intervenes]

ADV KENNEDY SC: You are sure of what?

MS BROWN: There was a fellow, I am absolutely ... if that is what has been found.

ADV KENNEDY SC: Yes.

MS BROWN: I cannot remember the board people's names. But if that is it, I agree with you.

ADV KENNEDY SC: Exactly and I am not going to waste your time or the commission's time to take you to compare this list with the list that went to cabinet, that was the final list that were appointed. Now so eight out of the 11, that were on this list that came from the info portal email address to Davids, from outside the department to inside
10 the department into your PA's email, which she then shared with her departmental email, represents a list that came from someone who Fundudzi alleges was a Gupta linked associate.

In effect saying this is the list of people to be appointed, and of those 11 eight succeeded. Now does that trouble you? You would not have been aware at the time, according to your evidence earlier.

MS BROWN: Retrospectively it does trouble me.

ADV KENNEDY SC: Yes, that is what I am asking you to
20 do. Because I accept that you, you indicated earlier that you were not aware it had come from this info portal email address or that that was linked to the Guptas. It in fact came from a Gupta associate, but with the, with hindsight you say it does trouble you.

In what sense?

MS BROWN: It troubles me that I ... that almost every, that eight of 11 people have come from this list.

ADV KENNEDY SC: Yes.

MS BROWN: That came from outside.

ADV KENNEDY SC: Yes.

MS BROWN: So how does this list get into, this list still has to go ...[intervenes]

ADV KENNEDY SC: Yes.

MS BROWN: To go through a vetting process.

10 **ADV KENNEDY SC:** Yes, indeed.

MS BROWN: So and it did.

ADV KENNEDY SC: Yes.

MS BROWN: And both an internal and external vetting process. Somewhere along the line, I remember that Mapelo fellow fell out for some reason. I think I even asked him to leave, and somebody quite early on had an international study opportunity.

I do not know who it was, but it was a woman. I cannot remember who it was and I recommended that she
20 go ahead and do that.

ADV KENNEDY SC: Okay. Now Fundudzi have also provided evidence in their report backed up by numerous annexures, to the effect that the same info portal address was used for various other communications and that legal and governance may also have received some of those

emails.

Presumably you do not know about that, correct?

MS BROWN: I do not know. I do not know about it.

ADV KENNEDY SC: Okay.

CHAIRPERSON: Well, one second. Ms Brown, Mr Kennedy asked you in what way this troubled you and your answer was if I understood you correctly, that you appointed ... what troubled you was that you appointed eight people from outside.

10 Now I am not sure whether that should trouble you, but I would have imagined that what should have troubled you is that somebody outside of the department, seems to have compiled a list, a substantial list of names that he or she thought should be, of people that should be appointed to the board of Denel.

Out of that 11, all eight or the other eight all got in, or got appointed from one source, as opposed to people coming from different sources. Would you, do you not agree that that should be, that is what should trouble you?

20 **MS BROWN:** But I did state it is from, I should have said it is from a list that came from outside.

CHAIRPERSON: Yes.

MS BROWN: One list.

CHAIRPERSON: Yes.

MS BROWN: I did say that or I meant that.

CHAIRPERSON: Ja, I think you may have meant that.

MS BROWN: I just so wish I knew what the emails were before the ones that had just been taken out.

CHAIRPERSON: Yes, but you see the impression I get and I just want you to comment on this, whether you share the same impression or whether you think that is justification for the impression. The impression I get and that is part of what concerns me.

Is that it looks like there is somebody out, there
10 was somebody from outside of Denel who was basically deciding what was good for Denel, and in terms of which people should vote into the board of Denel and not just sending one name or two names, sending what I would imagine would be the majority. I do not, I cannot remember how many board members Denel had under the 2015 board, but I would imagine that eight is probably the majority.

So that is my concern as to was there somebody outside of Denel who was determining that and rightly or
20 wrongly, maybe no I should not say rightly or wrongly, but he was or she was succeeding, because she puts up or he puts up 11 names, eight of those people become members of the board of Denel.

Why does he want so many people of his choice to be on the Denel board and how does it come about that

eight of them get actually appointed? Were there not other, were there not many other people who came from other sources? Why is it that so many that came from him or her, succeeded in getting onto the board?

So that is the impression I have and that is what concerns me. Do you think the, do you share the impression or the concern or do you think there is no justification for it?

MS BROWN: Given the fact that there is a process Chair, I
10 cannot ... I do not know why eight from one person succeeds and I signed off on it. So I cannot explain it ...[intervenes]

CHAIRPERSON: Yes.

MS BROWN: To you.

CHAIRPERSON: Okay, no that is alright. Mr Kennedy?

ADV KENNEDY SC: Thank you Chair. Just to pick up on the last questioning from the Chair Ms Brown. May I just ask you to focus on this particular aspect. You have said earlier that there were all sorts of people applying left,
20 right and centre and some, there were a few people who in fact even asked you could they be appointed and you quite properly said this is how you must go about it.

You do not do it through me, you go through my office and they must fill in the correct forms and submit their CV's just like the rest of them, correct?

MS BROWN: Yes.

ADV KENNEDY SC: And so not even a minister would interfere with the appointment, sorry the evaluation process done by the legal and the LGR. Legal and governance section, correct?

MS BROWN: No, I will not interfere.

ADV KENNEDY SC: So presumably you would agree with me that if the facts show, if the Chairperson ultimately finds on the evidence that in fact a list was being put to
10 the department via Ms Davids, your PA, to say these 11
should be appointed, of whom eight actually were
appointed, would you agree that that clearly is a violation
of proper procedures?

Your legal and governance team and Ms Davis and anybody else within the department should not allow some outside entity, whether it is the Guptas or anybody else, from putting forward their list or their slate as it were, of people that they would like put on the board.

Would you agree that that would be wrong?

20 **MS BROWN:** I agree.

ADV KENNEDY SC: Okay, thank you.

CHAIRPERSON: Can I just put also this concern Ms Brown?

MS BROWN: Yes.

CHAIRPERSON: When one looks at this list, one sees that

Mr Mantsha is right at the top there and he, next to his name is written the word Chairman. So the person who is sending this list, wants Mr Mantsha to be Chairperson. We know that Mr Mantsha, you end up appointing him as Chairperson.

We know that Mr Mantsha gets appointed as Chairperson despite the blot on his record that we talked about, but we are not going to go back there. But we know because I think you accepted too, that Mr Mantsha did not
10 stand out among the members of the board.

So the question is ...[intervenes]

MS BROWN: Look Chair, I did not say he did not stand out against the members ...[intervenes]

CHAIRPERSON: Oh, then I am sorry. Then I am sorry. I thought you accepted that, but ...[intervenes]

MS BROWN: I did not say he did not stand out against the other members of the board.

CHAIRPERSON: Okay, oh.

MS BROWN: I had more difficulty with him, post that.

20 **CHAIRPERSON:** Okay.

MS BROWN: But I mean he did stand out.

CHAIRPERSON: He did stand out. On what grounds do you say he stood out?

MS BROWN: I, if you just went back, maybe I just need to go back to his CV, Mr Mantsha's CV.

ADV KENNEDY SC: Yes, can I perhaps help you on that?

MS BROWN: I think for me it had to do with ...[intervenes]

CHAIRPERSON: Mr Kennedy will tell you the page.

MS BROWN: International, all of that. His ability to do big deals, his ability to, he having had financial background and so forth. But I mean, having said that, I have also acceded to you Chair, that I should have been a bit more cautious about the fact ... I think the thing that I was, is that his own ... the court, the High Court allowed Mr
10 Mantsha back and that was the thing that I, that is why Mr Mantsha was not disqualified by me personally.

I did not disqualify him personally, but for the rest of it I must say that we actually took, we actually took this in discussion form, like we do with every board appointment. So I do not know how this could have happened.

CHAIRPERSON: Ja, okay alright. Well, if you are able to say or in other words, is what you call his participation in international deals what made him stand out in your view?

20 **MS BROWN:** Not just that. I remember only that for now.

CHAIRPERSON: You remember ...[intervenes]

MS BROWN: But I think he also participated in stuff at Eskom. He had some knowledge of state owned companies and I read it somewhere as well, and I just cannot see it on my desk here.

ADV KENNEDY SC: Can I help you Ms Brown?

CHAIRPERSON: Ja, Mr Kennedy will help you.

ADV KENNEDY SC: Can I help you? I think you may be referring to the summary of his background at page 769. We looked at that earlier.

MS BROWN: Yes.

CHAIRPERSON: 769.

MS BROWN: So that was 769.

CHAIRPERSON: It says ...[intervenes]

10 **MS BROWN:** I, yes.

CHAIRPERSON: 5.4.1.

MS BROWN: I have, especially for the state owned companies, I used to be finance MC. So I know that I do have a, have years in corporate finance, transactional advising, business management, commercial law, media and communication. He has participated in major transactions, such as advising the City of Johannesburg, Corporate Diversion of Iscom as well as transaction advisor to the National Department of Labour on procuring
20 of, deponent of IT systems. I wanted somebody, the Chair should be somebody with vision and big picture, and with elements like this so that ...[intervenes]

CHAIRPERSON: Okay.

MS BROWN: So that would have been my reason.

CHAIRPERSON: That would have been what made him

stand out to you?

MS BROWN: To me.

CHAIRPERSON: Do you recall whether it is just what was written here or in his CV ...[intervenes]

MS BROWN: I think it was in his CV, because I read all their CV's.

CHAIRPERSON: Only or whether there was any investigation to check whether what was said in the CV was correct or there was not that kind of exercise or was
10 there?

MS BROWN: No, Chair, there is that kind of an investigation, Chair.

CHAIRPERSON: Yes, as part of the vetting?

MS BROWN: That is part of the vetting.

CHAIRPERSON: Okay, alright.

MS BROWN: That is part of the vetting.

CHAIRPERSON: Okay, alright, Mr Kennedy.

ADV KENNEDY SC: Thank you, Chair, but of course, not only did he stand out in your view, as somebody who might
20 make a good Chairperson because of his diverse background, but of course significantly he was also identified as the proposed Chairperson in the list that came from this info portal address, correct?

MS BROWN: Correct.

ADV KENNEDY SC: Right.

CHAIRPERSON: And I see that this does not say anything about any experience he might have had of chairing Boards of big companies or anything like that. But you say, it did contain things that appealed to you to say this is somebody who could lead the Board?

MS BROWN: But Chair in our adverts I can remember this, because I remember asking, should we not be putting in the adverts the fact that the person should have Chaired a Board before and it was a very big discussion in my
10 department, where they say, not everybody had access to be allowed to Chair a Board, and I think I conceded on that, but I think that was one of my questions.

CHAIRPERSON: Okay, Mr Kennedy.

ADV KENNEDY SC: Are you suggesting it is a mere coincidence, then that you thought Mr Mantsha had these attributes which merited his appointment, as Chairperson on the one hand, and that that was just a pure coincidence with the fact that the email that came from apparently, Gupta associates recommended the same appointee as
20 Chairperson?

MS BROWN: I do not know.

ADV KENNEDY SC: Well were you influenced by the list?

MS BROWN: Maybe quietly I was - I do not know. I cannot, I cannot, say...[intervene]

CHAIRPERSON: Well...[intervene]

MS BROWN: I cannot say what – I do remember meeting, Mr Mantsha in the - on the premises of Parliament when I was coming out, and he was walking with somebody, and he introduced himself to me and I was very pleased at the time that he was the Chair but I have nothing else, I mean, that was post his appointment.

close his boys

CHAIRPERSON: Well I just want to make an observation Ms Brown and you may wish to comment on it or you might
10 not wish to comment on it.

When I see the - and that this list of names came from Businessman and remembering that there is a suggestion that Businessman was actually Mr Salim Essa or the Fundudzi Report says probably it is, Mr Salim Essa I am reminded of evidence that we dealt with when you were giving evidence in respect of the Eskom work stream.

Of course Mr Kennedy was not there for that one, but you will remember that Mr Tsotsi gave evidence or you were told that he had given evidence before the
20 Commission to the effects that, in December 2014, when the Eskom Board was 2014, when the new Eskom Board was appointed soon after that, he received an email from Mr Salim Essa in which Mr Salim Essa had prepared a list of members of the Board, who should fall into various committees of the Board.

And the evidence Mr Tsotsi gave was to the fact that Mr Salim Essa had asked him to send that list to you, as his proposal and that was in December 2014. You might recall in terms of that evidence that you had not responded to the email that Mr Tsotsi sent to you, which contained the composition of committees that he said, had come from Mr Salim Essa.

But what he did say is that later, it might have been later in January 2015, when the two of you - when he was
10 making different proposals on the composition of committees, his version is that you insisted that the composition of committees that should be implemented should be a particular composition and he said that particular composition was the one or that of Mr Salim Essa has sent.

Now, you did say that, I think you did say that you knew nothing about Salim Essa having sent any composition, you got an email from him, which you took to be a proposal from him, saying this is the composition that
20 was being suggested. But I think later on, you sent an email where you were saying, well, there must be a resolution of the Board, which says, this is the composition, as suggested or proposed by the Board.

So the point I am making is I am just observing that, whereas that is what Mr Tsotsi said under Eskom,

here we have somebody using an email address that is alleged to be associated with Mr Salim Essa sending a list of names to your PA of people that were being put forward to be appointed as members of the Denel Board and the majority of them get appointed and the one that was suggested to be the Chairperson does get appointed as Chairperson as well.

So I am just saying, when I see this, I get reminded of that evidence, you might wish to say something, you might say, look, I do not have anything to say. I am just sharing with you what is in my – what is crossing my mind as I look at this, and I think it is only fair that I mention to you that this is what is crossing my mind. You might say something about it.

MS BROWN: I just want to say one thing about it and that is that I asked Mr Tsotsi to formalise his communications with me.

CHAIRPERSON: Ja, ja.

MS BROWN: And I thank God I did because if I did not ask him to formalise his communication with me, I would have to answer to questions like you are asking now Chair. I am not saying you are wrong in asking the question because it does, you know - I do not know if this is this portal number. I have never seen a number like that, I do not know if it belongs to Mr Essa or, I do not know that.

I also do not know that one, my whole department, well not my whole department the Legal and Governance Unit and a very, one of the most vociferous DDG's in my department. The one who the most would come up against me in every single meeting on just about everything and I never had a problem with it, because I think people should be allowed to speak and that is the only way we are going to build this country.

So I do not understand why they would support a
10 communication like this.

CHAIRPERSON: Yes, okay, Mr Kennedy.

ADV KENNEDY SC: Thank you, Chair. I just have a few aspects I would like to wrap up with.

CHAIRPERSON: Yes, sure.

ADV KENNEDY SC: Ms Brown may I take you to page 776.

MS BROWN: 776?

ADV KENNEDY SC: That is right. Do you have that?

MS BROWN: I do.

20 **ADV KENNEDY SC:** Right so this is an email from again Kim Davids and it is addressed to – is it Humarie, I can't quite read it on my copy, Botha or ...[indistinct]

MS BROWN: Humarie Botha and ...[indistinct].

ADV KENNEDY SC: Yes, no who were they, Rusthon was ...[intervenes]

MS BROWN: Can I read it for you?

ADV KENNEDY SC: Yes thank you.

MS BROWN: Rushton and it is cc'd to Annelise van Wyk who was my special advisor and Matietsi Mogolo who was the DG I think at this time, the Acting DG.

ADV KENNEDY SC: And Rushton was in the Legal & Governance section correct?

MS BROWN: Yes, yes.

ADV KENNEDY SC: And Botha?

10 **MS BROWN:** Humarie Botha was what we call a cabinet secretary, she used to do all the cabinet documents and so forth.

ADV KENNEDY SC: Within the department?

MS BROWN: Within the – she was actually in the Ministry.

ADV KENNEDY SC: In the Ministry of Public Enterprises, correct?

MS BROWN: Of Public Enterprises yes.

ADV KENNEDY SC: Yes, so all four of these individuals
20 were in-house, they were all officials of either the Department or the Ministry, correct?

MS BROWN: Yes.

ADV KENNEDY SC: As was Kim Davids, and she sent this email to those four on the 11th of May and it reads:

“Hi All,

As discussed with Minister and as per her directive herewith please find the S A Express Board nominations for CM.”

And then there’s a list of nominations for the Board for S A Express and then she proceeds to set out a list in relation to Denel, correct, that’s the Denel Board, correct?

MS BROWN: Yes.

ADV KENNEDY SC: Do you know what the for CM means, is that for Cabinet Memorandum or what?

10 **MS BROWN:** It could mean for Cabinet Memorandum, I don’t know.

ADV KENNEDY SC: Right, but is it correct that this email recorded the fact that you had discussed these lists and had given a directive to pass on these lists to these departmental and ministerial officials to process?

MS BROWN: Advocate Kennedy I am not sure what this list is because I am not sure what the – this could be the culmination where we then at the end decide that this is the list of people that will be going forward, that’s how I
20 read it, and that’s the list of people that will be going forward and this is the list that I confirm.

ADV KENNEDY SC: Yes.

MS BROWN: That is what I think it could be, I am not sure.

ADV KENNEDY SC: Okay.

MS BROWN: I am not sure.

ADV KENNEDY SC: Fair enough.

MS BROWN: I am just giving you an option.

ADV KENNEDY SC: I am not here to deal in options, thank you Ms Brown but I understand your answer is a tentative one and I accept fully that it is a long time ago. The list then it appears for the Denel Board has ten names on it, do you see that?

MS BROWN: Yes.

10 **ADV KENNEDY SC:** And the first is again Mr Daniel Mantsha as new meaning presumably a new appointee to the Board, because the only person who doesn't have new next to his or her name is Mr Motseti who was current and Mr Mantsha was then proposed as the Chair. Now all eight of the – of numbers one to eight were on the list that had been sent the list of 11 we looked at earlier from the outside Infoportal email address and then two names are added numbers nine and ten, Ms Mokwena and Ms Mandindi who were both not on the Infoportal version of
20 the list, do you have any comment on this? Anything that strikes you here whether you have comment.

MS BROWN: Just the comment I had previously, just the comment I made previously.

ADV KENNEDY SC: Yes thank you, not necessary to ...[intervenes]

MS BROWN: But I am not sure if this what – if she took the minutes and this is the eventual Board.

ADV KENNEDY SC: Yes.

MS BROWN: I am not sure what this is.

ADV KENNEDY SC: Perhaps this may help you if you can turn now to page 767.

MS BROWN: The cabinet memo?

ADV KENNEDY SC: That's the cabinet memo, what seems to be significant firstly is that this cabinet memo that came
10 from your ministry, correct? Is that correct, it was a cabinet memo submitted by your ministry ...[intervenes]

MS BROWN: All cabinet memos come from [audio distorted] absolutely all cabinet memos come via the Ministry.

ADV KENNEDY SC: Yes but I am asking you about this specifically Ms Brown, we see the emblem of the Republic and then it says Ministry Public Enterprises, correct, do you see that?

MS BROWN: Yes.

20 **ADV KENNEDY SC:** And what is also significant on this page ...[intervenes]

MS BROWN: I do.

ADV KENNEDY SC: ...what is significant also on this page is that it is dated 11th of May 2015.

MS BROWN: Yes.

ADV KENNEDY SC: Which is the very same date which appeared on the email that came from Ms Davids email to her four colleagues, reflecting what she had – what you had discussed and issued by way of a directive, that we looked at a moment ago, do you see that?

MS BROWN: I do.

ADV KENNEDY SC: And then we have set out from page 769, can you find that please, it is the third page of this document.

10 **MS BROWN:** Yes.

ADV KENNEDY SC: We have ...[intervenes]

MS BROWN: Is that the – Mr Daniel Mantsha's ...[intervenes]

ADV KENNEDY SC: That's right.

MS BROWN: Input.

ADV KENNEDY SC: That's where his CV is summarised at 54.1, and so each of the individuals who were approved by you for appointment have their details set out from 54.1 to 54.10 and from what I have been able to see the list of
20 people here who are not only named but their CV's are summarised corresponds exactly with the list of ten that we noted in the email from Ms Davids referring to you issuing a directive. Is there anything worthy of comment here that you would like to make?

MS BROWN: As I said earlier I am not sure if it isn't a set

of minutes that Ms Davids – I can't remember if she is Davids or Davis, makes or if she made it out, but I think it could have been a set of minutes that she is sending to the Department that this is how it all pans out, she could have been the one who took the minutes, that is the point I am making.

ADV KENNEDY SC: Right, and that was then carried out because we see in the cabinet report, the cabinet memorandum, sorry, that was prepared from page – the
10 page that we have just looked at, that is from page 767, that in fact carries out the very list that Ms Davids sent in her email, not so?

MS BROWN: But – yes, but what do you think it is? I know I am not supposed to ask you questions Advocate Kennedy.

ADV KENNEDY SC: No.

MS BROWN: But I am not getting the picture.

ADV KENNEDY SC: Okay well let me perhaps just help you to the extent that you may be asking for it, if one takes
20 these documents at face value we have on the one hand an email from Ms Davids, who we know was your PA, saying in her email that she sends this on your instructions as Minister, that the following ten people are to be appointed to the new Board of Denel, that is the one document, and the other document is the cabinet memorandum that is then

prepared by the very officials to whom that email was addressed, saying to cabinet these are the ten people whom our minister, Minister Brown, has approved subject to cabinet approval. That's what it seems to be appearing from the face of these documents, unless there is anything that you feel you need to draw to the attention of the Chairperson that my summary may be incorrect, perhaps we can then move on.

I accept that you can't be sure exactly what Ms
 10 Davids was saying although one can see the words that she used there but you can't take it any further than what I have summarised, is that right Ms Brown?

MS BROWN: That is right.

ADV KENNEDY SC: Thank you very much. Alright, there are two final aspects that I would like to raise with you very quickly before I ask the Chair just for a moment to check with my learned junior if there is anything that we may need to add. The one is this, you indicated earlier in your testimony this evening Ms Brown Mr Mantsha had
 20 performed relatively well as Chairperson while you were Minister, is that correct? Was that your overall impression?

MS BROWN: I think so.

ADV KENNEDY SC: You also indicated that ...[intervenes]

MS BROWN: I thought so and I think my department

thought so too, even though I have seen the document in Mr Klakudi's bundle that speaks differently but I am not sure what is meant there.

ADV KENNEDY SC: Yes.

MS BROWN: But I would like to respond to it.

ADV KENNEDY SC: Now Ms Brown I don't have it, I am afraid I omitted it from the bundle here, but I don't think anything should turn on that, I don't that you are likely to dispute this, you made a public announcement that was
10 then circulated to the media and by the media when you appointed the new Board to Denel, after getting cabinet confirmation, and in that press statement do you recall that you said that the outgoing Board you wanted to pay tribute to as having performed well and having left Denel in a healthy state, and you commended them for that. Do you recall saying that?

MS BROWN: Well seven years ago, I – it sounds like something I would say.

ADV KENNEDY SC: Yes. And in fact it is featured in
20 evidence that has been given before the Chairperson, and then you congratulated the incoming board headed by Mr Mantsha as the new Chairperson.

There has been detailed evidence given in relation to Denel by numerous witnesses, some of which you may or may not have seen or heard or read, but some of the

evidence that has already been led before the learned Chairperson has suggested that Denel in fact underwent a substantial change in fortunes that the relatively healthy situation that applied at the end of the previous Board's tenure that that underwent a dramatic change and in fact Denel then started to have some very serious problems thereafter.

Now Mr Mantsha has in his evidence before the Chairperson here said that there were some difficulties in
 10 the financial performance of Denel, during the period of his chairpersonship but he attributed that to particular deals that had been done wrongly, particularly by Mr Saloojee. Do you stand by your evidence that Mr Mantsha in fact performed relatively well?

MS BROWN: I hope you would give me about three minutes to respond to this, because I think it is quite an important comment that needs to be made.

CHAIRPERSON: Yes, you have got three minutes, you can go ahead.

20 **MS BROWN:** I, Chair I used to say as well that we had one – we had R31billion worth of orders on the order book and I said that in 2014/2015, there was no money in Denel. In fact all the financial records will show that they were really having a rough time. They comparatively speaking were speaking to other State Owned companies like say an

Eskom who got a guarantee of R450billion guarantee from National Treasury. Denel had a guarantee of R1.8billion but it was coming to an end I think around September 2017.

10 `So Denel has never been in good standing, I had great difficulty with the fact that Denel has given most of our IP's away, they have a 70%, Pasad[?] Sweden have a 70% arrangement with Denel so they own the intellectual property of Denel, RayMittal[?] is another one, 51%/49%
 10 to them, so there is a range of ways that you can look at this, this issue, so that's the one issue, but I say in the 2016 AGM report which Mr Klakudi it appears to me, I say this AGM happens under a backdrop of a tough economic climate, the low levels of growth are putting strain on government's commitments to stabilise the country's debt as a share of the GDP, I go further to say that in 2016 that I note with – the following with regards to the financial statement there is an unqualified audit opinion by the auditors, I also say year to date revenue of R8.2billion
 20 when compared against prior years revenue of R5.9billion, so their revenue is higher.

I say that this is the sixth consecutive year that Denel is reporting a profit after a decade of accumulating losses. So Denel have been accumulating losses but what this Board did was just straightforward, some of the

processes of the previous Board, some of the strategic ways of moving forward.

I do say irregular expenditure remains high at R49million when compared against the R47million of the 2014/2015 board, so there is a R2million difference but it is the same, and then of course the short-term arrangements on the funding of the LSSA acquisition and the risks of facilities being terminated on ...[indistinct], and that came from the previous Board.

10 And of course I do make comments about that. Then in 2017 Mr Mantsha goes on a road show with his Board and DPE, 26th and 30th of January in spite of the fact that they were unsuccessful in securing active support from National Treasury. So we were now in the process of leading up to NASREC. I don't bring politics into it but I think that there is something to be said, but they raised in total R740million, and I view this of a clear confirmation that Denel's business fundamentals, executive leadership as well – this is him writing to me, our governance regime
20 is intact and investors are slowly beginning to understand.

So he then, one of the big problems that Denel had in that year was because of the politics I want to say, and I am also like, because of the politics leading up to NASREC, one of the problems Denel had was that National Treasury would not extend the R1.8billion, it eventually

does extend it but it only extends it for four – one year and not for the five years that was required for investors to actually purchase into the company.

So the company didn't go under, I mean two days ago a whole unit, a whole division of Denel is not able to pay salaries, but the company is not going under, but the company isn't funded properly, so I actually think they held Denel, in my humble opinion, I think Mr Mantsha held Denel up quite well with his Board.

10 I think the storyline and I would like – I would like, and I am not sure that there are still investigators around the Commission, but I would really like to have a sense of annual financial statements against previous years and I have said in Eskom, because I mean contrary to what anybody says in the media, anywhere else, the period when I was Minister in Eskom we were actually – and not because of me – because of the Eskom family we actually do have ...[indistinct] for three years and in real terms e actually had enough energy and financially the company
20 was in a much better state, but the storyline is, and I will never be able to contest that storyline, so I still wish – or if I had a wish, one last wish before I am not here anymore, it would be that I actually get the Commission to do a proper assessment of the annual financial statements of all the companies.

CHAIRPERSON: Thank you. Mr Kennedy?

ADV KENNEDY SC: Chair may I raise just one other topic before I ask to confer with my learned junior?

CHAIRPERSON: Yes.

ADV KENNEDY SC: Ms Brown just from a point of detail, quite unrelated to what we have dealt with already, Mr Saloojee was the Group Chief Executive of Denel, under the previous Board, and he was still Group CEO until he was suspended and ultimately his employment was
10 terminated under the new Board. Now there has been some evidence led before this Commission if you know one way or the other please just answer the question, if you don't know you must just indicate you don't know, but the evidence previously has suggested that the previous Board, prior to Mr Mantsha taking over as Chairperson, were recommending a reappointment of Mr Saloojee as Group Chief Executive. Do you know whether that was correct or not?

MS BROWN: I don't know.

20 **ADV KENNEDY SC:** You don't know.

CHAIRPERSON: The extension of his contract, you don't remember?

MS BROWN: No, I don't remember that. In fact I got such a hiding around Brian Molefe that I am happy I stayed, my Department recommended we stay out it, I know

Mr Saloojee's lawyers wrote to us and the legal people in my department said this is operational, stay out of it.

CHAIRPERSON: Well I ...[intervenes]

MS BROWN: If I just did it for every other State Owned company like Denel and like Eskom I would be much happier.

CHAIRPERSON: The evidence that was given by Mr Saloojee before me was that when you were in London with him and Mr Mantsha, I think there was some exhibition in
10 London, you had a discussion with him, I think over coffee or something, where you also praised him for having done very well, either that or you may have said the reports you have got were that he was doing very well and that you said that you were going to extend his contract. Have you got no recollection of that?

Oh, she has frozen?

MS BROWN: I could have said that, I am not denying it. I said I would support, but I am not the one who extends the contract. I mean I merely liked Mr Saloojee, and Mr
20 Saloojee comes the same history as I do, and the same background, even though we might be a little bit different ages, but I – it wasn't in my mandate, it was really between the Board and the Executive.

CHAIRPERSON: Yes.

MS BROWN: And I remember very clearly that is one of

the issues I remember very clearly, that it was recommended to me not to get involved, it is the Board and the Executive.

CHAIRPERSON: Yes. But when you say it was between him and the Board do you mean the Board was supposed to make a recommendation to you before you could ...[intervenes]

MS BROWN: I can't remember, I can't remember Chair.

CHAIRPERSON: Yes. Yes, but normally what is your
10 recollection of what would happen if the CEO of an SOE if his or her contract needed to be extended, do you remember whether the power lay with you, but the Board had to recommend, or whether it was really up to the Board, you had nothing to do with it. I would have thought that it would come to you?

MS BROWN: I think in the end the Board would recommend, would not recommend, the Board would approve and I would – I actually can't remember.

CHAIRPERSON: You can't remember.

20 **MS BROWN:** I really can't remember, I'm very sorry.

CHAIRPERSON: Okay, not that is alright, it has been a long day. Mr Kennedy?

ADV KENNEDY SC: Thank you Chair. That completes the questions I have of this witness. I have had a chance to discuss with my learned junior, we have no further

questions.

CHAIRPERSON: Ye.

ADV KENNEDY SC: May I thank you Ms Brown for your evidence. Thank you Chair.

CHAIRPERSON: Okay alright, I just want to ...[intervenes]

MS BROWN: Thank you Advocate.

CHAIRPERSON: I just want to mention one thing Ms Brown before I release you, I see in that document that
10 was sent, the memorandum that was sent to cabinet with the names of the members of the Board, you don't have to look at it, but you can if you wish, at page 770, I see that one of the candidates who were being put forward was a Ms Rafilwe Mokwena, it was written in the memo that she had obtained her LLB from the University of Natal in 1987 and a BJuris from the University of Zululand in 1985, and that is the same kind of degrees that Mr Mantsha had he also had BJuris and LLB from the Venda University and then about Ms Mokwena it is said in the memo Ms
20 Mokwena has directorships in Road Accident Fund and Airports Company of South Africa, so this is a candidate who had experience of sitting on the Boards of some SOE's and then it is said she was an Executive Director for Magesa Mokwena and Rafil [?] Incorporated, I assume that was a law firm and an alternate director at the State

Information Technology Agency, SITA, so she had experience of sitting in the Board of the Road Accident Fund, in the Board of Airports Company South Africa, of course she was an executive director in Magesa Mokwena and Rafilwe or Rafil and she had the experience of sitting on the Board of or on the State Information Technology Agency and the memo said she brought experience and legal aviation and business leadership to the board.

I would have thought that she seemed to bring quite
 10 a lot to the Board, I am comparing her with Mr Mantsha, and of course she is a woman. Is that something you might not have noticed at that time or is it something you did notice but you thought Mr Mantsha ...[intervenes]

MS BROWN: I cannot remember.

CHAIRPERSON: You can't remember.

MS BROWN: I can't remember if I noticed that seven years ago.

CHAIRPERSON: Ja.

MS BROWN: I mean if you look at Mr Musomi he was
 20 Chairperson of Inanda Newtown Housing Project for example, I mean I think Chair it is all relative in some respects, that's what I think.

CHAIRPERSON: Ja, no, no, I agree, there is – it is not black and white as it were, but ...[intervenes]

MS BROWN: And I appreciate your comments about it.

CHAIRPERSON: Yes, no, no that is fine. Thank you very much Ms Brown, we appreciate that you availed yourself to assist the Commission, it was not always smooth going I think but I think we all understand one another.

MS BROWN: But I think I contained myself very well Chair.

CHAIRPERSON: [laughing] well you did well.

MS BROWN: Thank you very much.

CHAIRPERSON: But thank you very much, if we do later
10 think we need you we will approach you, the Commission will approach you and I am sure you will be prepared to assist the Commission again.

MS BROWN: Of course Chair.

COUNSEL FOR MS BROWN: Chair?

CHAIRPERSON: Yes.

COUNSEL FOR MS BROWN: Before we release Ms Brown just quickly, no re-examination but there is a second issue in closing Ms Brown was reading a document authored by Mr Mantsha.

20 **CHAIRPERSON:** Yes.

COUNSEL FOR MS BROWN: Yes, we would like to enter that into evidence or alternative we submit a supplementary affidavit entering that into evidence.

CHAIRPERSON: Okay, maybe do – send a supplementary affidavit and attach it and then we take it from there.

COUNSEL FOR MS BROWN: We shall do so Chair.

CHAIRPERSON: Is that alright, okay, alright.

COUNSEL FOR MS BROWN: Thank you Chair.

CHAIRPERSON: Thank you very much to everybody, thank you to the staff as well, thank you to the technicians, Ms Brown's legal team for all the cooperation, to Ms Brown, thank you Mr Kennedy and your team, thank you very much.

We will adjourn.

10 Just for the benefit of the public during the day session tomorrow Singh, Anoj Singh will continue with his evidence.

We adjourn.

MS BROWN: Thank you Your Worship.

INQUIRY ADJOURNS TO 23 APRIL 2021