

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

14 JANUARY 2020

DAY 198

FINAL

20

PROCEEDINGS RESUME ON 14 JANUARY 2020

CHAIRPERSON: Good morning Mr Pretorius, good morning everybody.

ADV PAUL PRETORIUS SC: Good morning DCJ.

CHAIRPERSON: Good morning in the New Year. Yes are you ready?

ADV PAUL PRETORIUS SC: Yes we are ready Chair. There are a few procedural matters to deal with but the respondent in the present application for the issue of summons in relation to the evidence of former President Zuma are present. If they could place themselves on record?

10 **CHAIRPERSON:** Yes.

ADV THABANI MASUKU SC: Good morning Chairperson.

CHAIRPERSON: Good morning.

ADV THABANI MASUKU SC: Compliments of the New Year.

CHAIRPERSON: Compliments of the New Year to you.

ADV THABANI MASUKU SC: As together with Mr Skakane and instructed by Mantsha.

CHAIRPERSON: H'mm.

ADV THABANI MASUKU SC: We appear for the former President Zuma.

20 **CHAIRPERSON:** Thank you. Yes.

ADV PAUL PRETORIUS SC: By way of introduction Chair the answering affidavit with documents annexed was received yesterday afternoon at about 16:00. It raises a number of issues in various categories and if I could just outline these in order to decide a way forward?

CHAIRPERSON: Yes.

ADV PAUL PRETORIUS SC: We are ready to argue the whole matter Chair and that could properly ventilated take up to a day and it is necessary perhaps given the program today to find an efficient and effect way to deal with this application. The issues fall into various categories.

The first category of issue is the medical condition as we now learned in the answered papers. That is a factual enquiry. The medical condition is not established on the papers but there is a tender
10 to provide with confidential information in Chambers and you Chair will then assess that in relation to a summons issued for 27 January 2020.

The second category of issue is a category of legal issue. Your right to issue summons Chair is challenged on various grounds. That is a separate issue. That is an issue that perhaps needs properly to be ventilated for the present and future purposes but it is not urgent that it be dealt with today.

The third category of issues in the answer there are a number of attacks on the integrity of the Commission, on members of the Legal Team based on incorrect facts and they need to be dealt with. We are
20 ready to deal with issues to the legal issues and the factual inaccuracies and attacks on the integrity of the Commission now should you wish that to happen.

But there is one caveat Chair. The – this application and its contents may have future implications in litigation or otherwise and perhaps it is necessary for that reason to go on record at some stage

or another in a formal sense so that these matters are properly dealt with on record rather than just dealt with adhoc in argument but we are ready to deal with them.

Ultimately however today we would seek the issue of a summons on an appropriate date. If that appropriate date becomes inappropriate for medical reasons or whatever then that can be dealt with at that stage. But it seems that the case of the former President is that he is ill and receiving treatment both here and abroad until – will not be available until March for that reason. That needs to be
10 established before you perhaps at your instance by confidential information given to you in Chambers.

But those are the procedural issues that need clarity now. We are ready to proceed should you so direct on all issues. However it may be preferable to go formally on record to deal with attacks on the integrity of the Commission and to deal with inaccuracies and to deal properly with the legal issues and challenges raised to your jurisdiction and capacity in the answering papers.

CHAIRPERSON: Well I do not see why argument on this application should take a day at all. There may be a lot of papers that are put in
20 here but really the issues are very crisp as far as I am concerned.

ADV PAUL PRETORIUS SC: As far as we are concerned to Chair.

CHAIRPERSON: Yes.

ADV PAUL PRETORIUS SC: It depends on the ...(intervenes).

CHAIRPERSON: It may well be that there are matters that the Legal Team and the secretary might need to respond to because they are –

they have been said there on record but that does not necessarily mean that we would need to take a whole day for this application. I think that you may need to decide whether you need an opportunity to have a replying affidavit to deal with these various matters before the matter is argued. In which case we may have to maybe adjourn for a few days before argument is heard. Because the usual way is that if an answering affidavit to put up and there are matters that you feel need to be responded to is to have that dealt with properly by way of a replying affidavit. So you might wish to take a view of that. I would not
10 be disinclined to adjourning the hearing of argument to later this week if that were to be the way to go. So – there is that issue. I think that is the first issue on which ...(intervenes).

ADV PAUL PRETORIUS SC: Yes.

CHAIRPERSON: You need to take a view and ...(intervenes).

ADV PAUL PRETORIUS SC: Chair the ...(intervenes).

CHAIRPERSON: H'mm.

ADV PAUL PRETORIUS SC: The factors relevant to that decision are firstly that the original urgency of the matter or semi-urgency was dictated by the issue of a directive by yourself that Mr Zuma should
20 appear on the 27th of January. That may or may not fall away depending on your decision in relation to the first issue, the medical condition.

The second issue, the need to go on record. We are ready to argue and deal with all the issues we prepared last night and we are ready to go on record. It may be that it is convenient that an affidavit

is filed in due course. It need not delay the argument.

The time taken today is dependent entirely Chair on the attitude taken by my learned friend and to what extent he wishes to canvas the numerous issues both factual and legal raised in the answering affidavit but you will control those proceedings no doubt Chair.

But other than that we agree that the issues are quite crisp. Your power cannot be questioned at this stage at least in this forum. It is a matter of statute and the necessity for Mr Zuma to give evidence is
10 also a matter that can be dealt with in a straightforward matter. The real issue then is whether a summons is necessary or that one can continue to rely on promises of cooperation.

CHAIRPERSON: *Ja.* I am not sure about having argument first and then maybe a replying affidavit later or just responding from the bar on matters dealt with in an answering affidavit to put on record, I am not sure.

ADV PAUL PRETORIUS SC: Yes you are correct Chair.

CHAIRPERSON: Whether that is the best way.

ADV PAUL PRETORIUS SC: It is untidy.

20 **CHAIRPERSON:** Yes, yes.

ADV PAUL PRETORIUS SC: And may in fact because of those reasons have consequences that ...(intervenes).

CHAIRPERSON: *Ja.*

ADV PAUL PRETORIUS SC: The Commission needs to protect itself against.

CHAIRPERSON: *Ja.*

ADV PAUL PRETORIUS SC: If there are later proceedings.

CHAIRPERSON: *Ja, ja.* So ...(intervenes).

ADV PAUL PRETORIUS SC: That is that issue. In the meanwhile
Chair.

CHAIRPERSON: H'mm.

ADV PAUL PRETORIUS SC: It may be convenient to deal with the
factual medical issue in Chambers.

CHAIRPERSON: *Ja. Ja.* Let me say this about the medical issue.

10 Last time when the lawyers for the former President indicated that he
was not able to come and appear before the Commission because he
was not well. The Commission did not even ask for a medical
certificate. The Commission accepted his word. At least I accepted his
word. This time he has offered to make available to the Chairperson
information to support his position that he needs to be away on medical
grounds. I just want to say at this stage I am not saying – I think it is a
good thing that he has offered without being compelled by anybody to
make that information available to the Chairperson. I may have to see
what he offers to let me see but if I do so I would not be doing so
20 without any reluctance. From what I have been told in the affidavit it
seems that what he is offering me to see may reveal his illness and I
have some discomfort with having to see anybody's – any information
relating to anybody's illness as such. I am not saying that I necessarily
will not but I just want everybody to know that I – it is not something I
would do without any discomfort. But the issue would be – the first

issue would be whether if we talk about the way forward one of the issues we have to look at is whether as things presently stand the Legal Team would be insisting that the summons be issued in regard to the period that has already been determined namely the 27 to 31 January or whether the position may be that maybe in regard to those dates there may be acceptance that there may be a problem in terms of his medical situation and then the question might then be whether the Legal Team would seek that I authorise the issuing of a summons for other dates other than the dates of 27 January to 31 January. I think

10 that that is – because if what is being – if it is accepted that maybe for the dates of 27 to 31 January there is a problem because maybe there might be no basis not to accept what he has said I could be shown as showing that he needs to be away. Then it may be that what might remain is to say, okay the dates of 27 to 31 January might be a problem but let us talk about whether a summons should be issued for another set of dates and we take it from there. And that might tie in with the question of a replying affidavit as well. So it may well be depending on the position taken in regard to the 27 to 31 January, it may well be that an adjournment to enable the Legal Team to file a replying affidavit and

20 new dates to be determined and argument can then be heard. An argument might not need to be heard only when those dates may be unknown. Maybe it can be heard even if they have not been determined or maybe they need to be determined first. So there needs to be an application of mind to that issue. So maybe I should hear what counsel for the former President has to say in terms of these

preliminary remarks before we proceed.

ADV PAUL PRETORIUS SC: Yes Chair.

CHAIRPERSON: Would that be fine or do you or would you like to say something?

ADV PAUL PRETORIUS SC: It is in order. May I just place on record?

CHAIRPERSON: *Ja.*

ADV PAUL PRETORIUS SC: In response to what you have said Chair. Firstly we would adopt the latter approach. We have no basis to contest the medical information on the affidavit but would insist perhaps insist is too a strong a word Chair would request that summons be issued for a later date subject to consideration in the interim. And the next point is because of the importance of the issues raised in the answering affidavit for the integrity of the Commission and its work it is preferable that we go on record before argument. The other alternative is too untidy and has possible ... (intervenes).

10

CHAIRPERSON: *Ja.*

ADV PAUL PRETORIUS SC: Negative consequences.

CHAIRPERSON: Your argument would have to be on record and in the open hearing.

20 **ADV PAUL PRETORIUS SC:** Yes.

CHAIRPERSON: So maybe let me hear Mr Masuku and then we take it from there.

ADV THABANI MASUKU SC: Thank you. Thank you Chair.

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: Just as a preliminary remark. I would

urge that this Commission and the – particularly the leaders, the Legal Team of the Commission extends to us and our client the presumption of integrity. It is very important because the Commission is doing very important work. They must try difficult as it is to extend to us the presumption that when we give our word to the Commission we mean what we say. It is very embarrassing to stand here and to have to tell the Commission that the President or the former President has a medical condition that prevents him from coming to the Commission under a threat of subpoena. These are issues that can simply be dealt

10 with to preserve the dignity of people that are involved. The idea that they are ready to proceed and have this matter heard but insist on filing an affidavit – a replying affidavit in future is just superfluous. It does not make any sense because or not conceivable basis is a replying affidavit conceived under the circumstances where they insisted they are ready to argue the matter. We are ready to argue the matter but we accept that we have got to preserve the atmosphere of dignity that this Commission ought to insist on. We take great exception that it has come to this point where the Legal Team sees it fit in the fact of having been told that the President or the former

20 President has a medical condition that prevents him from coming that they insist on having to argue a summons. It is just extraordinary but it tells us exactly what we accuse them of. That they are – there is a deep-seated antipathy and I use very strong terms because it is what it is towards our client.

On what basis after he has been told – after Mr Zuma has gone

for medical treatment when he goes next week, on what basis in a summons application is competent? He was not present on the scheduled date because of a medical condition. On what conceivable basis is it – is it proper – is it consonant with the dignity of this Commission to compel Mr Zuma to come and do this? And in fact the idea that they then issue a media statement telling the world that that have summoned Mr Zuma to come under threat of being imprisoned is in itself wrong. But that said perhaps let me take – go to the last part of what the Chairperson raised.

- 10 **CHAIRPERSON:** Maybe before you do so because I do not want to forget Mr Masuku. The media statement was sent out on my instruction and not on the instruction of the Legal Team. What we – what the rules of the Commission says is that I think it says from time to time the Commission will inform the public what it will be hearing and as you know there was the Christmas break and the media statement was not just dealing with – the media statement was simply dealing with what will the Commission be dealing with as it resumes. It said it will be hearing witnesses relating to law enforcement agencies. It said it would hear an application to be moved by the Legal Team to seek an
- 20 authorisation from the Chairperson for – to issue summons – for – to authorise the secretary to summons against the former President. As far as the former President that is all that it said. Whatever else the media might have said does not – did not come from the statement. So it simply said it will hear some witnesses relating to actually Mr Themba Maseko's issue. It would hear some witnesses relating to the

Waterkloof landing. It will hear an application to be moved by the Commission's Legal Team for the Chairperson to authorise the issue of summons. It did not say anything more than that about the former President.

ADV THABANI MASUKU SC: That is correct Chairperson. The impact of a media statement in those terms is that there is an incredible interest from the public regarding the appearing of Mr Zuma invariably exposes him to incredible attacks, political attacks and we – while you – while the Chair may believe that that does not – that should not
10 concern him I am saying even the idea it – the Chair must consider a procedure that does not expose witnesses to this kind of attacks. I mean if you look at what the media and the commentaries on the media regarding the summons you will see that it is an unpleasant thing. For someone we have told the Commission he is not feeling well to live under the threat that he will be forced to appear before the Commission of inquiry under a threat of being arrested is – lacks dignity and what we are asking the Commission to do is that while the Commission – while the leaders of the Commission – the leaders of the Legal Team of the Commission is a law – an obligation to the Commission they must
20 extend to the President – to the former President the presumption of dignity. When he says he is not feeling well he is not playing games with them. So I still maintain that this media statement neutral as you put as you have Chair.

CHAIRPERSON: H'mm.

ADV THABANI MASUKU SC: Does become a platform for condemning

Mr Zuma in public and this greases the Commission sitting in public.

CHAIRPERSON: Yes you know Mr Masuku to the extent that it may be necessary and I know the media lies in person of the Commission is inside the room they could even give you a copy of the actual media statement that was sent out. You can reflect what I am saying.

ADV THABANI MASUKU SC: No Chair I am not complaining about the content of the media statement.

CHAIRPERSON: Yes. Yes.

ADV THABANI MASUKU SC: I accept that the media statement is what
10 you have said it is.

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: All I am saying is that once that announcement is made you must accept that there is an incredible public interest.

CHAIRPERSON: H'mm.

ADV THABANI MASUKU SC: That is generated from this position taken by the Legal Team.

CHAIRPERSON: H'mm.

ADV THABANI MASUKU SC: Which is that they are going to be
20 bringing this application for summons. One of which is that the impression being given is that it is necessary to summon to him even when he is sick or when he is not feeling well.

CHAIRPERSON: Well let me say that I do not think that at the time of the issuing of the media statement the Commission had already been – had been advised that he was not well to come to the Commission on

the 27th.

ADV THABANI MASUKU SC: There was prior information that he had not been able to come previously because he was not well.

CHAIRPERSON: Previously yes.

ADV THABANI MASUKU SC: Yes.

CHAIRPERSON: But that did not mean obviously that he would never be able to come. There will not be dates in the future when he would be able to come. So what I am saying is in issuing it is not as if the statement was issued in the knowledge that for that week 27 to 31 July
10 he would not be available because of medical condition.

ADV THABANI MASUKU SC: But you see if there was a rigorous adherence to what you – what the Chair said.

CHAIRPERSON: H'mm.

ADV THABANI MASUKU SC: In our last adjournment.

CHAIRPERSON: H'mm.

ADV THABANI MASUKU SC: Which is that the appearance of Mr Zuma will be arranged.

CHAIRPERSON: H'mm.

ADV THABANI MASUKU SC: With Mr Zuma. This would not have been
20 necessary. But that said can I then just ...(intervenes).

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: Just address you on the way forward that I believe ...(intervenes).

CHAIRPERSON: Yes, no, no that is fine. The only reason I want – I interrupted you was just to make sure that there is understanding that

in issuing the statement well one that is if there is any criticism to be raised it not against the Legal Team, it is against me. But that the statement was nothing more than to do what our rules say that from time to time we must tell the public what we are going to be busy with and that the statement was not intended for other thing than just to be – to inform the public. But I think I accept that you accept that the statement was neutral. Your concern is that neutral as it may have been once it has been issued it seems to have generated certain criticism of the former President. I think that – I hope I understand you
10 correctly.

ADV THABANI MASUKU SC: Because we are of the opinion that the position taken by the Legal Team of the Commission suggest that the President – former President is not interested in coming to the Commission and can only do so under compulsion. We – I am instructed to offer to the Chair that the leader of the medical team that is involved in the treatment of Mr Zuma would be prepared to meet with the Chair to explain to the Chair the nature of the condition and the challenges that Mr Zuma is facing and do so under very strict conditions of confidentiality because of the nature of President's
20 medical condition is a security issue. And not us, not the Legal Team, not anybody else would be in that room where the Chair would be briefed on that aspect. That we have to come to this is unfortunate.

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: But that said that is what we have been instructed to ...(intervenes).

CHAIRPERSON: To offer.

ADV THABANI MASUKU SC: To offer the Chair. I know that the Chair indicated that the ...(intervenes).

CHAIRPERSON: *Ja.*

ADV THABANI MASUKU SC: There was not request.

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: For Mr Zuma to – or to issue a sick certificate that too would be astonishing under the circumstances.

CHAIRPERSON: H'mm.

10 **ADV THABANI MASUKU SC:** We will argue when we – when the matter is ripe for hearing.

CHAIRPERSON: H'mm.

ADV THABANI MASUKU SC: Because clearly the matter is ripe for hearing.

CHAIRPERSON: H'mm.

ADV THABANI MASUKU SC: Whether on the so-called attacks on the integrity of the Commission or the leaders or any of the factual issues. It is not ready for argument today. They must prepare a replying affidavit to see – to raise whatever issues they want raised, dispute
20 whatever disputes they want to make. As the Chair suggest they must then amend their – the target of the summons in terms of the dates for which they want to compel Mr Zuma to appear. In fairness they cannot ask for an order – an open-ended order that anytime he comes out of hospital whatever his condition is, whatever the dates are he must simply be – he must simply come under summons. It is just not a

constitutionally compliant – I mean where is Ubuntu in all this? He is going for an intensive medical treatment. When he comes back we must be arguing about bringing him under summons. Someone who has clearly told the Commission that he is going for a medical treatment and he – when he comes back what do we know about his condition and then to suggest that there is a basis on which he should be brought under summons. But we can argue when they file their replying affidavit. We would obviously reserve our right to respond to some of the issues that raise in their replying affidavit to the extent that they

10 raise new matters. We are happy to do that. But as for today I accept that the Commission’s position – the Commission’s suggestion that an – and Mr Pretorius’ concession, if it is a concession that it would – there will be no basis to ask for summons in respect of the scheduled dates that are coming. They must think about dates in future which – or the Chair must then suggest dates after Mr Zuma comes from medical treatment which dates will then – once the Chair has indicated the date that he proposes after Mr Zuma has come from hospital when he wants him here the medical team can then amend their relief to relate to those particular dates.

20 **CHAIRPERSON:** Well the ...(intervenes).

ADV THABANI MASUKU SC: Why that is important Chair is because as in these dates we are able to come and to indicate to the Commission that he is not going to be available, he is not even in the country when that happens. So a summons would not be possible to implement. As of the future dates what is the basis for summons after

he comes back from the thing? But if they want to argue that they must wait until you schedule dates. They cannot ask for an open-ended issuing of summons with no specific dates in mind and then we can deal with it on that basis. Because then we would have to consult the President on that time, look at the circumstances that he faces at the time and determine whether or not he is able to attend. So that is the way we see the issues going forward.

CHAIRPERSON: Well I just – I think I just want to say something about a point which is made in the answering affidavit and which you have
10 also touched on with regard to what I said last time namely that dates would be arranged. The answering affidavit does reflect me saying so. I – but this is what I can say. I never meant and never intended that dates would have to be agreed with the former President's legal team first. I had a determined the dates of July when the former President appeared here myself and that is what I have sought to do whenever the fixing of any dates has had to be done by me. But even other dates they are suggested to me by the Legal Team and I approve. The reason why I would not want to subject myself to a condition that dates
20 would have to be agreed is because I know too well the kinds of challenges that can arise when the arrangement is that dates would have to be agreed. So I retain to myself and reserve to myself the right to determine the dates but that does not mean that I do not welcome representations. If for example I am informed that the former President is not going to be in the country for the next four weeks you know I am not going to determine a date within those four weeks so – because of

those representations. But I do not want to say he will not be required to come to the Commission unless the dates have been agreed. I have not done it with other witnesses simply for the reason that it creates challenges and because there are so many people who have come to come to the Commission if we were to have to agree dates with them because they might say well you are agreeing dates with the former President why do you not want to agree dates with us.

ADV THABANI MASUKU SC: Accepted.

CHAIRPERSON: It could create logistical problems. So that is the
10 only reason. So the only reason why I think to the extent that I may have used the word arranged the only reason – the only thing I can think of is I may have been thinking of arranged within the Commission as opposed to agreed with the former President’s legal team. So that is the only clarification that I wish to make. And when I do so I am not saying that you are bound to understand what I said in the same way that I am explaining it I am just saying it.

ADV THABANI MASUKU SC: No Chair we are bound by your explanation. We would not ignore what you – because we – as I started at the beginning we extend ...(intervenes).

20 **CHAIRPERSON:** Yes.

ADV THABANI MASUKU SC: The presumption of integrity.

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: When you tell us that that is what you meant.

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: That is – we must unequivocally accept that.

CHAIRPERSON: Yes, yes. No, no thank you.

ADV THABANI MASUKU SC: But I accept too ...(intervenes).

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: I am comforted too by the fact that the Chair accepts that the ruling was open to us.

CHAIRPERSON: *Ja.*

ADV THABANI MASUKU SC: Believing that we were entitled to be told
10 firstly that these are the dates that we are thinking of.

CHAIRPERSON: *Ja.*

ADV THABANI MASUKU SC: Is it convenient for you to attend or is not convenient for you to attend.

CHAIRPERSON: H'mm.

ADV THABANI MASUKU SC: That is how we understood the ...(intervenes).

CHAIRPERSON: The statement.

ADV THABANI MASUKU SC: The ruling.

CHAIRPERSON: *Ja.*

20 **ADV THABANI MASUKU SC:** But now that it has been made clear we accept.

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: That is the position.

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: And we can take it no further than that.

CHAIRPERSON: Okay no, no that is ...(intervenes).

ADV THABANI MASUKU SC: So in light of that clarification of course they may reflect it in their replying affidavit that ...(intervenes).

CHAIRPERSON: Yes, yes.

ADV THABANI MASUKU SC: That the clarification was made at the hearing.

CHAIRPERSON: Yes, yes.

ADV THABANI MASUKU SC: Of this. This is certainly not how we understood.

10 **CHAIRPERSON:** Yes, yes.

ADV THABANI MASUKU SC: Certainly not how we have interacted with the Legal Team of the ...(intervenes).

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: We have indicated to them that

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: We believe that the – there was a ruling that we must ...(intervenes).

CHAIRPERSON: Yes.

20 **ADV THABANI MASUKU SC:** Agree on the dates or at least arrange the dates in concert.

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: And not unilateral decision.

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: But you have made that clear.

CHAIRPERSON: Yes, no, no.

ADV THABANI MASUKU SC: We appreciate that.

CHAIRPERSON: That is fine. No thank you. I think maybe I should allow Mr Pretorius.

ADV THABANI MASUKU SC: Yes.

CHAIRPERSON: If he has got something to say but it may be that after he has said what he wishes to say we should adjourn for a few minutes and maybe counsel on both sides can see me in Chambers and we can talk about the way forward.

ADV THABANI MASUKU SC: As the Chair pleases.

10 **CHAIRPERSON:** Thank you.

ADV PAUL PRETORIUS SC: Perhaps for the record it is necessary to clarify the position from the Legal Team's point of view. We learnt yesterday at 16:00 of the medical condition of Mr Zuma. We do not persist in seeking summons for the dates dictated by you Chair at 27 January but we will seek the issue of summons for a later date that is appropriate. In relation to the question of whether we should go on record in an answering affidavit it is clearly our position that before the matter is argued we should go on affidavit to deal with the various matters raised in the answering affidavit which would require a
20 postponement. Thank you Chair.

CHAIRPERSON: Okay I think we will take an adjournment now and I will invite counsel on both sides to see me in Chambers so that we can discuss the way forward – the practicalities that need to be discussed on the way forward and after that then we will resume. So I will adjourn for that purpose now. We adjourn.

REGISTRAR: All rise.

MEETING ADJOURNS

HEARING RESUMES

CHAIRPERSON: Yes Mr Pretorius.

ADV PAUL PRETORIUS SC: Chair following on the meeting in Chambers may we ask you to direct that the firstly the replying affidavit be filed on or before close of business on Friday, 24 January and that the application – the present application be adjourned to a date to be arranged? Thank you.

- 10 **CHAIRPERSON:** The Commission's Legal Team will deliver a replying affidavit on or before close of business on Friday, the 24th of January. That is one. With regard to what is going to happen in regard to this application and the further appearance before the Commission of the former President what has been agreed in the discussion involving myself and counsel on both sides is that this application is to be adjourned to a date to be arranged and I hasten to say arranged does not mean agreed. That is one.

- 20 Two, I have accepted with some reluctance but I have accepted the offer made by the former President that the leader of his medical team should see me and in confidence convey to me information that may assist in understanding the medical reasons relating to his failure to appear at some stage in the past before the Commission as well as information relating to the future concerning up to when he might not for medical reasons be able to appear before the Commission to give evidence and when there would be no medical

reasons for him not to appear. It has been accepted that with regard to this 27th to the 20 – to the 31st of January the former President need not appear before the Commission because of the medical reasons that he has given. The consultation or meeting that the leader of his medical team will have with me will – it is hoped assist in looking at dates when his medical condition would not prevent him from appearing before the Commission. So this application will then stand adjourned to a date that will be arranged at the right time. Now before we finalise I just want to check with Mr Pretorius and Mr Masuku whether I have
10 covered everything that needs to be said publicly that we discussed.
Mr Pretorius.

ADV PAUL PRETORIUS SC: Yes Chair.

CHAIRPERSON: Yes okay. Mr Masuku.

ADV THABANI MASUKU SC: No, no Chair you have missed one point – one aspect.

CHAIRPERSON: Yes.

ADV THABANI MASUKU SC: Which is that Mr Zuma has indicated unequivocally his willingness to appear before the Commission.

CHAIRPERSON: Yes.

20 **ADV THABANI MASUKU SC:** That is a very important aspect.

CHAIRPERSON: Yes, yes. Thank you. Counsel for Mr Zuma has emphasised that Mr Zuma repeats his commitment to appear before this Commission and answer such questions as the Commission may wish to put to him.

ADV THABANI MASUKU SC: Thank you.

CHAIRPERSON: Thank you. With that then the application is adjourned and another date will be arranged in due course.

ADV PAUL PRETORIUS SC: Thank you Chair.

CHAIRPERSON: Yes. Thank you.

ADV PAUL PRETORIUS SC: May we adjourn for the next witness to be prepared?

CHAIRPERSON: Yes. I am going to take the tea adjournment and we will resume at 11:35.

ADV PAUL PRETORIUS SC: Thank you Chair.

10 **CHAIRPERSON:** 11:35 *ja*. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

INQUIRY RESUMES

CHAIRPERSON: Good morning Ms Norman.

ADV THANDI NORMAN SC: Good ...(intervenes).

CHAIRPERSON: Are you ready?

ADV THANDI NORMAN SC: Yes. Good morning Mr Chairman.

Mr Chairman, this morning we continuing on the Waterkloof evidence and we wish to call – to lead the evidence of Colonel –

20 Lieutenant-Colonel Anderson. She is represented. Mr Griesel is here.

May he just place himself on record?

CHAIRPERSON: Yes. Thank you.

ADV THANDI NORMAN SC: Thank you.

ADV JEAN GRIESEL: Morning Mr Chair. My name is ...(intervenes).

CHAIRPERSON: Good morning.

ADV JEAN GRIESEL: My name is Jean Griesel. I am representing Lieutenant-Colonel Anderson.

CHAIRPERSON: Thank you. Thank you.

ADV THANDI NORMAN SC: Thank you. Thank you Chair. Before you we had placed Exhibit FF14. That exhibit number is incorrect Chair. We have since changed it to Exhibit FF15, but we did not want to do so without your leave. Since you have handled the file already. I beg leave to hand up and then the Registrar will after the hearing replace 14, yes thank you.

10 **CHAIRPERSON:** Yes. Okay.

ADV THANDI NORMAN SC: Thank you Chair.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Thank you Chair. May the affidavits of Ms Christina Anderson be admitted as Exhibit FF15?

CHAIRPERSON: Is that together with all the annexures?

ADV THANDI NORMAN SC: Together with all the annexures. Yes Chair.

CHAIRPERSON: Are there two affidavits here?

20 **ADV THANDI NORMAN SC:** Yes Chair. In fact the one is an annexure, because it is an affidavit that she made before the Board of Inquiry.

CHAIRPERSON: Okay. The affidavit of Colonel Anderson – Christine Anderson will be admitted and marked as Exhibit FF15 together with its annexures.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: Thank you Chair. Chair, one other aspect. Colonel Anderson had indicated that she is comfortable testifying in English, but she does sometimes wish to have – to just mention certain words in Afrikaans and for that reason we arranged Ms Wallis who is a qualified interpreter to assist Chair. She is seated ...(intervenes).

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Next to the witness. Thank you.

CHAIRPERSON: Yes. For the record Ms Wallis, the interpreter, has been sworn in ...(intervenes).

10 **ADV THANDI NORMAN SC**: Yes. Thank you.

CHAIRPERSON: As well.

ADV THANDI NORMAN SC: Thank you Chair.

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: Thank you Chair. May the witness be sworn in Chair?

CHAIRPERSON: Yes. Please administer the – an affirmation or an oath.

ADV THANDI NORMAN SC: Or the oath.

CHAIRPERSON: *Ja*.

20 **ADV THANDI NORMAN SC**: Thank you.

REGISTRAR: Please state your full names for the record.

COLONEL ANDERSON: Christina Magdalena Anderson.

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

COLONEL ANDERSON: No.

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

conscience?

COLONEL ANDERSON: Yes.

REGISTRAR: Do you swear that the evidence you will give will be the truth, the whole truth and nothing but the truth?

COLONEL ANDERSON: Yes.

REGISTRAR: If so please raise your right hand and say so help me God.

COLONEL ANDERSON: So help me God.

CHAIRPERSON: Thank you.

10 **ADV THANDI NORMAN SC:** Thank you Chair. Colonel Anderson in front of you have a bundle that is marked Exhibit FF15. If you turn to page 1 of that there is an affidavit and could you just turn to page 8. So sorry. Your signature appears at page – I beg your pardon.

COLONEL ANDERSON: Eight.

ADV THANDI NORMAN SC: At page 7. I beg your pardon.

COLONEL ANDERSON: Page 7.

ADV THANDI NORMAN SC: Yes. Thank you. Is that your signature?

COLONEL ANDERSON: That is so.

20 **ADV THANDI NORMAN SC:** Is that the affidavit that was prepared for you on your behalf by your legal representatives?

COLONEL ANDERSON: Yes. It is.

ADV THANDI NORMAN SC: And do you confirm that the contents of that affidavit – the contents are true and correct?

COLONEL ANDERSON: Yes. It is.

ADV THANDI NORMAN SC: Yes. Thank you and then over the page

there is a divider. There is another affidavit that starts from page 9.
Do you see that?

COLONEL ANDERSON: Yes. I do.

ADV THANDI NORMAN SC: And that affidavit your signature appears
at page 15.

COLONEL ANDERSON: Yes.

ADV THANDI NORMAN SC: Is that also your signature?

COLONEL ANDERSON: Yes. It is my signature.

ADV THANDI NORMAN SC: Is that an affidavit that you had submitted
10 to the Board of Inquiry ...(intervenes).

COLONEL ANDERSON: Yes ...(intervenes).

ADV THANDI NORMAN SC: Which was held by the Defence Force?

COLONEL ANDERSON: Yes Chair. I did.

ADV THANDI NORMAN SC: Yes. Thank you and you also confirm the
contents thereof to be true and correct?

COLONEL ANDERSON: Yes.

ADV THANDI NORMAN SC: And the annexures attached thereto are
the annexures that you had placed to those affidavits in support of your
evidence?

20 **COLONEL ANDERSON**: Yes Chair.

ADV THANDI NORMAN SC: Thank you Chair. Thank you. Could you
just for the record place on record your qualifications please?

COLONEL ANDERSON: My record – my qualifications or my
...(intervenes)?

ADV THANDI NORMAN SC: Your – no. You can do both. Career or

your ...(intervenes).

CHAIRPERSON: Or your work experience.

COLONEL ANDERSON: My career?

ADV THANDI NORMAN SC: Your experience. Yes.

COLONEL ANDERSON: Okay.

ADV THANDI NORMAN SC: Yes.

COLONEL ANDERSON: Chair I joined the Air Force in 1976. Where after I did my basic training, my Officer's Forming Course and the Junior Staff Course. I attended to – I was transferred to various units
10 in the Air Force in which 19 – I finished my career at Air Force Base Waterkloof and then I was put on special leave for two years in which I retired in 2014, but I used my time while I was on special leave wisely and started studying psychology and I am currently busy with my Honours.

ADV THANDI NORMAN SC: Thank you. Could you just tell the Chair which years were you based at the Waterkloof Air Force Base?

COLONEL ANDERSON: I started at Air Force Base Waterkloof at – as the Base Ops Officer in 2004. Where after I was transferred to Movements from 2008 till I finished my career.

20 **ADV THANDI NORMAN SC**: Yes and what are the duties of someone who is placed at Movements?

COLONEL ANDERSON: I was there as the Acting Officer in charge of Movements Control.

ADV THANDI NORMAN SC: Yes. Now you are – you came – you submitted your statement in response to a 3.3 Notice that was issued

and in relation to the evidence of Ms Sindane where the JCPS Report was attached. Is that correct?

COLONEL ANDERSON: That is correct Chair.

ADV THANDI NORMAN SC: And in your statement to the Commission you responded to some of the allegations contained therein.

COLONEL ANDERSON: I did.

ADV THANDI NORMAN SC: Yes. We are going to deal with that, but if you do not mind. Could you just tell the Chairperson, because the critical thing as you know is the Waterkloof landing – ag, the Jet
10 Airways landing at the Waterkloof for – Air Force Base. Could you just tell the Chair how did that come about?

How did you know that there was an aircraft that was going to land at the Waterkloof Air Force Base which was a commercial aircraft and not from the Defence Force?

COLONEL ANDERSON: Okay.

ADV THANDI NORMAN SC: Thank you.

COLONEL ANDERSON: Chair, it was during the end of March/beginning of April 2013 that I got a telephone convers – a telephone call from Ambassador Koloane which was the Chief Director
20 of State Protocol and he wanted to know - it was late in the evening. It was about 9 o' clock. I remember I was still in bed – and he said to me.

He wanted to know whether an Airbus 330 could be – will be able to land at Air Force Base Waterkloof. I said to – he first wanted to know if an aircraft. I said what type of aircraft and he said it is an

Airbus 330. I said yes. It is possible and the way I – why I said it is possible is because we can accommodate an aircraft of that size in terms of all the ground support equipment that we have and I mentioned to him that although we will have to still have the overflight clearance from the Air Force Command Post and he said that he will then process – continue with the procedure.

CHAIRPERSON: Just one second ...(intervenes).

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Colonel Anderson. The air conditioner if it could be
10 reduced a bit. It is – it seems that its noisy ...(intervenes).

ADV THANDI NORMAN SC: For the noise.

CHAIRPERSON: Is interfering. Yes. You may continue.

COLONEL ANDERSON: Then he phoned me again and said to me that he is going to send the Advance Team of the delegation to us for a site visit. That visit took place on the 2nd of April. A Mr Ashuc – I was introduced to him as Mr Ashuc. I am not sure if it is his name or his surname and another gentleman came to the base and we – they discussed with me that the aircraft is going to arrive ...(intervenes).

CHAIRPERSON: Before you proceed. Was it normal practice that if
20 there was to be an aircraft that was going to land there. A team be sent from the Department of Internal – International Relations to make any inspections – conduct any inspections? Was that normal practice?

COLONEL ANDERSON: Yes. That is.

CHAIRPERSON: Okay. Alright.

COLONEL ANDERSON: Yes.

CHAIRPERSON: Continue.

ADV THANDI NORMAN SC: Thank you.

COLONEL ANDERSON: Then they explained to me that it was going to be 200 – 150 to 200 passengers and they wanted to know – they wanted to have a breakfast for the people. So I explained to them our facilities will not be able to accommodate that number of people. I suggest that they contact the officers' mess across the road to see if they can arrange that.

So he explained to me no. It is not a sit down breakfast. It
10 will be coffee and tea and then just snacks. I also explained to him that the two lounges we had, the IP Lounge and the VIP Lounge, would not be able to accommodate that number of people. So he said but let us just look at the facility.

So we went through the facility and adjacent to the two lounges is a reception area and he wanted to know if they will also be able to use that reception area and I said to him that is not a problem and – because then we will be able to accommodate. That was the visit on the 2nd and then I had another ...(intervenes).

ADV THANDI NORMAN SC: Maybe before you proceed to another
20 visit. Let us deal with Ms – Mr Ashuc. When we had a consultation yesterday I had shown you some e-mails that you had exchanged with him and I wanted to know what his surname was. What was his surname?

COLONEL ANDERSON: I was introduced to him as Mr Ashuc, but later I found out that his surname was Chawla or ...(intervenes).

ADV THANDI NORMAN SC: Chawla.

COLONEL ANDERSON: Chawla. Something like that ...(intervenes).

ADV THANDI NORMAN SC: Yes.

COLONEL ANDERSON: But I thought his name – his surname was Ashuc. I called him Mr Ashuc.

ADV THANDI NORMAN SC: Yes. Thank you. Before you deal with that meeting. Chair just to put that correspondence, it is from FF5 Chair. That may not have been brought, but to the extent that just to give the reference. It is page 061 of Exhibit FF5. May I just hand
10 these up to the witness? She had written – she had correspondence exchange between herself and some ...(intervenes).

COLONEL ANDERSON: Thank you.

ADV THANDI NORMAN SC: Mr Ashuc Chawla. I beg your pardon. Page 61. I beg your pardon. Can you see that?

COLONEL ANDERSON: Yes.

ADV THANDI NORMAN SC: Is that the e-mail?

COLONEL ANDERSON: Yes.

ADV THANDI NORMAN SC: Who sent that e-mail?

COLONEL ANDERSON: It came from me.

20 **ADV THANDI NORMAN SC:** Yes and you copied him?

COLONEL ANDERSON: Yes.

ADV THANDI NORMAN SC: Yes.

COLONEL ANDERSON: Ashuc.

ADV THANDI NORMAN SC: Ashuc. It says. You call it Ashuc because SA – could you just spell it for the record.

COLONEL ANDERSON: A-s-h-u-c.

ADV THANDI NORMAN SC: And then what is the e-mail address in full?

COLONEL ANDERSON: The e-mail address is ashuc111@gmail.com.

ADV THANDI NORMAN SC: Yes. Is that the person that you were liaising with?

COLONEL ANDERSON: Yes Chair. That was.

ADV THANDI NORMAN SC: Did he tell you who he represented?

COLONEL ANDERSON: No. No. He did not.

10 **ADV THANDI NORMAN SC:** And who did you think he was?

COLONEL ANDERSON: I was under the impression that he was a Protocol Officer from DIRCO.

ADV THANDI NORMAN SC: Yes and is that what you still believe today?

COLONEL ANDERSON: Yes. I would say. I still believe that he was – I thought he was the Protocol Officer.

ADV THANDI NORMAN SC: Yes. Now let us just then move on. Other than Mr Ashuc. Who else did you deal with in making up arrangements? Other than your official staff. Any other person from
20 outside that you dealt with in setting up arrangements?

COLONEL ANDERSON: Chair, the only other person was Ambassador Koloane.

ADV THANDI NORMAN SC: Yes and then you were going to move to the meeting – the second meeting that you had with Ambassador Koloane.

COLONEL ANDERSON: Yes.

ADV THANDI NORMAN SC: President.

CHAIRPERSON: I am sorry.

ADV THANDI NORMAN SC: Sorry. Yes.

CHAIRPERSON: I am sorry Ms Norman to interrupt you.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Chawla.

ADV THANDI NORMAN SC: Chawla.

CHAIRPERSON: You led the evidence of Sundaram. Did you not?

10 **ADV THANDI NORMAN SC:** I did. Yes Chair.

CHAIRPERSON: I had occasion to have a look at his statement recently.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: I seem to think – I may be wrong – that he said somewhere in his statement that the person who acted as the liaising person between ...(intervenes).

ADV THANDI NORMAN SC: The Presidency.

CHAIRPERSON: Themselves and the President ...(intervenes).

ADV THANDI NORMAN SC: Yes.

20 **CHAIRPERSON:** Or the Presidency.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: I cannot remember which one.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Was Chawla.

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: Is that your recollection as well?

ADV THANDI NORMAN SC: That is - that is correct Chair.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes. That is the same person.

CHAIRPERSON: Okay. Alright.

ADV THANDI NORMAN SC: Yes. It is just that the witness in her statement she says Ashook.

CHAIRPERSON: Yes. Yes.

ADV THANDI NORMAN SC: With an A-s-h-o-o-k.

10 **CHAIRPERSON**: Yes.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: *Ja*.

ADV THANDI NORMAN SC: It is the same person. Thank you. Then Ambassador Koloane just – as you would have listened to his evidence. Am I correct Colonel Anderson? We do not have to go into details about what transpired between yourselves.

COLONEL ANDERSON: H'mm.

20 **ADV THANDI NORMAN SC**: Only to the extent that your role is relevant. He has already testified before the Commission, but could you then tell the Chairperson about a meeting where he was present at the Waterkloof Base?

COLONEL ANDERSON: Yes Chair. That meeting took place on the 22nd of April.

CHAIRPERSON: I am sorry. Just bring the mic a little close to you. Maybe that will help as well.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: *Ja.*

COLONEL ANDERSON: That meeting took place on the 22nd of April. We went through the arrival procedures with him as well as the – it was Mr Ashuc and two or three other gentlemen and we – I basically went through them with the arrival procedure and then the departure procedure again.

10 **ADV THANDI NORMAN SC:** Yes. That is with Ambassador Koloane?

COLONEL ANDERSON: Ambassador Koloane.

ADV THANDI NORMAN SC: Who else was present?

COLONEL ANDERSON: Mr Ashuc was also present Chair.

ADV THANDI NORMAN SC: Yes. At this meeting – at the time that you had the meeting on the 22nd of April had you received any authorisations for the landing of the aircraft?

COLONEL ANDERSON: No sir – Chair. I also mentioned at that meeting to the Ambassador that we can proceed with the arrival and the departure procedures. Provided we get the overflight clearance, because at that stage we still did not have the overflight clearance.

ADV THANDI NORMAN SC: Yes and then when did you get those?

COLONEL ANDERSON: I got that on the 23rd. The following day.

ADV THANDI NORMAN SC: Yes. After then you – is the process then of you getting the clearance – was – did it happen before you had a conversation with Major Ntshisi or did it happen thereafter?

COLONEL ANDERSON: Chair I had the conversation with Warrant Officer Ntshisi on the 9th of April and I got the clearance on the 23rd of April.

ADV THANDI NORMAN SC: Yes. You have listened – am I correct, to the recordings between your conversation and Ambassador Koloane and your conversation with Major Ntshisi. For the record do you dispute anything that is recorded therein?

COLONEL ANDERSON: No Chair. I do not.

ADV THANDI NORMAN SC: Yes. Chair those are contained in Exhibit
10 FF13A and the witness was – dealt with those yesterday. Yes. Thank you and in respect of both witnesses you do not dispute the records as being correct?

COLONEL ANDERSON: I do not dispute it. It is correct.

ADV THANDI NORMAN SC: Yes. Thank you. Now – then after then you received now the approvals. What was the next step?

COLONEL ANDERSON: We normally have a briefing the day before the arrival of the aircraft with the personnel to explain to them what time the aircraft will be arriving. What procedures must be followed in terms of ground support equipment, baggage handling and the arrival of the
20 passengers?

ADV THANDI NORMAN SC: Yes and at what time then did the aircraft land?

COLONEL ANDERSON: The aircraft landed – the first aircraft? The Airbus?

ADV THANDI NORMAN SC: Yes. The Airbus. Yes.

COLONEL ANDERSON: That aircraft landed shortly after eight that morning.

ADV THANDI NORMAN SC: And the – what else – who else landed there on that day?

COLONEL ANDERSON: We also had overflight clearances for two fixed wing aircraft as well as six helicopters that was – that ferried from wherever to Waterkloof. Ferry means they came to Waterkloof empty and at one of the meetings Ambassador Koloane – he phoned me and he said that the original arrangement was that the passengers were
10 going to be transported to Sun City with a bus and vehicles and then he phoned and said but there is going to be two fixed wing aircraft and nine helicopters that is now going to take some of the passengers to Sun City.

ADV THANDI NORMAN SC: Yes. It is not an issue that Ambassador Koloane conveyed to you that there were going to be Ministers on that aircraft – on the big aircraft. Is that correct?

COLONEL ANDERSON: It is not unusual. Chair, I must state to you that there was a very professional relationship between myself and Ambassador Koloane and we communicated multiple times on various
20 flights. So it was not strange that he mentioned to me that there will be Ministers on board that aircraft.

ADV THANDI NORMAN SC: Yes and then comes the morning of the 30th when the aircraft landed. Did you see any Ministers?

COLONEL ANDERSON: We tried to get a list Chair of all the President's names. We never got hold of that and we also did not know

whether the Ministers were males or females. So Mr Ashuc went to the aircraft once it was parked and what normally happens is he will introduce the VIPs to the person that presents the – Base Officer commanding which was in this case Colonel Visser.

He will then introduce them to the – meet and greet so that they can - he can welcome them on the air force base, but that unfortunately did not happen, because once the aircraft stopped Mr Ashuc went to the aircraft. The first people that disembarked the aircraft were ladies and he took them to the lounge. So we waited to
10 find out who was the Ministers, but they were never introduced to us.

ADV THANDI NORMAN SC: Yes. Am I correct that the basis upon which you would have been comfortable with the aircraft in your position – official position, landing there would have been if there were Ministers on board?

COLONEL ANDERSON: That is right sir – Chair.

ADV THANDI NORMAN SC: So ...(intervenes).

COLONEL ANDERSON: They will be able to land there.

ADV THANDI NORMAN SC: Yes, but what then were the steps that you took? Seeing that no one was introducing the Ministers and you knew
20 that the basis upon which any aircraft could land there if it is carrying a President, Deputy President according to the evidence that has been led on Ministers.

COLONEL ANDERSON: Chair even if I knew there was no Ministers on board that flight. There was nothing that I could do at that stage.

CHAIRPERSON: As at the morning of the 30th April when the aircraft

was about to land. Was your knowledge that there were Ministers coming with the aircraft?

COLONEL ANDERSON: Yes sir.

CHAIRPERSON: That was your ...(intervenes).

COLONEL ANDERSON: Yes Chair.

CHAIRPERSON: Understanding?

COLONEL ANDERSON: Yes.

CHAIRPERSON: Yes and that understanding you had got from who?

COLONEL ANDERSON: From Ambassador Koloane Chair.

10 **CHAIRPERSON**: Yes. Okay. Thank you.

ADV THANDI NORMAN SC: Yes. Thank you Chair and is – that is – following up on the Chair’s question. That is the same information you conveyed to Major Ntshisi?

COLONEL ANDERSON: Yes Chair. That is the same information I conveyed to him.

ADV THANDI NORMAN SC: Yes. Now could you then tell the Chair – so people are disembarking the aircraft then what happened?

COLONEL ANDERSON: They were taken to the lounges and tea and coffee was provided to them. Somebody from the embassy, I cannot
20 remember the gentleman’s name, took all the passports and I escorted him with the passenger list to the Immigration Official and we started with the immigration process.

ADV THANDI NORMAN SC: Yes. Who – how did immigration know that there was going to be people landing?

COLONEL ANDERSON: The base command post distributes lists to all

relevant departments. The Department of Agriculture, Border Police, Forestry and Fisheries, Customs. They distribute all the information to the relevant departments and then they will arrive there on the morning of the arrival to do the responsible tasks.

ADV THANDI NORMAN SC: Yes and then these – supposing that you had seen ladies alighting – disembarking the aircraft and one would maybe assume that maybe they are the Ministers, but then what about the 217 or 200 other people? What was your understanding of what these people were coming to do in South Africa?

10 **COLONEL ANDERSON:** Chair, at that meeting on the 2nd Mr Ashuc did mention that they were coming to a wedding function, but my responsibilities as the officer in charge of Movements is to facilitate the arrival procedures and the departure procedures. The purpose of what the delegation does in South Africa is not my responsibility. I cannot give an opinion about that.

ADV THANDI NORMAN SC: Yes. Had you in the past had before – that is before the 30th of April – had you had wedding – a wedding party arriving at Waterkloof?

COLONEL ANDERSON: Not that I know of Chair.

20 **ADV THANDI NORMAN SC:** Any other party if it is not a wedding party ...(intervenés).

COLONEL ANDERSON: There was ...(intervenés).

ADV THANDI NORMAN SC: Without any Ministers?

COLONEL ANDERSON: There was one incident during the 2010 World Cup Soccer where the team of The Netherlands went through our

facilities. I cannot remember what aircraft they were on, but they made use of the facilities.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Well that is important, because I was going to ask you the question. To what extent the Waterkloof Air Base has in the past or had in the past prior to this been used to – for the landing of aircrafts which did not carry a Head of State, a Prime Minister, a Deputy President or a Minister.

Had that ever happened in your experience since you were at
10 Waterkloof? Is that something that used to happen?

COLONEL ANDERSON: No sir. Not that I know of. That the others – there were military aircraft, but that was military personnel, but I do not know – I am not – of any such aircraft.

CHAIRPERSON: Yes. Did you say you started at Waterkloof in 2004?

COLONEL ANDERSON: Just repeat the question.

CHAIRPERSON: Did you say you started working at Waterkloof in 2004?

COLONEL ANDERSON: Yes Chairperson.

CHAIRPERSON: From 2004 to 2013 how much of that time did you
20 spend working in a position where you would have known this information if such aircrafts did land which did not carry a President or a Minister or Prime Minister?

COLONEL ANDERSON: Chairperson when I started there I was the Base Ops Officer. So I would have known from 2008 if such flights took place.

CHAIRPERSON: So from 2008 to 2013 if such a flight had landed you would have known?

COLONEL ANDERSON: Even from 2004.

CHAIRPERSON: Even from 2004?

COLONEL ANDERSON: Yes.

CHAIRPERSON: So are you able to say from 2004 to 2013 except for the flight that you are talking about that carried The Netherlands Team – soccer team for the World Cup. No other flights landed at Waterkloof Air Base which did not carry either a President or Deputy President or a
10 Prime Minister or a Minister?

COLONEL ANDERSON: Chair, I think, if I can remember correctly the King of Swaziland, his mother – the Queen, Mother. She made use of the facilities, but other than that I do not know of any.

CHAIRPERSON: Well the former Minister of International Relations who was Minister of International Relations at the time, 2013, Ms Nkoane-Mashabane, gave evidence here some time back, I may be wrong, but I seem to think that she said something along the lines that the landing of aircrafts at Waterkloof Air Force Base that did not carry a President or Deputy President or Prime Minister maybe or Minister was
20 not something unusual.

I maybe misrepresenting what she said, but she said something that created the impression to me that maybe the landing of this aircraft in 2013 should not be seen as something that should have caused the big noise that happened, because aircrafts – commercial aircrafts land there quite regularly. I may – I maybe misrepresenting

what she said. I do not know whether ...(intervenes).

ADV THANDI NORMAN SC: Chair I could ...(intervenes).

CHAIRPERSON: Ms Norman has any recollection.

ADV THANDI NORMAN SC: No. I – no Chair. I do not have recollection. I think the difference she – ag, she drew a difference between President, Vice – Deputy President ...(intervenes).

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: And the Ministers ...(intervenes).

CHAIRPERSON: Yes.

10 **ADV THANDI NORMAN SC:** And then she was saying so far as the Ministers are concerned.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: They were landing there ...(intervenes).

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Because if you recall the evidence of Major Ntshisi.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Was that it would be the President and the Deputy President ...(intervenes).

20 **CHAIRPERSON:** Oh okay. Okay.

ADV THANDI NORMAN SC: But we will ...(intervenes).

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Verify that during the lunch break.

CHAIRPERSON: Okay. No that is fine.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: So your recollection is that she was saying Ministers also land there.

ADV THANDI NORMAN SC: Yes, yes, under certain circumstances yes.

CHAIRPERSON: Okay, okay, no that's – and that would fall in line with your understanding.

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: Okay, alright, thank you.

ADV THANDI NORMAN SC: Thank you, sorry Chair, sorry. And then
10 at what point then did you realise that maybe what happened there on that day ought not to have happened?

COLONEL ANDERSON: Chairperson shortly after the aircraft landed or let me start before the aircraft landed the helicopters and the fixed wing aircraft that were supposed to take the passengers to Sun City they were supposed to land at 08:00 in the morning, but the task in aviation we work with Bravo time and Zulu time, time at the moment is Bravo time, but the task was tasked for in Zulu which means it was 06 Zulu which means it's actually 08 but they arrived two hours early, so our standard operating procedures is two hours before an aircraft
20 arrives we need to be at work and everything needs to be ready, so when I arrived there at Waterkloof that morning I heard helicopters in the background and I realised those aircraft were on the way two hours too early and it was still quite dark, but fortunately some of the marshals were already there and between the marshals and myself we were able to park those aircraft because it was a bit dark, but then

when I got back to the building there was a lot of people and there was a lot of things happening at the same time.

The welcome party was more than what we indicated to them, we normally have a welcome party of about 12, but the welcome party was much more than 12 people, so there was a lot of people and at a certain stage I realised that this was maybe not what's supposed to happen, but it was not my – in my job description to make noise about that.

ADV THANDI NORMAN SC: Let's just deal with that aspect, then you
10 felt uncomfortable, you're seeing all these people walking around, what were your concerns at that point?

COLONEL ANDERSON: There was – remember I mentioned that when the ambassador phoned me the first time he said – he mentioned something about a cultural event, I didn't listen properly because I wasn't interested on what they are coming to do here, I was more interested in the type of aircraft, but later it became known that they wanted some traditional dancers to welcome these passengers, and I was under the impression that traditional dancers is maybe going to be five or six people, it was more, it was about 15 to 20 people that was
20 performing traditional dances, and my security people, the 504 security squad and people they were on duty to contain the people because there was – at that stage nobody went outside the building. The traditional dancers were standing at the entrance door of the lounge. Is that what you ...(intervenes).

ADV THANDI NORMAN SC: So we are dealing with your concerns.

COLONEL ANDERSON: Yes I basically just sensitised the security people and the military police to tell them there is a number, there's more people than we expected, they must just do their responsible duties and try to contain the people.

ADV THANDI NORMAN SC: Yes, maybe you should, before we go to your – to the charges that happened later on, just deal with the changes within the airport that were brought about by Mr Charlang, people that he was working with.

COLONEL ANDERSON: The request that they wanted to present tea
10 and coffee I said to them at that meeting we don't have 200 cups and saucers and side plates, we cannot accommodate the tea and coffee, so they said no that's not a problem they will arrange for the tea and coffee, and they also indicated that they want to bring in coffee tables and easy chairs. That's when I decided that I will vacate that area adjacent to the lounge and take out all the defence force furniture, which were about 20 easy chairs and five coffee tables, I moved them to a separate room so that the defence force furniture doesn't get mingled up with the other people's furniture, I took that out.

ADV THANDI NORMAN SC: Yes, but does that usually happen that
20 people could bring in furniture within the base and set up?

COLONEL ANDERSON: It has happened before that we use that specific area for functions, we had the Africa Aerospace and Defence Opening Function there once and they brought in their furniture.

ADV THANDI NORMAN SC: So then you've got these many people and then you went through according to you there were immigration

officers, who had informed all these departments to be present?

COLONEL ANDERSON: Chair the base command post distribute the list to all the different departments to inform them of their arrival times.

ADV THANDI NORMAN SC: Is that your section?

COLONEL ANDERSON: No the base command post, the base command post is level 4 and we are level 5.

ADV THANDI NORMAN SC: Yes, but SARS was there, Health was there and who else was there?

COLONEL ANDERSON: Ports were there, Immigration was there,
10 Border Police was there and I can't remember if the Customs people were there but the arrangement that we have with that department if they are not there then the movements people will X-ray and scan all the incoming luggage and that is what happened, the movements personnel scanned and X-rayed all the luggage that came in.

ADV THANDI NORMAN SC: Could you just tell the Chairperson the process that you followed in checking the passports and verifying who has come into the building?

COLONEL ANDERSON: Chair with the previous visits we had if it's a big group of people the protocol officer normally collects all the
20 passports with the pax list, the passenger list and we take that to the immigration official, he will verify the passports with the passenger list but it is his prerogative to at any stage stop the process and say he wants to see every person with his own private passport. We cannot stop him, if that is what he request then we will do it but the custom is that we normally take the passports in a bunch with the passenger list

and they verify it from there.

ADV THANDI NORMAN SC: And were you satisfied with that process, somebody takes a bunch of 217 passports, gives them to the immigration officer and there is nobody to come with the passport?

COLONEL ANDERSON: Yes Chair there was somebody from the Embassy that also escorted all the passports.

ADV THANDI NORMAN SC: Then after that day which is – then what ultimately happened to the passengers, how did they leave the airport?

COLONEL ANDERSON: Some of the passengers Chair left with the
10 helicopters and the fixed wings, and the rest were with vehicles taken
by road to Sun City.

ADV THANDI NORMAN SC: Yes, the – is it correct that everything that happened within movement would have been authorised by yourself, if there is going to be bringing of Chairs there is going to be seating arrangements, there's going to be parking bays allocated that would have fallen within your authority?

COLONEL ANDERSON: Yes Chair that is correct.

ADV THANDI NORMAN SC: Yes and everything that happened there was authorised by yourself?

20 **COLONEL ANDERSON:** That is correct.

ADV THANDI NORMAN SC: Yes thank you. Then after that then as you are aware then there was a lot of media attention to this and there were some enquiries, is that correct?

COLONEL ANDERSON: Yes Chair, what happened is when the aircraft left, when all the passengers were gone I went to the

operations room because I was keen that all the people, the passengers leave as soon as possible because there was another flight that took part that morning and we've got a parking bay that's allocated to the President's aircraft and we had to keep that parking bay clear so because our President was also flying that day I wanted to get the area clear as soon as possible.

So once all the passengers left I went to the operations room and to find out if the flights of the President is still the same time, that's when they told me in the operations room that there's – the
10 media is aware of this flight and there's a lot of media attention.

ADV THANDI NORMAN SC: Where was the President flying to?

COLONEL ANDERSON: The President was supposed to fly to Sun City but when I got to the Ops room they – I looked at the boards and I said to them where's the flight for the President because he is supposed to fly to Sun City and they said no it was just cancelled, he is now flying to Congo DRC and then he flew to Congo DRC later that afternoon.

ADV THANDI NORMAN SC: Yes, from the base?

COLONEL ANDERSON: From Waterkloof yes.

ADV THANDI NORMAN SC: Yes, now the – let's deal then with the
20 enquiry, what was the first time that you were told that there was something wrong, that if there's anything wrong, there was something wrong with the landing of that aircraft at Waterkloof base.

COLONEL ANDERSON: That morning when I went to the operations room I – and shortly after that, that same day, the Chief of the Air Force phoned and said we must come to the Air Force Headquarters, he

wants to see me. That is when they were told, we were told that things were not what they're supposed to be.

ADV THANDI NORMAN SC: We ...(intervenes).

CHAIRPERSON: I'm sorry, at some stage that morning I guess to you got to know that there were no Ministers that had been passengers in the aircraft is that correct?

COLONEL ANDERSON: That is correct Chair.

CHAIRPERSON: Isn't that the time that you would have become aware that because there were no Ministers this aircraft should not have been
10 cleared to land at Waterkloof airbase?

COLONEL ANDERSON: Chair the thing is there was so many things that was happening at the same time, the passports were being processed, the baggage were being X-rayed and scanned, the passengers that flew to Sun City we had to ensure that those passengers go to the right aircraft, the other passengers that went to the – with the vehicles, there was not time to make that visible.

CHAIRPERSON: *Ja*, but what I am saying is there is a time when you became aware that there were no Ministers on this aircraft, so I would have expected that the moment you got to know that fact something
20 would have said to you so this aircraft should not have been cleared, maybe we were misled?

COLONEL ANDERSON: Chair it was never confirmed to me that there's no Ministers on board that aircraft.

CHAIRPERSON: Oh that was never confirmed to you?

COLONEL ANDERSON: It was never confirmed that there was no

...(intervenes)

CHAIRPERSON: On that day or even subsequently?

COLONEL ANDERSON: Subsequently nobody has ever confirmed that there was no Ministers on board that aircraft.

CHAIRPERSON: So up to today you don't know whether there were or there were no Ministers.

COLONEL ANDERSON: That's correct Chair.

CHAIRPERSON: You just know that that you had been told in advance that there would be Ministers.

10 **COLONEL ANDERSON:** That is correct Chair.

CHAIRPERSON: Yes, if there are Ministers wouldn't there be a procedure that would be followed after they have landed whether it's a Minister or President, the President or Prime Minister from another country or anything like that, would that not be procedure to be followed in terms of protocol that would have brought this to your attention?

COLONEL ANDERSON: Chair the normal procedure is that the Minister or the VIP, the most senior person on board the aircraft disembarks the aircraft first, a representative from DIRCO as well as
20 the Waterkloof Meeter and Greeter will meet them at the steps of the aircraft and escort them into the building. Whether that happened or not I don't know, those – the VIP's were never introduced to the meeter and greeter. Mr Ashuk met the people that disembarked first and he escorted them to the building so whether those were Ministers or not Ministers I don't know, they were ladies as I say we never knew, we

were never informed whether the Ministers was ladies or males.

CHAIRPERSON: You said earlier on the either the Chief of the Air Force Base or the Chief of the Defence Force called you, the day, that morning ...(intervenes)

COLONEL ANDERSON: The Chief of the Air Force.

CHAIRPERSON: Yes, you said he called you that morning.

COLONEL ANDERSON: That's right Chair.

CHAIRPERSON: Is that right? I gained the impression from your evidence that whatever he may have said to you made you realise that
10 there was something wrong with this aircraft, what did you think was wrong with it, and what was then basis for thinking so.

COLONEL ANDERSON: My only thought was I cannot confirm that there were Ministers on board that aircraft, so I think – and because of the number of people that disembarked the aircraft I think I realised that there was – must be a problem with this aircraft but other than that not really.

CHAIRPERSON: Yes but if you didn't know whether there were Ministers or there were no Ministers that wouldn't lead you to conclude that there was something wrong with the aircraft if you established or if
20 you thought that there were no Ministers, isn't it?

COLONEL ANDERSON: Once again Chair if we receive an over-flight clearance from the Air Force Command Post that is my authority that that aircraft can land there. I am just the executing person and the person that facilitates the arrival. Who is on board that aircraft or who is not on board that aircraft is not my responsibility. I have an over-

flight clearance and it says this aircraft can land here, whether there was Ministers on board the aircraft or not I am not in a position to question that.

CHAIRPERSON: No, no that part I understand. You were asked the question I think, whether by me or by Ms Norman, at what stage you realised that there was something wrong about the aircraft and you indicated and then I asked you and I said to you, you said that you were called by I think you said the Chief of the Air Force and I said you gave me the impression when you talked about him calling you that
10 after that you realised that there was something wrong about the aircraft, remember then I asked the question and then you said well you were not sure whether there were Ministers or there were not Ministers, so I am trying to establish what it is that you thought was wrong with the landing of the aircraft or with something about this aircraft and how you came to that conclusion.

Did I misunderstand your evidence? Okay, let me start again. Did you any stage on the 30th of April, the day on which the aircraft landed, take the view that there was something wrong about that aircraft landing at Waterkloof Air Force Base?

20 **COLONEL ANDERSON:** Not – no Chair.

CHAIRPERSON: Yes, did you take that view at any stage after that since then up to now?

COLONEL ANDERSON: After I heard all the information that was on the media then I realised but that could have been a problem but before that not.

CHAIRPERSON: What is it that you heard or learnt that made you think there was a problem.

COLONEL ANDERSON: The media was referring to wedding guests for a private function.

CHAIRPERSON: And so? Why did that make it wrong for the aircraft to land?

COLONEL ANDERSON: Some of the people at Movements told me that morning do I know that there is a lot of media across the road at the local garage, so I said no I did not know there was a lot of media
10 attention and looking at what happened with the arrival and no indication of any Ministers then I realised but there was – because there was no Ministers introduced so that made me think but maybe this was not above board, but it is not my position to make a comment like that.

CHAIRPERSON: Are you saying that at some stage on the 30th of April, that is the day of the landing of the aircraft you got to know that there was no Minister in the aircraft?

COLONEL ANDERSON: As I say it was never confirmed to me that there was no Ministers on board that aircraft.

20 **CHAIRPERSON:** Yes, so is there anything that you heard on that day that made you think that there was something wrong about the landing of the aircraft?

COLONEL ANDERSON: No, no Chair.

CHAIRPERSON: What did the Chief of the Air Force say to you when he called you?

COLONEL ANDERSON: He wanted to know what procedures we followed to get the authority, the over-flight clearance.

CHAIRPERSON: Yes.

COLONEL ANDERSON: And I explained to him the same, the request came from DIRCO, once we've got the over-flight clearance then we can proceed with the functions to perform for the arrival, and he wanted to know who was all informed of the arrival and I also mentioned to him that all the relevant State Departments was present, there was military police present, our security was present.

10 **CHAIRPERSON:** Did he have any concern about the landing of the aircraft, did he express any concern about the landing of the aircraft, do you know why he was asking all these questions to you?

COLONEL ANDERSON: No look I listened to all the radio bulletins that was there and that was the deduction that I made that something was not above board and they need to investigate and find out where the problem, why was this aircraft tasked to land there.

CHAIRPERSON: Yes, but my question is whether the Chief of the Air Force expressed any concern to you about the landing of the aircraft when he called you?

20 **COLONEL ANDERSON:** Yes he did because that's why he called us.

CHAIRPERSON: What was that concern?

COLONEL ANDERSON: Chair I can't remember exactly what his concern was, but I knew he wanted to know what was the background to the authorisation of this flight.

CHAIRPERSON: It was not that the aircraft should not have landed at

the – should not have been authorised to land at the Waterkloof Air Force Base, was that not a concern he expressed?

COLONEL ANDERSON: I think that was, but I cannot answer that. I'm sorry but he wanted to know what led to the authorisation of the flight.

CHAIRPERSON: Yes, and did you talk about whether those who also gave the authorisation knew whether the – there would be Ministers or Heads of State, Deputy Heads of State in the aircraft, did he raise that issue at all whether they knew about that?

10 **COLONEL ANDERSON:** I cannot remember exactly what was raised at that meeting, I know that the officer in charge of the Air Force Command Post was also present at that meeting.

CHAIRPERSON: Yes. Yes well I was asking you these questions because I got the impression earlier on that when you came out of that meeting from your evidence that when you came out of that meeting with the Chief of the Air Force you believed that there was something wrong about the landing of this aircraft and I was seeking to establish what it is that you understood was wrong as at that time. Was my impression of your evidence wrong?

20 **COLONEL ANDERSON:** The impression that I got was because it was a private aircraft.

CHAIRPERSON: Yes, but private aircrafts had landed – *ja*.

COLONEL ANDERSON: Yes Chair.

CHAIRPERSON: And that should not have been a concern to him, should it have been, that on its own?

COLONEL ANDERSON: Private aircraft has landed there but with clearance from the Air Force Command Post.

CHAIRPERSON: Yes of course there was clearance here isn't it?

COLONEL ANDERSON: The over-flight clearance, the authority from the Air Force Command Post.

CHAIRPERSON: Yes, I mean there was here was there not?

COLONEL ANDERSON: Can you just ...(intervenes)

CHAIRPERSON: The clearance that should be there first was there in regard to this aircraft was well isn't it?

10 **COLONEL ANDERSON:** Yes Chair there was a clearance.

CHAIRPERSON: Yes, so he should not have had any concern once he knew that there was clearance, even if it was a private aircraft unless he thought that it did not meet the requirements on the basis of which the clearance should be given, isn't it?

In other words once there is clearance the fact that it was a private aircraft should not have been a concern on its own, is that right?

COLONEL ANDERSON: That is correct Chair.

20 **CHAIRPERSON:** It should only have been a concern if there was something else he was concerned about.

COLONEL ANDERSON: That is correct Chair.

CHAIRPERSON: And you don't know what it was that he was concerned about?

COLONEL ANDERSON: Not at that stage.

CHAIRPERSON: *Ja* okay.

ADV THANDI NORMAN SC: Thank you Chair. Following up on the Chair's may I just refer you to page 3 of your statement Colonel Anderson, paragraph 13, that relates to the questions that the Chair has put to you, could you just read, with your permission Chair, 13.1, Chair that is a response to the report of the JCPS, 3.2 of the report deals with arrival phase, it's entitled arrival phase.

CHAIRPERSON: Yes, okay.

ADV THANDI NORMAN SC: Yes, could you just read your responses to that please?

10 **COLONEL ANDERSON:** "I did agree with Colonel Frederickson and Colonel Visser that the flight should never have landed. I only came to this conclusion after the flight has landed and I realised that there were no Ministers on board the flight."

ADV THANDI NORMAN SC: So I just want you to reflect on your answers that you have given to the Chair on that issue.

COLONEL ANDERSON: Chair if I can refer back to this paragraph the Ministers were never introduced so I assumed at that stage there was no Ministers or the Ministers was – kept private and if you look at all
20 the people that arrived there, all the additional helicopters, the vehicles, that has never happened before. I mentioned to Advocate Norman yesterday that at one stage it felt like the base was captured by this Indian delegation.

CHAIRPERSON: Well I ask the question again did you at any stage on the day on which this aircraft landed, namely the 30th April, take the

view that this aircraft should not have been allowed to land at the Air Force Base?

COLONEL ANDERSON: Yes Chair that is the comment I made that morning to Colonel Frederickson and Colonel Visser, but that was my personal opinion. It was not – I wasn't challenging, it was just my personal opinion that looking at all the activities that has taken place they should actually have gone to a commercial airfield.

CHAIRPERSON: Well you must tell me if I misunderstand your evidence, I thought earlier on you had given different evidence, namely
10 that you didn't know if there was anything wrong with the landing of that aircraft on that day and subsequently until you heard, I think at some stage you said until you had read certain articles or heard any some things in the media.

COLONEL ANDERSON: No Chair, I must correct myself, paragraph 13.1 is correct.

CHAIRPERSON: But do you agree with me that it seems to be inconsistent with what you told me earlier on.

COLONEL ANDERSON: I agree with you sir.

CHAIRPERSON: Yes. Ms Norman do you want to take it from there?

20 **ADV THANDI NORMAN SC:** Yes thank you Chair. Given your evidence Colonel Anderson if I follow it properly it really did not matter to you whether there would have been Ministers or not there because according to you DIRCO had approved and there were overflight clearances. Is that how you looked at the matter?

COLONEL ANDERSON: That is correct Chairperson.

ADV THANDI NORMAN SC: So at what point then did you realise that it not – ought not to have happened because with that in mind supposing that one just goes by the approvals one goes by DIRCO's approvals. With that in mind knowing that you – I have received these documents why would then – why would it matter whether it ought or not – it ought or ought not to have landed at the Waterkloof Base?

COLONEL ANDERSON: Once again Chair the comment that I made is not in my – I am not – I should not have made that comment, let me put it that way because it is not my area of responsibility of what the
10 purpose of the flight is. My purpose is to facilitate the arrival procedures and the departure procedures. But I made that comment when I witnessed all the things that were happening. The traditional dancers, the additional helicopters that is when I realised that this was actually supposed to take place at a commercial airfield.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Well it might not be your responsibility but it may that you – it might not be right to take a view that as long as there was the clearance you should not have bothered about anything else because is it not the position that you would not have liked to be party to anything
20 that may have been illegal or improper and if there was something that you thought was improper you would have felt at ease to raise it with somebody and say, should this really be happening? What is this done because terms of the rules it should not be done? I do not want to be party to anything that is improper or unlawful.

COLONEL ANDERSON: Chairperson in my time working with the – with

DIRCO I have never had any reason to question any of their – the flights that arrived at Waterkloof and this was a unique case in my opinion. Because the – with the number of guests it – I have never experienced it in this way. That is why I thought that maybe things – they could have used another venue.

CHAIRPERSON: But is that not all the more reason why you would be entitled to ask questions because something completely unusual say, we have never done anything like this, is this right? Is it proper?

COLONEL ANDERSON: With my discussions with Ambassador Koloane
10 he mentioned to me every time that I spoke to him on the telephone and in person he mentioned to me that our President is aware of this flight and that he knows about this flight. Now when I was still the officer in charge of movements I had five primary objects – objectives and that was to never – to avoid an embarrassment to the President, the Deputy President, the Minister of Defence, the Chief of the Defence Force and the Chief of the Air Force. I said I will ensure that they will not be embarrassed but by the – but the way Ambassador Koloane constantly referred to the knowledge of the President of this flight I did not feel in my position I can query or question this.

20 **CHAIRPERSON:** But of course would your attitude not of not wanting to do anything that would embarrass the President include not wanting to be party to anything that may be improper or maybe illegal? Because then the President might then be associated with something improper. Would that not make you say, no but then it means things must be done properly if this is associated with the President?

COLONEL ANDERSON: Chairperson I was under the impression that this was the wish of the President.

CHAIRPERSON: And you wanted to do ...(intervenes).

COLONEL ANDERSON: No I wanted to ensure ...(intervenes).

CHAIRPERSON: Whatever was necessary to make sure his wish materialised?

COLONEL ANDERSON: That is correct Chairperson.

CHAIRPERSON: H'mm. Okay.

ADV THANDI NORMAN SC: Yes. Thank you Chair. Then moving
10 forward then you were – after that interaction with the Chief of the
Airforce what happened to you?

COLONEL ANDERSON: Chairperson then there was a board of inquiry that was convened with I think Lieutenant General Mogwebe that was the President of that board and I was placed on special leave I think on the 3rd of May or the 2nd of May and I did not return to work even until after I retired.

ADV THANDI NORMAN SC: Yes. There is also – you also lodged you agree with the record that is contained in FF4 which is the Board of Inquiry recordal of your evidence before the Board.

20 **COLONEL ANDERSON:** Yes.

ADV THANDI NORMAN SC: Yes is – that is the evidence that you gave.

COLONEL ANDERSON: That is correct Sir.

ADV THANDI NORMAN SC: And also what is contained from page 9 is the affidavit which you have already identified that you had filed with

the Board at the time.

COLONEL ANDERSON: That is correct Chair.

ADV THANDI NORMAN SC: Yes. Then you lodged a ...(intervenes).

CHAIRPERSON: Maybe before that.

ADV THANDI NORMAN SC: Sorry, sorry, yes.

CHAIRPERSON: Ms Norman.

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: Just to go back to what you said.

ADV THANDI NORMAN SC: Earlier.

10 **CHAIRPERSON**: A few minutes earlier.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Is it possible that your desire to make sure that if this is what the President wished to happen it should happen namely what Mr Koloane had said to you? Is it possible that your desire to make sure that that wish of the President materialised may have influenced you in any way to overlook one or other thing that may be you should not have overlooked or that maybe you should have raised with some officials to say, but this thing looks not right?

20 **COLONEL ANDERSON**: No Chair that is why I constantly in all the meetings reiterated to them that we need to have the overflight clearance and the overflight clearance is something that is between DIRCO and the Airforce Command Post. I have no say in that process.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Thank you Chair. Just relating to that response. Would you then say if you accept that you had no role to

play insofar as the interactions between DIRCO and Command are concerned would you agree then maybe it was not appropriate for you to – although you did not put pressure on Warrant Office Ntshisi to actually mention that but are you refusing this is the President's wish. Would you agree with me that maybe that was not proper because it was not your area according to what you telling the Chair?

COLONEL ANDERSON: Chair I did not phone Warrant Officer Ntshisi. He phoned me and I returned his call. I did not put pressure on him. He – after our telephone conversation on the 9th of April he approved or
10 the Airforce Command Post approved that request. I had meetings with Ambassador Koloane and Mr Ashuc during that time and I – every time I mentioned to them I am still waiting for the overflight clearance. If I wanted to put pressure on Warrant Officer Ntshisi I would have phoned him again and say, where is this overflight clearance? Why do I not get this overflight clearance? So I do not think – no I am sure I did not put pressure on him.

ADV THANDI NORMAN SC: Alright let us accept that it was not pressure. Why was it necessary for you to mention that the President according to what Ambassador Koloane the President was aware of the
20 flight?

COLONEL ANDERSON: Chair I conveyed what Ambassador Koloane told me. I just conveyed that again to Warrant Office Ntshisi and the time that I have worked at Waterkloof it is has never happened. I am not aware of a single case where the – where DIRCO is involved with a request that it was denied. All the requests that I know of that came

from DIRCO was approved by the Airforce.

CHAIRPERSON: Well why did you think Ambassador Koloane had to mention to you that the President knew about the plans for the landing of the aircraft?

COLONEL ANDERSON: That was also strange to me because in all the time that I have worked at Waterkloof dealing with DIRCO nobody has ever at any planning meeting of any visiting Heads of State mentioned that the President is aware of this visit. That is why I – it was a unique case. It was something completely different. It has never been
10 mentioned to me before that the President knows about this flight and we can continue. At one stage I think it was on the 17th of April Ambassador Koloane phoned me and he said he has just returned from the office of the President and the President wants to know if everything is still on track for this flight. And I once again said to him, once we have the overflight clearance the rest of the procedures will fall in place.

CHAIRPERSON: Did you not think at the time he mentioned to you that the President knew about the flight – the landing of the flight or that he wanted to know what was happening? Did you not think that he sought
20 to put pressure on you to either expedite whatever needed to be processed or to facilitate the landing of the aircraft by doing whatever needed to be done?

COLONEL ANDERSON: Chairperson the only time I really felt pressured in a way was when he phoned me – when Ambassador Koloane phoned me to say that all the passengers are not going to

travel by road anymore they are now going to be travelling in seven helicopters and two fixed wing aircraft. At that stage I said to him, Ambassador then you must follow the same procedure that you followed for the airbus. And I said to him at that stage, if you are not happy with the procedures then you must phone the Officer Commanding of the Airforce Command Post Brigadier General Lombard. And he said to me, but he does not have his telephone number. I said to him, I will forward that telephone number to you and I forwarded that telephone number to him. His office telephone number.

- 10 **CHAIRPERSON**: I think Mr Koloane accepted when he was giving evidence here at least at a certain stage that he had put pressure on officials connected with Waterkloof to expedite the approval of the authorisation of the landing of the flight. So would you consider yourself to have been one of the officials on whom he put pressure?

COLONEL ANDERSON: In the end yes.

CHAIRPERSON: H'mm. Okay.

ADV THANDI NORMAN SC: Yes. Thank you Chair. We – I am not sure whether you would want to deal with each and every area of dispute that you raise in the – insofar as it relates to the JCPS Report.

- 20 **COLONEL ANDERSON**: H'mm.

ADV THANDI NORMAN SC: But generally what you had read the report and after you read the report you lodged a complaint to the Public Protector is that correct?

COLONEL ANDERSON: That is correct Chairperson.

ADV THANDI NORMAN SC: Yes. And the – a decision from the current

Protector – Public Protector was also furnished to your attorneys indicating that the Public Protector was of the view that because the Board of Inquiry had cleared you therefore was no need for her to pursue the matter.

COLONEL ANDERSON: That is correct Chairperson.

ADV THANDI NORMAN SC: Yes. And what was the nature of your complaint to the Public Protector?

COLONEL ANDERSON: My – the reason why we have approached the Public Protector was that during the cluster investigation I was never
10 given the opportunity to explain my side of the story. I got a telephone call from a Warrant Officer to say to me that Brigadier General Maketwa wants to see me. But they did not tell me in connection with what. At that stage I was already – because I was on special leave I was already on my way to our farm in Brandfontein. So I said to her, I am not going to turn around now what is the problem? I never heard from them again. The next was a letter from the Chief of the Airforce's office with a number of questions and in that letter of the Chief of the Airforce it was also indicated that the cluster investigation team were going to be busy that weekend and I must be available the Friday or the Saturday if
20 they phone me then I must come in and assist them with the investigation. They never phoned me. So then the letter that I got from the Airforce – the Chief of the Airforce had a number of questions. I answered them and I forwarded it back to the Chief of the Airforce's office.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Just to deal with that aspect. The Public Protector's Report Chair I may just give references. It is Exhibit FF2b and FF2a. You would have those records there but there is a letter which shows that the list of questions that you were given was actually from the cluster Minister – the Directors General who were investigating the matter.

COLONEL ANDERSON: That is correct Chair.

ADV THANDI NORMAN SC: Did you get to understand that later that in
10 fact you were – they had sent a list of questions for you to respond to?

COLONEL ANDERSON: Yes Chair I did.

ADV THANDI NORMAN SC: Thank you. Chair relevant pages will be from page 5 to 8 and 5 to 9 where Colonel Anderson's responses – up to 530 where her responses are contained and the list of questions.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes thank you. Then – sorry and you had indicated that insofar as the adverse findings in the report which is attached to the statement of Ms Sindane which is contained in Exhibit FF1.

20 **COLONEL ANDERSON:** Yes.

ADV THANDI NORMAN SC: That all the adverse findings you were not happy with.

COLONEL ANDERSON: That is correct Chairperson and we answered those in the letter.

ADV THANDI NORMAN SC: In the letter. Yes. Thank you. Chair the

– that is the evidence from this witness. With your leave that is all yes.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: Thank you very much Colonel Anderson for coming to give evidence. I do not have any questions so thank you very much. If we ever need you to come back we will approach you again.

COLONEL ANDERSON: Thank you Chair.

CHAIRPERSON: Thank you very much.

COLONEL ANDERSON: Thank you very much.

10 **CHAIRPERSON**: Okay. Thank you Ms Interpreter I see that Colonel Anderson ended up not needing your services but thank you that you were around in case she needed to express something in Afrikaans. Thank you.

ADV THANDI NORMAN SC: Thank you. Thank you Chair.

CHAIRPERSON: I think we will need to just adjourn for the lunch breach.

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: And then come back at two.

ADV THANDI NORMAN SC: At 14:00 yes Chair.

20 **CHAIRPERSON**: And then there will be two ...(intervenes).

ADV THANDI NORMAN SC: Two witnesses.

CHAIRPERSON: Two further witnesses.

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes thank you.

CHAIRPERSON: Okay. We will take the lunch break now. We will resume at 14:00.

ADV THANDI NORMAN SC: Thank you Chair.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Ms Wentzel are you ready?

ADV SUSAN WENTZEL: Yes. Good afternoon Chair.

10 **CHAIRPERSON:** Good afternoon. Please switch on your mic.

ADV SUSAN WENTZEL: Thank you Chair. Yes. I am ready Chair.

Chair the next witness is going to be Ronald Shingange. He is here.

CHAIRPERSON: Yes. Okay. Will somebody direct him where to go?

ADV SUSAN WENTZEL: Yes please.

CHAIRPERSON: Why is there – please ...(intervenes).

ADV SUSAN WENTZEL: Yes Chair.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: Chair Mr Shingange has deposed to an affidavit. It has been marked Exhibit E5, because it deals with the
20 removal of Minister Colin Chabane – Maseko.

CHAIRPERSON: The removal of Mr Maseko not Minister Maseko.

ADV SUSAN WENTZEL: Mr Maseko. Yes. Minister Maseko. Sorry Chair.

CHAIRPERSON: Not Minister Maseko. Mr Maseko.

ADV SUSAN WENTZEL: Mr Maseko. Yes.

CHAIRPERSON: Mr Maseko.

ADV SUSAN WENTZEL: Sorry. I just need to ...(intervenes).

CHAIRPERSON: Mr Maseko was DG. Mr Chabane was Minister.

ADV SUSAN WENTZEL: Yes. I understand. Sorry Chair. Just I will settle down now. With your approval Chair if his statement could be placed into evidence as Exhibit E5.

CHAIRPERSON: Yes. The affidavit by Mr Ronald Shingange will be admitted and will be marked as Exhibit E5 and I think we must go ahead and have the oath or affirmation administered.

10 **ADV SUSAN WENTZEL:** Yes.

CHAIRPERSON: Let us get going.

REGISTRAR: Please state your full names for the record.

MR SHINGANGE: Ronald Shingange.

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

MR SHINGANGE: No.

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

MR SHINGANGE: Yes. I do.

20 **REGISTRAR:** Do you 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.

MR SHINGANGE: So help me God.

CHAIRPERSON: Thank you Mr Shingange and thank you for availing yourself to assist the Commission. I was told of a concern that you had but based on what is in your statement there would not be grounds for

the Commission to do anything along the lines that you were requesting. Do you understand?

MR SHINGANGE: I do.

CHAIRPERSON: Yes but thank you for availing yourself to assist the Commission with what you know.

MR SHINGANGE: Okay.

CHAIRPERSON: Thank you.

ADV SUSAN WENTZEL: Thank you Chair. Mr Shingange could you please tell the Chair what has been your history of employment with the
10 Government of South Africa?

MR SHINGANGE: Okay. I started working in Limpopo Province Department of Finance 1994. 1997 I moved to Department of Public Works ...(intervenes).

CHAIRPERSON: Well ...(intervenes).

MR SHINGANGE: Sorry.

CHAIRPERSON: I am sorry. Ms Wentzel do you want him to identify his affidavit first?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Confirm his signature ...(intervenes).

20 **ADV SUSAN WENTZEL**: Yes.

CHAIRPERSON: And confirm that what is in the affidavit is correct before ...(intervenes).

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Asking him questions?

ADV SUSAN WENTZEL: Yes. Thank you Chair. The affidavit in front

of you is that your affidavit and your signature?

MR SHINGANGE: Yes. It is.

ADV SUSAN WENTZEL: And you confirm the contents?

MR SHINGANGE: Yes. I do.

CHAIRPERSON: You confirm them as correct. Is that right?

MR SHINGANGE: Yes. It is.

CHAIRPERSON: *Ja*. Okay and is that your signature on page 3?

MR SHINGANGE: Yes. It is.

CHAIRPERSON: Next to your name?

10 **MR SHINGANGE**: Yes. It is.

CHAIRPERSON: Okay. Thank you. You may go ahead.

ADV SUSAN WENTZEL: Mr Shingange could you tell the Chair under what circumstances you came to provide an affidavit to the Commission.

CHAIRPERSON: Well you ...(intervenes).

MR SHINGANGE: Under what circumstances?

CHAIRPERSON: I am sorry. I am sorry. Have you decided to abandon the first question you asked?

ADV SUSAN WENTZEL: H'mm.

20 **CHAIRPERSON**: Okay. Let us start. Ms – Mr Shingange you have in paragraph 4 of your statement set out the history of your employment in – within Government.

MR SHINGANGE: Yes.

CHAIRPERSON: Is it correct that among the positions that you have held in Government is the position you held between 2009 and 2013.

That position of being Advisor to Minister Chabane ...(intervenes).

MR SHINGANGE: Yes.

CHAIRPERSON: In the Office of the Presidency?

MR SHINGANGE: Yes. It is correct.

CHAIRPERSON: Yes. Okay. Thank you.

ADV SUSAN WENTZEL: And could you please tell the Chair what was your relationship with Minister Chabane?

MR SHINGANGE: As I said in the affidavit I was his advisor between the period of 2009 to 2013 and before that we had worked together in
10 the Department of Economic Development and also Public Works in Limpopo Province.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: And not necessarily with him. At some stage you were Acting Head of Department at Public Works. Is that right?

MR SHINGANGE: Ja. For a period of about three years. Yes.

CHAIRPERSON: About three years and you were at some stage Chief Executive Officer of the Corridor Mining Resources Company.

MR SHINGANGE: Yes.

CHAIRPERSON: That is a private company?

20 **MR SHINGANGE:** It is a subsidiary of Limpopo Economic Development Agency.

CHAIRPERSON: It is a parastatal?

MR SHINGANGE: Yes.

CHAIRPERSON: Yes. Okay. Okay. Thank you.

ADV SUSAN WENTZEL: And are you currently in the employ of

Government?

MR SHINGANGE: No. I am not unfortunately.

CHAIRPERSON: You would like to go back?

MR SHINGANGE: No. I would not.

CHAIRPERSON: Oh. I thought you said unfortunately.

MR SHINGANGE: *Ja* well.

CHAIRPERSON: Oh. Okay. Alright. Yes. Continue.

ADV SUSAN WENTZEL: In your affidavit you deal with the removal of Mr Themba Maseko from the GCIS and the replacement of him with
10 Mr Manyi. When did you first hear about this removal?

MR SHINGANGE: It was a week after his – after the removal of Themba. We were walking into a meeting with Minister Chabane and then I said – I asked him okay what happened. Why did you move Themba? He says look I was instructed. So it was a – roughly a week after he was removed.

ADV SUSAN WENTZEL: And what did you understand by instructed? Instructed by whom?

MR SHINGANGE: By ...(intervenes).

CHAIRPERSON: I am sorry. I am sorry. I may have missed
20 something. You and Minister Chabane were going into a meeting?

MR SHINGANGE: Yes.

CHAIRPERSON: You say about a week after ...(intervenes).

MR SHINGANGE: After he was removed.

CHAIRPERSON: Mr Maseko's removal from GCIS ...(intervenes).

MR SHINGANGE: Yes.

CHAIRPERSON: And you asked him the question why was Themba removed?

MR SHINGANGE: Yes.

CHAIRPERSON: Is that how you put it and what was his answer, Mr Chabane?

MR SHINGANGE: That I was instructed. Then I said – I shrugged. Oh, oh okay.

CHAIRPERSON: Yes.

MR SHINGANGE: That was it. I never followed up as to why
10 ...(intervenes).

CHAIRPERSON: Yes.

MR SHINGANGE: You know ...(intervenes).

CHAIRPERSON: Okay.

MR SHINGANGE: And by who ...(intervenes).

CHAIRPERSON: Yes.

MR SHINGANGE: Because my common assumption was that obviously it can only be one person who can instruct him.

CHAIRPERSON: Yes.

MR SHINGANGE: With the appointing authority who is the President.

20 **CHAIRPERSON:** Yes.

MR SHINGANGE: So I never followed up ...(intervenes).

CHAIRPERSON: Yes.

MR SHINGANGE: And he never told me I was instructed by so and so.

CHAIRPERSON: Yes.

MR SHINGANGE: He never told me that.

CHAIRPERSON: Yes, but that was your own ...(intervenes).

MR SHINGANGE: *Ja.*

CHAIRPERSON: Understanding?

MR SHINGANGE: *Ja.*

CHAIRPERSON: That there could only have been one person?

MR SHINGANGE: *Ja.*

CHAIRPERSON: *Ja.* Okay.

ADV SUSAN WENTZEL: And why did you not ask any questions about this?

10 **MR SHINGANGE:** Look at the time if you follow the trend. There was a lot of movement of Director-Generals from one department to another. So I did not find it extremely curious to say why is he being removed. So I just assumed okay. It is one of those movements that are being done from one place to another, because you must remember that it was – what – the ...(indistinct) of the new administration so obviously a lot of the changes were still happening. So that is why I never bothered to ask why.

ADV SUSAN WENTZEL: And if Mr Maseko had been dismissed would you have asked questions?

20 **MR SHINGANGE:** *Ja.* Definitely. That will have attracted my curiosity as to why is he being dismissed, but because he was being moved from one department to another I never thought it is an interesting matter.

ADV SUSAN WENTZEL: And you know that the former President has testified before the Commission that he did not instruct Minister Chabane to move Mr Maseko. How did you know about this

and how did you come to know about it?

MR SHINGANGE: About what? The testimony of the former President?

ADV SUSAN WENTZEL: Yes.

MR SHINGANGE: Well after his testimony, I did not watch the testimony, a lot of people phoned me to say is this possible what the former President said. I said look. I did not watch his testimony, but it is improbable, because there is only one person who has got the powers to remove DG's. So that is how I end up being here today, because I spoke too much.

10 **CHAIRPERSON:** Okay. Just make sure we understand. You did not watch the evidence ...(intervenes).

MR SHINGANGE: No.

CHAIRPERSON: That was given by the former President?

MR SHINGANGE: I only watched the repeat in the evening.

CHAIRPERSON: Later?

MR SHINGANGE: I did not watch it ...(intervenes).

CHAIRPERSON: When it was happening?

MR SHINGANGE: *Ja.*

CHAIRPERSON: Yes.

20 **MR SHINGANGE:** I watched it after people had phoned me ...(intervenes).

CHAIRPERSON: Yes.

MR SHINGANGE: To tell me this and that happened.

CHAIRPERSON: Yes. You say a lot of people called you and what were they asking or what were they saying exactly?

MR SHINGANGE: Is it possible that Chabane will have removed his DG without the ...(intervenes).

CHAIRPERSON: Yes.

MR SHINGANGE: Without the knowledge of the President.

CHAIRPERSON: Yes.

MR SHINGANGE: H'mm.

CHAIRPERSON: Okay.

MR SHINGANGE: Is it in his character to defy. So to speak.

CHAIRPERSON: H'mm, and why would – why did they phone you to
10 find that out?

MR SHINGANGE: I suppose because I was his advisor.

CHAIRPERSON: H'mm.

MR SHINGANGE: They will have expected me to know ...(intervenes).

CHAIRPERSON: Yes.

MR SHINGANGE: What the ...(intervenes).

CHAIRPERSON: What the position was?

MR SHINGANGE: And then also a lot of people assumed that we had a certain relationship which was close.

CHAIRPERSON: Yes.

20 **MR SHINGANGE**: So that is why probably they phoned me.

CHAIRPERSON: Yes. How was your relationship with Minister Chabane? Was it a very good relationship?

MR SHINGANGE: *Ja*. I will say so. You know I have a Greek friend who says do not tell me that I am close to the Minister. Ask the Minister if he is close to me. Unfortunately he is not here to answer,

but I – yes Chairperson. I think we had a good relationship.

CHAIRPERSON: Yes.

MR SHINGANGE: H'mm.

CHAIRPERSON: Do you know how his relationship, that is Minister Chabane, how his relationship was with Mr Maseko during the time that they were working together at GCIS?

MR SHINGANGE: It was good.

CHAIRPERSON: H'mm.

MR SHINGANGE: I never saw any tension between the two of them
10 during the period that they were working together.

CHAIRPERSON: Right up to the time that Mr Maseko was removed?

MR SHINGANGE: Yes. I never saw any tension between the two of them.

CHAIRPERSON: Yes, yes. Okay. Thank you.

ADV SUSAN WENTZEL: And were you told by these people who phoned you that the former President had stated that Minister Chabane had merely used his name?

MR SHINGANGE: Yes. That is what they told and that is what they – that was the question. They were asking me that is it possible that he
20 could have done that. Is it in the character of Minister Chabane to do something like that? So I said no. It is not possible and then I mentioned to one or two people that look this is what I know about the issue.

He told me something like this, Mr Chabane, before he passed away and unfortunately that is what led me to be here today.

CHAIRPERSON: Okay. Okay.

ADV SUSAN WENTZEL: Chair ...(intervenes).

CHAIRPERSON: No further questions.

ADV SUSAN WENTZEL: Yes. I have no further questions.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: Unless you Chair would ...(intervenes).

CHAIRPERSON: No. Thank ...(intervenes).

ADV SUSAN WENTZEL: Like to ask some questions.

CHAIRPERSON: Thank you Mr Shingange. Thank you for coming to
10 share with the Commission what you heard and what you knew as far as
you were told by Minister Chabane.

MR SHINGANGE: Okay.

CHAIRPERSON: Thank you very much.

MR SHINGANGE: Thanks very much.

CHAIRPERSON: You are excused.

MR SHINGANGE: Thanks a lot.

CHAIRPERSON: Thank you.

ADV SUSAN WENTZEL: Thank you. Chair, the next witness is
Brent Simons who previously testified, but Chair you will recall that the
20 Rule 3.3 Notice sent to the former President in respect of his testimony
was provided less than 14 days before he testified and because of that
it was decided that he should come and testify with regard to the former
President at a later stage. He is now available to testify and I wish to
call him.

CHAIRPERSON: So the Rule 33.3 Notices were sent to the former

President and as of today there has been no reaction?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Okay. Alright. Thank you. Then you can administer the oath or affirmation.

REGISTRAR: Please state your full names for the record.

MR SIMONS: Brent Adrian Simons.

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

MR SIMONS: No.

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

MR SIMONS: Yes.

REGISTRAR: Do you 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.

MR SIMONS: So help me God.

CHAIRPERSON: Yes you may proceed.

ADV SUSAN WENTZEL: Thank you Chair.

CHAIRPERSON: You confirm that you will only cover what was not
20 covered previously, because he did give evidence and covered quite some ground?

ADV SUSAN WENTZEL: Yes Chair.

CHAIRPERSON: *Ja.* Okay.

ADV SUSAN WENTZEL: Mr Simons you previously testified at the Commission and you stated that you previously worked for Minister Chabane in – Minister Colin Chabane in the Office of the

Presidency and you later worked for him in the DPSA. Is that correct?

MR SIMONS: That is correct.

ADV SUSAN WENTZEL: Now during 2017 you submitted an affidavit ... (intervenes).

CHAIRPERSON: Maybe we can just too refresh our memories. Mr Simons you were – you worked in the Presidency between which year and which year – from which year to which year?

MR SIMONS: I started in – joined the Minister in the Presidency in January 2014.

10 **CHAIRPERSON**: Yes.

MR SIMONS: *Ja* and then remained with him until he passed on in the accident in the following year.

CHAIRPERSON: Yes. Okay. Thank you and you were his – was it Chief of Staff or Advisor?

MR SIMONS: No, no. I was Spokesperson for the Minister in the Presidency ... (intervenes).

CHAIRPERSON: *Ja*.

MR SIMONS: And then also Spokesperson for the Minister when he had his role as Minister for Public Service and Administration.

20 **CHAIRPERSON**: Oh, okay. Thank you.

ADV SUSAN WENTZEL: Thank you. You say in paragraph 4 of your statement that in 2017 you submitted an affidavit to the Secretary of Parliament and the Speaker of the National Assembly to refute the former President's, Mr Jacob Zuma's, denial that he had used his position to secure Government contracts with family members. Is that

correct?

MR SIMONS: That is correct. *Ja*.

ADV SUSAN WENTZEL: Chair, this document is not annexed to Mr Simons' affidavit, but it has been obtained by the Commission. If I might refer you to page 146 of the bundle in front of you.

CHAIRPERSON: The bundle is Exhibit JJ1.

ADV SUSAN WENTZEL: Yes. The bundle is Exhibit JJ1.

CHAIRPERSON: What is the page?

ADV SUSAN WENTZEL: Page 146.

10 **CHAIRPERSON:** Yes.

ADV SUSAN WENTZEL: Is that an unsigned copy of the statement you submitted to the Speaker of Parliament?

MR SIMONS: That is correct Chair.

ADV SUSAN WENTZEL: And if you have regard to BAS page 147 paragraph 11. It is said:

20 "While answering Parliamentary questions on Thursday the 22nd of June 2017 our President once again blatantly lied to the people of South Africa when he declared that he had never asked anyone to take care of or help a family member secure a contract."

Is that correct?

MR SIMONS: *Ja*. It is.

CHAIRPERSON: Just to confirm. Do you confirm the contents of that statement – unsigned statement to be true and correct?

MR SIMONS: I do Chairperson.

CHAIRPERSON: Thank you.

ADV SUSAN WENTZEL: Chair there are a number of statements then or averments made in the statement which are going to be dealt with in evidence and have expressly being dealt with in Mr Simons' affidavit before the Commission. So I will not traverse them here ...(intervenes).

CHAIRPERSON: *Ja.* Okay.

ADV SUSAN WENTZEL: In any real detail ...(intervenes).

CHAIRPERSON: *Ja.*

ADV SUSAN WENTZEL: But would – I would like to point out to you
10 Chair is that three is a transcript – an unrevised Hansard – from
Hansard for this date Thursday, the 22nd of June 2017 and you will find
that now at page 151 ...(intervenes).

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: And is this the transcript that you were referring to?

MR SIMONS: In fact at that stage I was obviously as an ordinary South African and as a Public Servant. I was reading the newspapers. Watching television etcetera and the President was responding to a question where I think it was one of the DA members who had asked
20 whether he helped Duduzane or anyone else with business interests.

If he had brought people to any Ministers and I thought that that was incorrect, because and that is why I actually sat down and drew up this affidavit, but I should bring it to your attention Chairperson that I do say right at the beginning that I wrote it in my capacity as a Senior Public Servant as well as an ANC Member and from about

2016/2015 – end of 2015 onwards I consistently submitted a very similar report to the Office of the Secretary-General of the ANC saying that the President has brought the organisation into disrepute.

Pointing out this and providing very similar responses to what I did in my affidavit. I received no responses from my SG.

CHAIRPERSON: And – so you say you sent to the Secretary-General of the ANC of the time ...(intervenes).

MR SIMONS: *Ja*.

CHAIRPERSON: A number of such ...(intervenes).

10 **MR SIMONS**: Submissions.

CHAIRPERSON: Letters or e-mails or whatever?

MR SIMONS: Yes.

CHAIRPERSON: Did you send them in writing?

MR SIMONS: I sent them in writing.

CHAIRPERSON: What is your recollection of about how many you might have sent?

MR SIMONS: Probably about eight or nine.

CHAIRPERSON: About eight or nine?

MR SIMONS: *Ja*.

20 **CHAIRPERSON**: Instances where you felt – and they all relate to the President or did they also relate to other members of the leadership of the ANC?

MR SIMONS: They all particularly dealt with the fact that at that stage I believed that the President was doing more harm ...(intervenes).

CHAIRPERSON: H'mm.

MR SIMONS: To both the organisation and the country at that stage ... (intervenes).

CHAIRPERSON: Yes.

MR SIMONS: And obviously as you would see in the affidavit what led to some disciplinary steps against me as well within the Public Sector ... (intervenes).

CHAIRPERSON: H'mm.

MR SIMONS: Was because of ... (intervenes).

CHAIRPERSON: H'mm.

10 **MR SIMONS**: Statements I made ... (intervenes).

CHAIRPERSON: H'mm.

MR SIMONS: In my capacity as an ANC Member ... (intervenes).

CHAIRPERSON: H'mm.

MR SIMONS: To other organisational members.

CHAIRPERSON: H'mm.

MR SIMONS: So \ yes we were discussing it and if you recall my earlier testament. I actually told you that Minister Chabane was of such a nature that he would speak politics to you ... (intervenes).

CHAIRPERSON: H'mm.

20 **MR SIMONS**: And whenever he had the opportunity and he was also interested in knowing or trying to find out what the views of the citizens were ... (intervenes).

CHAIRPERSON: H'mm.

MR SIMONS: Regarding the President ... (intervenes).

CHAIRPERSON: H'mm.

MR SIMONS: And regarding the ANC as a ...(intervenes).

CHAIRPERSON: H'mm.

MR SIMONS: As a Government.

CHAIRPERSON: H'mm.

MR SIMONS: So we had that type of interaction very constantly.

CHAIRPERSON: H'mm. H'mm. Did you keep copies of the e-mails or letters that you sent to the ...(intervenes)?

MR SIMONS: H'mm. H'mm.

CHAIRPERSON: Secretary-General of the ANC relating to this – to
10 these various concerns that you had?

MR SIMONS: I am sure if I sent it via Gmail.

CHAIRPERSON: Yes.

MR SIMONS: I should be able to have some ...(intervenes).

CHAIRPERSON: Yes.

MR SIMONS: Some records in my ...(intervenes).

CHAIRPERSON: Okay.

MR SIMONS: My Gmail, because some of my evidence ...(intervenes).

CHAIRPERSON: H'mm.

MR SIMONS: Was not based on my Government e-mails.

20 **CHAIRPERSON**: H'mm.

MR SIMONS: It was some of the evidence of meetings that I withdrew from my Gmail account.

CHAIRPERSON: *Ja*. If you can find them. That would be very helpful to send to the Commission.

MR SIMONS: I will do.

CHAIRPERSON: Copies as well and then to Parliament did you send only one or did you also send a number of them to Parliament?

MR SIMONS: I sent it to the Office of the Speaker of Parliament. I sent it to the Deputy Speaker of Parliament. I also sent to the Chief Whip of the ANC at Parliament.

CHAIRPERSON: H'mm. Are you saying you sent the same one to all those people or do you send different ones to different people?

MR SIMONS: No. The signed affidavit I actually – I sent it to all of them. *Ja.*

10 **CHAIRPERSON:** Oh, okay. So with regard to Parliament this – the affidavit is the only one that you sent to somebody in Parliament expressing your concern?

MR SIMONS: Yes.

CHAIRPERSON: Okay. Alright. Thank you.

ADV SUSAN WENTZEL: Thank you.

CHAIRPERSON: So maybe just to make sure one understands this. You says somewhere around 2016 or thereabout you became aware from what you read in the media that in Parliament the former President had been asked a question to which he responded by saying he had never tried to help any member of the family get Government business.

20 Is that right? Is that what you became aware of that prompted you to prepare the affidavit?

MR SIMONS: Yes. It was also – that is why I am saying that if I can get copies and I will go and look in my Gmail account for some of the ...*(intervenes)*.

CHAIRPERSON: Yes.

MR SIMONS: The original documents I submitted to ...(intervenes).

CHAIRPERSON: Yes.

MR SIMONS: The Office of the Secretary-General ...(intervenes).

CHAIRPERSON: Yes.

MR SIMONS: And then you will see that there is a consistency in terms of ...(intervenes).

CHAIRPERSON: Yes.

MR SIMONS: My - my concerns raised as both a member and as a
10 Public Servant.

CHAIRPERSON: Yes, but your - what prompted the affidavit particularly is that you had or understood that he had given information in Parliament which you considered not to be true ...(intervenes).

MR SIMONS: Yes.

CHAIRPERSON: And you prepared the affidavit and sent it to Parliament to bring it to their attention that as far as you are concerned he had told Parliament something that was not true?

MR SIMONS: Yes. Correct.

CHAIRPERSON: Okay. Alright.

20 **ADV SUSAN WENTZEL:** Did you watch the question time recordings on television or did you read it in the media?

MR SIMONS: In fact at that stage whenever the President was answering questions at Parliament it was in our nature to - as Government communicators and I think that to actually make sure that we have time to watch. If we did not watch it and then we would

obviously try and follow up later, but I obviously followed up via television when the President was addressing Parliament as well later when I read through all the online and actual physical publications.

ADV SUSAN WENTZEL: And have you had a chance to read this extract from Hansard for Thursday, the 22nd of June 2017? That I referred you to earlier that starts at page ...(intervenes).

CHAIRPERSON: What page again was it?

ADV SUSAN WENTZEL: It starts at page 151.

CHAIRPERSON: Huh-uh.

10 **MR SIMONS:** *Ja.*

ADV SUSAN WENTZEL: Are you able to tell the Chair ...(intervenes).

CHAIRPERSON: Did he ...(intervenes)?

ADV SUSAN WENTZEL: What ...(intervenes)?

CHAIRPERSON: Was the answer yes that you have had a chance to read it?

MR SIMONS: I read through it. Yes.

CHAIRPERSON: Yes. Okay.

ADV SUSAN WENTZEL: Are you able to tell the Chair what statement it is that you thought was untrue ...(intervenes).

20 **MR SIMONS:** Well ...(intervenes).

ADV SUSAN WENTZEL: That prompted your affidavit?

MR SIMONS: Yes. On page 1 ...(intervenes).

CHAIRPERSON: Or maybe let us put it this way. Is this the statement that prompted you to prepare the affidavit contained in this extract of the – from the Hansard?

MR SIMONS: The basis of that statement, yes ...(intervenes).

CHAIRPERSON: Oh, okay. Alright.

MR SIMONS: Because ...(intervenes).

CHAIRPERSON: It is here?

MR SIMONS: *Ja*.

CHAIRPERSON: Okay that's fine, then you can go ahead to identify it.

MR SIMONS: Okay on page 156 the response is, where the President then says:

10 “Secondly I have never heard that Duduzane’s business has benefited from the Government. Where I have influenced by saying, give him something, I have never done that.”

 Now that is particularly to Duduzane, now I’m not familiar of any of the relations between the President, his son and whatever business ventures he might have gone on but what I then did was, on the basis of that an previous statements made by the President I then said that look, the President has in fact, brought family members to Ministers that I was aware of and particularly the Minister that I worked with and
20 on that basis I then drafted the statement and submitted it to the affidavit to Parliament.

ADV SUSAN WENTZEL: And which Minister are you referring to?

MR SIMONS: I’m referring to Minister Collins Chabane, the late Minister ...(intervenes).

CHAIRPERSON: Just to go back on your ANC membership at that

time were you already a member of the ANC at the time of referring this affidavit to Parliament?

MR SIMONS: Yes.

CHAIRPERSON: Yes okay.

ADV SUSAN WENTZEL: And why did you believe it not to be true?

MR SIMONS: Well one particular incident which I refer to in the ... (intervenes).

CHAIRPERSON: I'm sorry again Ms Wentzel I may have referred to 2016, it appears from this extract from the Hansard that the day to
10 which the transcripts relates is Thursday, 22 June 2017 so does that sound more or less right in terms of the year?

MR SIMONS: Yes, in fact I think in the affidavit I submitted to Parliament I also make reference to that date *ja*.

CHAIRPERSON: *Ja* okay, thank you, okay then I think the question that Ms Wentzel had asked you was why did you think that the former President had said something that was not true, why did you think it was not true?

MR SIMONS: There was a particular incident in 2014 where the National Development Agency was launching the Solomon Mahlangu
20 Scholarship Fund and the President was scheduled to address that particular meeting and the Minister was invited to open that meeting and on that day in fact, we had secured the Minister to address students at a college in Randfontein and that was confirmed, Minister had committed that he was going to do it but we then also received a request for the Minister to introduce, openly the particular NYDA

function on that Friday morning. Now on that particular day, obviously the Minister – we were standing around in the foyer of the Sandton International Convention Centre, after the President had spoken, I was standing literally – I was next to the Minister we were having a talk. Now obviously protocol dictates if the President comes to a Minister that you don't really stand around, you give them their space so I would obviously have walked away then but not too far, I mean I was clearly – I could see the Minister, I could see the President and with the President were several young men. Now as the President left the

10 Minister came to me and he then introduced me to these young men and told me that he wanted me to deal with them in terms of meetings etcetera and on that basis I was then introduced to some of these men and some of them had the surname of Zuma and one in particular, referred to Khulubuse Zuma as his father figure and on that basis we left with the Minister and we went to the – I think it was Westcol Further Education and Training College where GCI's, the Government Communications and Information System, had actually organised a function post State of the Nation address for the Minister.

So the college students were asking questions very directly

20 related to their future in this country, how would they be able to contribute asking questions about the State of the Nation address and so on. So after that meeting I actually again had to make contact with these young men and we had several meetings since then even when the Minister left, was transferred after the election from the Presidency to DPSA they still came to us and I was their main go-between for them

and the Minister. Now in my affidavit to Parliament I actually very clearly articulate what the Minister told me and the Minister was, keep them away from the Ministry and keep them away from me. So you deal with them, I don't want to deal with them and he would regularly ask me – sometimes I would go there and say, chief I'm being threatened here and he would just say, look you are protected don't worry as long as I know what you're up to then that's okay.

ADV SUSAN WENTZEL: Mr Simons if we can just unpack what you've said a little bit more slowly and perhaps in a little bit more detail. You
10 say in your statement that this introduction by the former President of these young men to Minister Chabane took place on the 14th of March 2014, how do you know it was that date?

MR SIMONS: At first I was also wondering, you know, because getting the dates right is important and when we were based in the Presidency we actually used Gmail accounts for correspondence and some of those Gmail evidence which I provided in terms of meetings, requests for meetings comes from my Gmail account. So in those Gmails it is very clear that it was at this particular event where the Minister had met with the individuals where the President or former
20 President, in fact, actually introduced them to the Minister.

ADV SUSAN WENTZEL: And if you look at Annexure BAS1 on page 15.

MR SIMONS: *Ja.*

ADV SUSAN WENTZEL: Is that the Gmail that is referred to?

MR SIMONS: *Ja,* my Gmail – these would be some of the

correspondence that would come from the PO, is for President's Office, so that would come from the President's Office and it would go to, for example Brent278 and would be my Gmail account.

ADV SUSAN WENTZEL: And this is dated the 13th of March 2014, you say that the meeting would have taken place on the 14th of March, could you explain that?

MR SIMONS: Yes in fact the then DG, Dr Phillips wanted a meeting with the Minister. He then sent that request to one of the senior officials in the Ministry who then responded by saying that according to
10 his knowledge the Minister was confirmed to speak at the Westcol function organised by GCIS as part of their Post-SoNO activities, correspondence, in fact from the office as well in which the NYDA formally sent a request to the office of the Minister. It went to the Parliamentary liaison officer who then sent it to me and to various other officials saying that they see in the Minister's programme for the Friday that it was going to be a tight – to manage that particular event because he now had to attend the NYDA function as well. So I clearly remember that particular run of events for that day.

ADV SUSAN WENTZEL: Yes and perhaps for completeness, if I can
20 just read what is stated in the e-mail you're referring to, it says,

“Dear Dr Phillips, Minister is scheduled to address the GCIS Gauteng Post-SoNA Youth Dialogue at Westcol campus in Randfontein tomorrow. According to our spokesperson Minister will invite the audience to engage with him thereafter. Minister will join this

event later than scheduled due to his attendance at the launch of the Solomon Mahlangu Scholarship Fund in Sandton, by the President, could you kindly arrange”.

MR SIMONS: Yes.

ADV SUSAN WENTZEL: Now you said earlier that after you had seen the Minister with these young men, you were introduced to them.

MR SIMONS: Yes.

ADV SUSAN WENTZEL: Who were these young men?

MR SIMONS: There was a Mr Mqondisi Zuma, Busa Zuma and then a
10 Mr Zwane, his first name is in there, James Zwane and I was basically then introduced to them and told that I needed to meet with them.

ADV SUSAN WENTZEL: And the Commission has ascertained that the true surname for Mr Mqondisi Zuma, his surname is in fact ...(intervenes).

CHAIRPERSON: Mqondisi will be M-q-o-n-d-i-s-i you know for the transcribers, just remember to ...(intervenes).

ADV SUSAN WENTZEL: Thank you Chair. His surname is actually Mthembu, do you know that?

MR SIMONS: No, at all stages of our interaction, correspondence he
20 refers to himself as a Mr Mqondisi Zuma.

ADV SUSAN WENTZEL: And what relationship did you believe that they had with the President, both Mr Mthembu and Mr Zuma?

MR SIMONS: Well they seemed to have a close relationship with the President then and actually very openly made reference to that relationship and then also, as I indicated, referred to Mr Khulubuse and

Zuma as a father figure and in the affidavit, at a later stage, you'll see where I actually said where they – when they believed that I was busy with delaying tactics they said that they would report me to the President as well as to Mr Khulubuse Zuma.

ADV SUSAN WENTZEL: And ...(intervenes).

CHAIRPERSON: You said that the person referred to in your paragraph 8 in your affidavit as Mr Mqondisi Zuma, you said there is correspondence where he represented himself as Zuma?

MR SIMONS: In fact all the e-mail correspondence I have, still in my
10 possession refers directly to him using the surname Zuma.

CHAIRPERSON: Okay and depending on when, according to the information that Ms Wentzel you say the legal – the Commission got when he started using the surname it may well be that he subsequently changed the surname so that would have to be investigated.

ADV SUSAN WENTZEL: Chair as I understand it, Mthembu is the surname of his mother, so he – his birth certificate I understand is in the name of Mthembu but he dealt, as I understand the witness with the witness as if his surname was Zuma. I mean – yes as if his surname was Zuma.

20 **CHAIRPERSON:** Well did you get information from him or did you get this information from elsewhere, what surname he uses. Did he say he uses Mthembu and not Zuma or is this information you did not obtain from him?

ADV SUSAN WENTZEL: I'm advised Chair that he uses both, that his father is Zuma, his mother is Mthembu and if I can just lead some

further evidence that might also lead some clarity on to this ...*(intervenes)*.

CHAIRPERSON: Well before you lead the evidence I just want to understand because I don't want us to waste time about something that might not be important.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: So whatever you know, you didn't get from him, is that correct?

ADV SUSAN WENTZEL: No we didn't get it from him.

10 **CHAIRPERSON:** *Ja*.

MR SIMONS: Chair if I may – if I'm allowed to?

CHAIRPERSON: Yes, yes.

MR SIMONS: He also befriended me on Facebook after the initial meetings and even there the surname is referred to as Zuma and this morning on my way here I actually got a reminder from Facebook that it is his birthday today and it clearly pointed again to Mqondisi Zuma.

CHAIRPERSON: So the reference to Mthembu is something you are hearing for the first time?

MR SIMONS: I heard it for the first time from the Commission.

20 **CHAIRPERSON:** From Counsel *ja*, from the ...*(indistinct)*.

MR SIMONS: *Ja*.

CHAIRPERSON: *Ja* okay alright.

ADV SUSAN WENTZEL: Thank you, now you say that after the former President had spoken to Minister Chabane, Minister Chabane came to you, introduced these people to you and then you used the word that he

told you to deal with them but to keep them away from him. What did you understand by deal with them, are those the words he used?

MR SIMONS: According to the late Minister, the President very specifically requested that we assist these young people and for us then they came with a list of potential business concepts and business ideas they wanted for Government and our assumption, automatically was that the instruction was to assist them with these business concepts. Minister Chabane then obviously, as I indicated, in the original affidavit to Parliament that he was to happy with the situation
10 then and then asked me to deal with them exclusively.

CHAIRPERSON: Yes Ms Wentzel I don't know whether he missed this, I was looking at paragraph 9 of Mr Simons affidavit because I had not heard, as he was giving evidence, him articulate in a way that I understood exactly what it is that he says the former President may have said to Minister Chabane about the young men.

MR SIMONS: No.

CHAIRPERSON: Did you want to just deal with – what did he say, is there something that he said on that day, that is the former President to Minister Chabane which is connected with your thinking that what he
20 said in Parliament was not true?

MR SIMONS: In fact his – when the Minister introduced them to me he said look the request is first to please assist these young people, they have some business ideas and to technically introduce them to whoever they want to be introduced with and that is why in some of the correspondence that they have sent to me, they actually asked, can you

assist us with getting access to this office or can you assist us to get access to that office. So I then, obviously knew that the instruction was, you meet with the people that have been referred to me as the Minister, you deal with them and you assist them but the Minister was also very coy when he said, look I don't want you to bring them to me, keep them away from our office and I think that's part of the reason why all of the meetings that I had with them either took place somewhere in Johannesburg or in the Sandton area but nowhere did we take them to the Minister's office.

- 10 **CHAIRPERSON:** So is the position that you yourself did not hear what the former President said to Minister Chabane about these young men but what you heard is what the Minister subsequently said to you he had been told?

MR SIMONS: *Ja* to please assist them yes.

CHAIRPERSON: Yes okay, yes continue.

ADV SUSAN WENTZEL: And ...(intervenes).

CHAIRPERSON: And in terms of what Minister Chabane said to you it is that he said Mr Zuma said he or you people must try and assist these young people?

- 20 **MR SIMONS:** *Ja*, in fact, he – the level or respect was always there and he was referred to as the President and so the President has asked us to assist and so for me the term that stood out there was to please assist them and then obviously in subsequent meetings with them it became very clear what they wanted assistance with because they had some ideas in terms of businesses and all these businesses had direct

– were directly linked with Government, either tenders or potential contracts.

CHAIRPERSON: Yes, if you are able to remember quite well, if you have a good recollection of exactly what Mr Chabane conveyed to you I'd very much like you to articulate that clearly because it's important for understanding what – whether there was something improper or not or not proper that may have been intended or meant and in this regard you may or may not be aware that this Commission heard evidence from Mr Themba Maseko who said that on the day on which he was
10 going to meet Mr Ajay Gupta at the Gupta residence he got a call from the former President and the conversation that he had with the former President was that former President said – asked him to assist the Gupta's. So here we are meeting what you say also was a request as far as you were told by Minister Chabane from the former President to assist these young people. So it's important that I understand as much as you are able to remember in terms of what Minister Chabane said he had been asked to do. Do you want to just articulate that once again?

MR SIMONS: Yes in my submission to Parliament I actually said that my instruction was to assist them with all their business concepts that
20 they had. Therefore, to link them up with the correct business people – not business people, it even included DG's and Acting Deputy Director Generals and at one stage I personally actually called a meeting with another Government official in which I was told to hand over particular envelope, I knew the contents of the envelope and I had to brief this official on what was to be done. So the understanding was, try and get

them to the correct people but I think I also make it clear that the Minister was saying, keep them at bay as long as – and as far as possible.

CHAIRPERSON: Yes, yes did you – are you able to tell me why you thought it was necessary for the former President to ask Minister Chabane to assist these young people or for Minister Chabane to ask you to assist them as opposed to allowing them, if they needed any assistance from Government to approach Government without the intervention of the President like everybody. Did you have an
10 understanding why that was necessary?

MR SIMONS: At that particular time I don't think we had a clear reason as to why we had to assist them other than having to assist them but I think as our meetings progressed I actually came – because I did some research for the Minister as well and then found out that some of these young people who were brought to the Minister were the same people who already had some legal conflict with the National Youth Development Agency at that particular time. I think there was a dispute over a R36 million contract and they were taking the NYDA to Court, that was prior to the meeting. So I think that the position would
20 have been that because there's already some trouble you try and assist them as far as possible.

CHAIRPERSON: Okay so because I guess the National Youth Development Agency would have been the place where one would have thought any young person seeking assistance would go so – but if they already had disputes and arguments with them they may then have

sought assistance outside of the National Youth Development Agency.

MR SIMONS: Yes.

CHAIRPERSON: Okay.

MR SIMONS: And Chair some of these issues that they wanted, for example was for the Ministry who was then the – obviously the reporting entity for the NYDA as well to actually assist in securing some funding the NYDA for some of the projects.

CHAIRPERSON: Yes did Minister Chabane, at that stage – did his portfolio have the NYDA under him, did it include the NYDA in any way?

10 **MR SIMONS:** If I recall correctly the NYDA reported to the Minister in the Presidency.

CHAIRPERSON: So he would have been responsible for it okay. So I guess that maybe it would make sense that if they had issues with the NYDA and the NYDA might not be able to help them because of those issues, they approach the Minister who's responsible for the NYDA and for assistance?

MR SIMONS: Yes.

20 **CHAIRPERSON:** *Ja* depending on what the assistance is but for any proper and legitimate assistance they will be entitled to go to the Minister?

MR SIMONS: Yes.

CHAIRPERSON: *Ja* okay.

ADV SUSAN WENTZEL: Thank you Chair. Mr Simons in paragraph 16 of your affidavit you list the deals that these young men were interested in, could you just tell the Chair briefly what were these businesses that

they wished to pursue?

MR SIMONS: The Government Communication and Information System at that stage wanted to appoint companies that would centralise Government advertising and they felt that they would be able to benefit from that by assisting and providing their services to GCIS at that particular time. So one of the issues they wanted to re-introduce and I'm saying re-introduce because my understanding was that we already had public information terminals, most of it which were inactive and failing at that particular stage. So they were looking at the introduction
10 of public information terminals and that would be at universities, at colleges, at Thusong service centres at that stage I think it was still called Multi-Purpose and Community Centres. They wanted to – when we in the Presidency still they were also looking at the NYDA assisting them with funding for some of their projects but we steered away from that because of the legal conflict that they were technically involved with already with the NYDA and then when we left the Presidency and we went to Public Service and Administration the request came through for them to be considered as the single service provider for cell phone contracts within Government. Now obviously Government spends tens
20 of millions of Rands on cell phone contracts monthly and annually, that would have been a huge contract and they wanted us to look at the possibility of them becoming the key service provider to Government. So they would go to established cell phone companies and be the kind of intermediary in these companies and all public servants through DPSA and then also the Government employees medical scheme was,

at that stage advertising – an advert went out for companies to tender for a – I don't know how many years it was but I assume it would have been a two, three, four year contract to provide communication services, marketing services and branding services etcetera for GEMS and that in itself was also a very expensive contract which would have run well into a few hundred million at that stage.

ADV SUSAN WENTZEL: And did you get an impression or who was funding these young men in their proposed businesses, who was behind them, if there was anyone?

10 **MR SIMONS:** I don't know if they were particularly being funded by any individual but for Mqondisi and his brother, for example, they very openly said that Mr Khulubuse Zuma was funding their stay in Sandton and that they were getting an allowance from him and that they technically, to a large extent then, must also represent him and that is how they, consistently portrayed themselves.

ADV SUSAN WENTZEL: And do you know through which entity they wished to secure these contracts with government?

MR SIMONS: They came to us with a company called Weintelligent. Now Weintelligent when I was asked to do some basic check on them is
20 the company that was also in conflict with the National Youth Development Agency at that particular stage. So I then obviously as I indicated informed the Minister, gave him my brief little report on meetings that I have held with them and then also some of these online articles which I then basically had printed out and provided to the Minister.

ADV SUSAN WENTZEL: Mr Simons I want to show you a letter on page 20 and it is dated the 24th of March 2014 and it is signed by Mr Chabane and in that letter it is addressed to Mr Zwane who you say was one of these young men and you say “our recent engagement and” – not you say – it said:

10 “Our recent engagement and discussion at the launch of the Solomon Mahlangu Scholarship Fund refers. Thank you for your presentation on HOWZIT. Your interactive web-based customer target billboard for digital advertising. It is indeed encouraging to find our young people making inroads in the area of digital advertising. In this regard we support the efforts of the Weintelligent Technology through their HOWZIT project which will not only benefit our youth but the community at large. Yours sincerely.”

Now you have said that Minister Chabane said to you, keep these people away from me. Under what circumstances did he come to sign this letter and could you explain what the HOWZIT project was?

MR SIMONS: The HOWZIT Project was not presented to the Minister.
20 It was presented to me and to a large extent I actually drafted the letter as well because I mean if you have an understanding of how the Ministries operate. You – if there is a proposal – if there is a project you try and give the Minister as much information as possible. The HOWZIT project was not a bad concept at all. It was about trying to empower and getting youth in particular into the advertising industry.

But since our very first meeting which happened way before this letter I constantly told the Minister, Minister they want a letter from you indicating that there is some support from the office of the Minister in the President. He then told me to draft a letter. He read through it and then he said, okay fine because it does not commit us to anything in particular within government. So it is a letter that just broadly says that look Brent spoke to the Minister and the Minister has noted this project and that basically through me they will try and get as much support as possible from the Minister in the Presidency.

10 **CHAIRPERSON**: It looks like they wanted a letter from the Presidency that they could use to get whatever assistance from other people or business from people. Would that have been your thinking as well as to what the purpose of the letter was?

MR SIMONS: It would have been to try and assist them to open some doors within government yes.

CHAIRPERSON: Yes, yes.

MR SIMONS: And we very – I am sure that there would be one or two people who would be able to verify that. Even though we have given them this letter beyond that we did not really assist with any physical
20 opening of doors to contracts within government.

CHAIRPERSON: H'mm. But I guess that the list they must have wanted it for is to show it around.

MR SIMONS: Yes.

CHAIRPERSON: To say even government supports us.

MR SIMONS: *Ja*.

CHAIRPERSON: And their understanding would have been that that should carry some weight somewhere?

MR SIMONS: Yes.

CHAIRPERSON: *Ja* okay.

ADV SUSAN WENTZEL: Thank you. I would now like to refer you to a letter on page 22 of the bundle. It is an e-mail from Mr Matembo or Mr Zuma dated the 2nd of April 2014 addressed to you copied to James Zwane and Archie Zondo and it say:

10 “Dear Brent. I trust that this e-mail will find you well.
Pursuant to our last engagement we would kindly request
to meet with yourselves on the 4th of April 2014 at
Michael Angelo Towers Park Firm restaurant at 10:00 to
discuss the HOWZIT and connect to government project
and other digital solutions. Thanking you in
anticipation.”

Did you in fact meet with them after this request?

MR SIMONS: I met with them. I informed the Minister that there was this request and I also had to inform the Chief of Staff at that stage so that there was at least for our record purpose they are aware that I am
20 officially travelling to meet with these individuals.

ADV SUSAN WENTZEL: And then after this meeting did you receive a business proposal with regard to this HOWZIT project?

MR SIMONS: The business proposal was received and then basically just filed. No not formally filed in the Ministry but filed within our own little setups on our laptops.

ADV SUSAN WENTZEL: So if I can refer you to page 24. It is an e-mail from James Zwane dated the 7th of April 2014 addressed to you.

“Dear Brent. Please find attached the bus plan and see below notes from our meeting to do for Weintelligent send bus plans, send rates, identify sites and get letters to do for Brent. Meet Donald with GCIS and get letter of support for HOWZIT. Talk to Donald about meeting Weintelligent rates 2000 per screen per month. They will be 200 screens to begin with. Regards James.”

10 And then on page 25 is that the business proposal that was sent to you?

MR SIMONS: Yes.

ADV SUSAN WENTZEL: Now in paragraph 23.

CHAIRPERSON: Of his affidavit.

ADV SUSAN WENTZEL: Of your affidavit you refer to Annexure BAS5 which can be found on page 44 and if I can take you to that. And this is an e-mail dated the 8th of April 2014 and it is from the young Mr Zuma to you also copying James Zwane and Busa Zuma and it says?

20 “Dear Brent. There is something we forgot to mention on Friday during our meeting. We had a chat with the Minister regarding our application for an ICASA licence for the advertising on voice call concept ad call. The Minister was willing to assist us secure a meeting with the decision makers at ICASA who could help us fast track the application. We also wanted to negotiate more

favourable rates as we will be giving calls for free to the public. Can you assist us in securing a meeting with them? Looking forward to your reply. Regards Mqondisi.”

Can you explain that to the Chair please? What was this about?

MR SIMONS: At this stage we were also moving I think it would have been electing hearing period as well for the then general election. So what they wanted here was they wanted us to directly put them in contact with ICASA but they wanted us to be present as well. Because
10 then you would have someone from the Presidency also participating in the meeting which would have given it a certain elevated status according to them. So for this they were proposing that they basically run adverts for government as well through a particular company of theirs in which they would get all government departments to basically place adverts through them. And then if your phone rings for example and you do not answer and after a couple of seconds it goes into a voicemail. Or if you answer it you get a voice on the other side or a recording on the other side basically telling you that this is Home Affairs you need to register SASSA etcetera so that was part of their
20 proposal. But from their understanding they actually needed a particular licence to operate that. And they then wanted us to put them in contact with ICASA. And that meeting also never materialised because there was no attempt from our side to put them in contact with ICASA.

CHAIRPERSON: Well it looks like you were reluctant to do this part of

what they wanted you to do. Am I right?

MR SIMONS: Yes they were already in contact with ICASA.

CHAIRPERSON: Yes. So tell me about the basis for your reluctance? Is it just that they were already in contact with ICASA or is it something more than that?

MR SIMONS: No it was in fact what – if you read the e-mail and they do not say it exactly in the e-mail there. But what they are saying is that look we want you to fast track the application. We also want special rates from ICASA. So they wanted us as the Presidency or the
10 Minister in the Presidency to come in and then basically try and pull some strings and told ICASA look this is a special application here. Fast track it we do not want you to delay it. They then also wanted us to – as the officer of the Minister in the Presidency to basically instruct ICASA as well. Look either you reduce the rates or you do not give them any rates. You do not charge them anything. And at that stage we felt that that is not something that we were prepared to do. And therefore even the Minister had no objection when we declined to assist on this particular event. And our declining never went in a formal letter or e-mail declining it was just basically ignoring correspondence
20 regarding this.

CHAIRPERSON: Yes. Yes. They did not specifically say they wanted you to do anything more than being present as such a meeting with ICASA or did they?

MR SIMONS: In fact the e-mail says they – exactly what they said in the meeting as well.

CHAIRPERSON: Yes.

MR SIMONS: They wanted us to assist with – with making sure that the application goes through faster and that there are no unnecessary delays which they in fact regarded formally processes as ...(intervenes).

CHAIRPERSON: As a waste of time.

MR SIMONS: As a waste of time and delays.

CHAIRPERSON: H'mm.

MR SIMONS: So they thought that with us present they would be able
10 to expedite the entire proposal that they were presenting.

CHAIRPERSON: H'mm.

MR SIMONS: And then also in that process then we also wanted to negotiate what do they say there – more favourable terms.

CHAIRPERSON: H'mm.

MR SIMONS: In terms of us being youth we want the reduced rate from ICASA. That they not charge us what they would charge any other South African company.

CHAIRPERSON: Excuse me. So would it be correct to say that they
20 wanted you to use the Presidency or the Ministry in the Presidency to advance their cause or case at ICASA?

MR SIMONS: That would be correct.

CHAIRPERSON: Yes. And you thought that that was going beyond the acceptable line?

MR SIMONS: Yes.

CHAIRPERSON: In terms of whatever assistance you could give. Is

that right?

MR SIMONS: Correct.

CHAIRPERSON: Okay. Yes. Continue.

ADV SUSAN WENTZEL: Thank you. Mr Simons you then in paragraph 24.1 of your affidavit on page 7 refer to a meeting ...(intervenes).

CHAIRPERSON: So I am sorry Ms Wentzel. So the picture that I am getting and you must just tell me if that is how you understood it as well or how you see it is. They started with asking for a letter.

MR SIMONS: *Ja*.

10 **CHAIRPERSON**: From the Presidency that expresses support for what they were doing to trying to get. Then now they were wanting people from the Presidency to be with them in their meeting with ICASA so as to assist them in their discussions with ICASA?

MR SIMONS: The letter in fact they wanted to use for all their proposals.

CHAIRPERSON: Yes.

MR SIMONS: So that is why they are making reference to meetings with GCIS.

CHAIRPERSON: Yes.

20 **MR SIMONS**: And ICASA and GEMS etcetera.

CHAIRPERSON: Yes.

MR SIMONS: So it is correct to conclude that what they wanted was – and I mean it is almost like a fishing exercise where you put on your bait and everything and then once the fish bites you start reeling it in. And the letter in their possession would have been something like that.

That look we have the support of the Presidency or the Minister in the Presidency.

CHAIRPERSON: Well it may well be that there is some comparison to be done between what they were doing and what the Gupta's seem to have been doing on the evidence that I have heard so far at least in some cases where the evidence suggest that Mr Duduzane Zuma would be present when the Gupta's were talking to certain people but he would not be making any serious contribution to the discussion but he would be there.

10 **MR SIMONS:** *Ja.*

CHAIRPERSON: I heard evidence in that regard from Mr Jonas who said when the member of the Gupta family who he said offered him money if he agreed to work with them as Minister of Finance. He said Mr Zuma and Mr Hlongwane were there but he said they were as – they were very quiet.

MR SIMONS: *Ja.*

CHAIRPERSON: I heard evidence from Mr Dukwana former MEC in the Free State government who said there was a day when he and former Premier of the Free State Mr Magashule went to the Gupta residence
20 when I think Mr Rajesh Gupta spoke to them and on that occasion Mr Rajesh Gupta wanted Mr Dukwana to sign a certain letter appointing one of their companies giving them some government business in the Free State and saying that he should get rid of his Head of Department and proposing Mr Richard Seleke as the person to make Head of Department and Mr Dukwana said Mr Duduzane Zuma was there but he

did not say anything. And then I think there is another incident too when one of the witnesses told me something similar to say the Gupta's were talking to him about something and Mr Duduzane Zuma there but he did not say anything. So with you or the Ministry in the Presidency first this group of young people as a – for a letter of support from the Presidency now they wanted you to be present at a meeting they were going to have with ICASA.

MR SIMONS: Yes.

CHAIRPERSON: Where they were going to ask ICASA to agree to
10 certain things.

MR SIMONS: In the correspondence read out earlier as well they in fact asked me to meet with the acting CEO of GCIS.

CHAIRPERSON: Yes.

MR SIMONS: Before ...(intervenes).

CHAIRPERSON: Yes.

MR SIMONS: They come on board.

CHAIRPERSON: Yes.

MR SIMONS: Then when they are meeting so ...(intervenes).

CHAIRPERSON: Yes.

20 **MR SIMONS**: So – when I contact the acting CEO of GCIS.

CHAIRPERSON: Yes.

MR SIMONS: I do so in my capacity as a senior official in the Ministry of the office for the Minister in the Presidency.

CHAIRPERSON: H'mm.

MR SIMONS: So they would have assumed that would be a very

powerful and influencer.

CHAIRPERSON: H'mm.

MR SIMONS: To open those doors and that is why you can see them asking very directly, can you facilitate the meeting with ICASA? Can you meet with Donald as GCIS? Can you then arrange a subsequent meeting for us with Donald where you will also be present etcetera?

CHAIRPERSON: H'mm. Actually I have now remembered the third witness who told me something similar. Mr Saloojee who was Group CEO on Denel said he was taken to a meeting at the Gupta residence
10 by Mr I think Mr Essa called him to a meeting. I think he attended three meetings there but on the second meeting if I am not mistaken Mr Zuma was part of the meeting when a member of the Gupta family was talking to Mr Saloojee wanting some discussion on possible working together between Denel or business with Denel and he said Mr Duduzane Zuma was there but he did not say anything. He was just there. So there have been a number of those instances. Yes.

ADV SUSAN WENTZEL: Yes thank you Chair. Mr Simons you refer to further meetings in paragraph 24.1 and 25 of your affidavit. You refer to a meeting on the 29th of May 2014 in paragraph 24.1. How do you
20 recall that date?

MR SIMONS: I think this was still part of my original affidavit to Parliament as well. At that stage I would have had access to all my electronic as well as physical diaries so we do archive our diaries. So I particularly I remember this date. I also I think went to go and check it with my – what do you call it – your logbook – your kilometre

logbook. So I went to this particular meeting so – but as I indicated in my affidavit as well the one I submitted to the Commission I no longer have access to those electronic diaries and if it is still archived it would probably be in an archive somewhere but from my side I – once you leave the department you do not have access to that department's e-mail and server.

ADV SUSAN WENTZEL: And can you recall what happened at that meeting?

MR SIMONS: At this particular meeting they wanted me to secure a
10 contract with GCIS. You see they use us to try and assist with securing the ...(intervenes).

CHAIRPERSON: One second Mr Simons. Maybe you can put on the aircon just a little bit. *Ja* okay thank you. Yes I interrupted you while you were answering. *Ja*.

MR SIMONS: Thank you.

CHAIRPERSON: Oh you must say if she must remind you the question – what the question was.

ADV SUSAN WENTZEL: Do you recall what happened at that meeting? What was it about?

20 **MR SIMONS:** Yes. At that meeting they clearly indicated that they wanted these public information terminals which is something that also comes from the conflict between the NYDA and Weintelligent where they have these public information mobile terminals where anyone can access any information about government. But once you open up the page there would be adverts either from Home Affairs which they would

have to pay for as well as any other government department. And they have already determined the pricing as well because they were saying that it was going to be R2 000.00 per terminal. So let us say for example you then have 10 departments advertising on that particular terminal then you multiply it by the 200 plus that they already had available and you come to a substantial monthly amount that they would be receiving through government advertising in public information – through public information terminals placed at the Thusong Service Centres of government. And at that stage I think
10 there were about over 200 if I am not mistaken active Thusong Service Centres throughout the country.

ADV SUSAN WENTZEL: Yes.

MR SIMONS: They also wanted us obviously to secure space for the advertisements of those departments and they wanted us to do that through GCIS which is very similar to denial defunct TNA would have received advertising through GCIS for government adverts in used – in the newspaper for example.

ADV SUSAN WENTZEL: And so am I understanding correct that they were wishing to earn funds in both renting the terminals and for the
20 adverts that would be placed on those terminals by government departments?

MR SIMONS: Yes.

ADV SUSAN WENTZEL: And then the meetings you referred to on – in paragraph 25 on the 30th of September 2014 and the 6th of October 2014. Do you also get these dates from your electronic diary?

MR SIMONS: Yes.

ADV SUSAN WENTZEL: And can you recall what these meetings were about?

MR SIMONS: Well at that stage it is September and October we would have been in the Public Service and Administration Ministry. So we would have moved out of the elections from the office of the Presidency to DPSA. So the – you know they came back and said look you are no longer in the Presidency we will deal with people who are in the Presidency still on some of these projects that they wanted. But now
10 that we are at DPSA they wanted us to assist them with access to potential and contracts within the Public Service and Administration setup of government. And this is where they said, look we can offer discounted cell phone contracts to all public servants and the Minister in DPSA would be able to issue a directive to the entire public service after meeting with the Treasury as well to basically say, look here is this group of young individuals let them provide cell phone contracts to the entire public service. And that obviously would have meant that they would have had a very wealthy contract assigned to them through the Minister in Public Service and Administration at that stage.

20 **ADV SUSAN WENTZEL**: And through which vehicle did they wish to pursue this venture?

MR SIMONS: That one was also when they are meeting with us at this particular stage they were still meeting with us as Weintelligent to try and ensure that this contract progresses.

ADV SUSAN WENTZEL: With regard to that if I can just refer to you

what you have said in paragraph 26.

MR SIMONS: 6.

ADV SUSAN WENTZEL: If you can just tell me if that is correct or not?

MR SIMONS: *Ja.* So at this stage I also reported to the Minister that it seems as if there was conflict in the group and the colleagues who – not the colleagues but the young people who were referring to themselves as Zuma family members then made it very clear that there was some contracts that they were going to run through some empowerment group which they were directly responsible for. Now
10 somehow I will have to try and find out exactly which company they were referring to but they were referring to a company that they would directly control. And that is when I then realised that even in this group there were people who were looking at the group in its entirety and then the meetings with some of these individuals were beginning to say that it was a more Zuma linked family empowerment group that they wanted to benefit from this contract.

ADV SUSAN WENTZEL: And did you receive a proposal from them with regards to the business they wish to do with GEMS, the government medical aid?

20 **MR SIMONS:** In fact as indicated I think if I recall correctly GEMS had advertised for companies to tender for a massive marketing, branding, communications, PR contract of theirs and these colleagues then felt that we should in fact push their company very strongly for this and this was then the first time where I was actually told look here is a – our company profile.

Can you take this to GEMS and give it to them? They then assumed that by doing that ...(intervenes).

ADV SUSAN WENTZEL: When you say “they” what do you mean?

MR SIMONS: The young adults ...(intervenes).

ADV SUSAN WENTZEL: Oh, yes.

MR SIMONS: Who wanted this business assumed that if I take it to them that this contract was just automatically going to be awarded to them, but we all know that that was not how it was supposed to operate within Government. I made that very clear to them at that stage. That
10 you are not just going to get this – but then they insisted that we at least ensure that they get – that we deliver the profile of the company to them.

That was the first stage at that stage where I then released that there was another company involved as well and that was particularly focused on communications, branding, marketing, advertising etcetera. So I was handed a sample. I took the sample up to Minister Chabane, because at that stage there was another controversy around it.

They were saying that it had the endorsement of Luthuli
20 House. I went to Minister Chabane and I said Minister I am told that this is endorsed by Luthuli House. That – Minister just said look I do not think that is the truth. What you can do and the only thing you must do is give the sample to the relevant person in GEMS, but also make it very clear that we do not expect anything to happen.

You are just following a process where you can also report

that you have given this document to this individual. I failed to recall the name. I know it was a woman and I know that she was either the Head of Communications at GEMS or she was the Spokesperson for GEMS, but I set up their meeting and that meeting I set it up through the office – my office in the Ministry at DPSA and that meeting – I do not know if I recall the date exactly, but I actually met with her at a restaurant in Groenkloof in Pretoria.

ADV SUSAN WENTZEL: And what happened?

MR SIMONS: At that meeting I took the envelope. I gave it to her. I
10 told her that look there is multimillion Rand contract that you have advertised. That these people are family members of the President. I then very clearly indicated that it was at that stage Busa Zuma and Mqondisi Zuma and that they – in this envelope there is a profile of a company. That they believe should get this contract.

She was very – I could see that she was either upset or very nervous about what I was telling her. To put her mind at ease there I actually told her that look. They do not have to get this contract. That is not why I am here. I am just delivering this envelope. She want – inquired about the Minister and I told her that the Minister is very
20 aware that the meeting is taking place, because at that stage it is also logged on my logbook.

I drove from the office to this particular meeting and the Minister is aware. That she does not need to panic. That it is beyond our control but handing over the envelope does not mean that the contract is being awarded to this particular company. I – if my memory

recalls correctly. I do not think they were even considered for that particular contract.

ADV SUSAN WENTZEL: And Mr Simons as far as you are aware did these individuals succeed in obtaining any Government contracts through your introductions?

MR SIMONS: From our side not a single contract was awarded to them. I – as indicated the image and I know Judge you know ma'am many people say you cannot speak on behalf of a dead person, but some people tend to speak negatively of someone who had passed on
10 and the Minister that we knew was a very different character.

In fact he despised corruption to an extent that he hated it to a level where he would not want to be seen or associated with people who directly practiced a level of corruption. He was one of those Ministers where if you sat at a particular event you would never find him sitting alone. He would mingle with individuals ordinary Public Servants and so on.

Even inviting them to come and sit with him. So he made it very clear that look I – this is our Government. He used to speak very often about the sacrifices they made. Particularly those of us how grew
20 up in the 70's and the 80's as well and obviously before that and the question he would ask was is this the ANC that people died for.

Is this the ANC that people paid the ultimate sacrifice for example and is this the country that we want this country to move in this particular direction and his own answers would be that we should stop and prevent this country from going in the wrong direction and that

is why I can say, because he – it was an instruction from him.

That look meet with them, but make sure that nothing materialises and keep them away from our office.

ADV SUSAN WENTZEL: And were these individuals happy with the fact that all these introductions and meetings with you led to nought?

MR SIMONS: No. They were not happy and that is why they started issuing threats at some of their meetings. You know that we will report you to the President. We will report you to Khulubuse and they would even bring certain messages sometimes from – I mean I assume it
10 comes from him, because they refer to him as a father figure.

Saying that Khulubuse is not happy with the delays. That he wants to meet with the Minister and that he will deal with you. So those are things that they would say at some of these meetings when it became very clear that instead of making the road easier for them we were actually beginning to make it a little bit more difficult.

ADV SUSAN WENTZEL: Could you please tell the Chair what happened at the Oliver Tambo International Airport?

MR SIMONS: H'mm.

ADV SUSAN WENTZEL: Which you refer to in paragraph 33.

20 **MR SIMONS:** Yes and before that you would see part of these statements they were made was that “Khulubuse is becoming impatient. Do not let him come to a meeting and deal with you” and I put that in quotation marks there, because that is how it was carried over to me. So on one of these occasions we were asked – in fact I was phoned and I was asked looked we need to meet with you, because Khulubuse

is now impatient.

So we must meet with you and I then indicated that look they wanted a meeting with the Minister as well. I lied. I said the Minister is already on his way out of the country. We were on our way out of the country, but I said he is already out and that I am joining him and they then asked me where are you.

I said I am on my way to OR Tambo International and they said look can we meet with you at OR Tambo then and I said okay. No problem. So we had a meeting at OR Tambo. They then made it very
10 clear there that Khulubuse would want to meet with the Minister, because of what they termed our delaying tactics and that I must not be surprised if Khulubuse then just pitches up and comes box me, because he was angry.

He was upset that there is no progress with any of the contracts and I am talking from the Presidency period now. So – I mean we had that discussion. I said I would bring it over to the Minister's attention and we left. I mean we went out of the country and they went back to Sandton.

ADV SUSAN WENTZEL: And did they try ...(intervenes).

20 **CHAIRPERSON:** Well you – I am sorry Ms Wentzel.

ADV SUSAN WENTZEL: Sorry.

CHAIRPERSON: You are dealing with what is at page 12 of your – of the affidavit, but earlier on and I do not know if you said this and I did not hear you. You deal with – you dealt with the – Minister Chabane's failure or refusal to renew Mr Manyi's contract as the CEO of GCIS or

...(intervenes).

MR SIMONS: Yes.

CHAIRPERSON: DG of GCIS. Can you just talk more about that?

MR SIMONS: The ...(intervenes).

CHAIRPERSON: You said ...(intervenes).

MR SIMONS: Sorry. The removal of Mr Maseko.

CHAIRPERSON: You said paragraph 48 of your affidavit.

MR SIMONS: *Ja*.

CHAIRPERSON: DG's - Director-Generals employed on a five-year
10 contract and then you say when Mr Manyi replaced Mr Maseko. He was
still within five – his five-year contract. Do you want to talk more about
that? How – what happened when Mr Manyi's contract as DG of GCIS
came to an end after he had replaced Mr Maseko?

MR SIMONS: At that particular time I was at GCIS.

CHAIRPERSON: Yes. Yes.

MR SIMONS: *Ja*. So ...(intervenes).

CHAIRPERSON: No, but I want you to talk about that.

MR SIMONS: *Ja*.

CHAIRPERSON: *Ja*.

20 **MR SIMONS**: Well many of us were very relieved when we got that
news, but from the perspective of the Minister. As I indicated the last
time I think we were in Australia when he spoke about it. I think the
then ...(intervenes).

CHAIRPERSON: That is Minister Chabane?

MR SIMONS: Chabane, yes.

CHAIRPERSON: *Ja.* You were with him in Australia?

MR SIMONS: *Ja.*

CHAIRPERSON: H'mm.

MR SIMONS: And I think that what happened was that that the Minister – not the Minister. The Public Protector was releasing the Nkandla Report. Now while we were sitting in Australia the Minister then said look we should deal with the Nkandla issue very decisively and we drafted a statement.

CHAIRPERSON: Yes. No, no. I do not want you to take it from that.

10 **MR SIMONS:** Oh, okay.

CHAIRPERSON: As far as that, because ...(intervenes).

MR SIMONS: Okay.

CHAIRPERSON: I remember you gave evidence about that.

MR SIMONS: *Ja. Ja.*

CHAIRPERSON: What I do not remember you dealing with either your first – when you came here first time ...(intervenes).

MR SIMONS: *Ja.*

20 **CHAIRPERSON:** Or today is what happened when Mr Manyi's contract as DG of GCIS came to an end, because you do deal with it in your affidavit.

MR SIMONS: *Ja.*

CHAIRPERSON: You remember that?

MR SIMONS: Yes.

CHAIRPERSON: *Ja.*

MR SIMONS: In fact you are talking about paragraphs 48 and 49?

CHAIRPERSON: I am talking about Mr Manyi. You remember Mr Themba Maseko was DG of GCIS.

MR SIMONS: *Ja.*

CHAIRPERSON: He was removed and he went to DPSA ...(intervenes).

MR SIMONS: Yes.

CHAIRPERSON: And he was replaced at GCIS by Mr ...(intervenes).

MR SIMONS: Manyi.

CHAIRPERSON: Mzwanele Manyi ...(intervenes).

MR SIMONS: *Ja.*

10 **CHAIRPERSON:** And you say in your affidavit when Mr Mzwanele Manyi came to GCIS he was within his contract of five years as a DG ...(intervenes).

MR SIMONS: Yes.

CHAIRPERSON: And he had been DG of the Department of Labour ...(intervenes).

MR SIMONS: Labour. Yes.

CHAIRPERSON: And do you recall what happened when Mr Manyi's contract came to an end?

20 **MR SIMONS:** Do you want me to explain that to you from my perspective as a GCS – GCIS ...(intervenes).

CHAIRPERSON: *Ja* or let me ask you the question. Did Mr Chabane renew Mr Manyi's contract as DG of GCIS?

MR SIMONS: No. He did not.

CHAIRPERSON: Do you know how that came about that he made that decision?

MR SIMONS: In fact from my experience as one of the Senior Managers in GCIS there was a very good relationship between the late Minister and Mr Themba Maseko. From what I know and what I understand and even when I got to the Ministry in the Presidency.

Afterwards that relationship was not the same level between the late Minister and Mr Manyi. So when Mr Manyi's contract for example came to an end the Minister was very clear then that he was not going to ...(intervenes).

CHAIRPERSON: To renew it?

10 **MR SIMONS**: Renew it.

CHAIRPERSON: Yes.

MR SIMONS: That in fact leads me to another issue which is not in the affidavit, but ...(intervenes).

CHAIRPERSON: Yes. Before you deal with it.

MR SIMONS: *Ja*.

CHAIRPERSON: There is one that I see in the affidavit. Did - do you know whether the President at the time had any particular position about whether Mr Manyi should – Manyi's contract should be renewed or not?

20 **MR SIMONS**: In fact there were some people who believed that the contract was going to be renewed. That a new five-year contract was going to be awarded.

CHAIRPERSON: Yes.

MR SIMONS: Instead what we did was in the Presidency when we realised that Mr Manyi was still representing GCIS on the MDDA Board

which he was not supposed to have been doing at that stage. We wrote a letter to the President requesting that Mr Manyi also be removed from the MDDA Board because he was occupying a position that technically belonged to GCIS and he was no longer representing GCIS.

So from that letter also he you can – it is clear that Minister Chabane was not too keen on having Mr Manyi in Government and in particular back at GCIS.

CHAIRPERSON: Look at paragraph 49 of your affidavit. Do you – is that what – is what you say there true? Do you what to read it?

10 **MR SIMONS:** “In fact Minister Chabane informed me personally that Mr Zuma was very angry with him over his refusal to extend/renew the contract of Mr Manyi.”

And that is ...(intervenes).

CHAIRPERSON: Is that true?

MR SIMONS: That is what Mr – the late Minister Chabane informed me.

CHAIRPERSON: Is that what you were told by Minister Chabane?

MR SIMONS: *Ja*. This was what I reported when we – when I gave evidence ...(intervenes).

20 **CHAIRPERSON:** Yes.

MR SIMONS: A few months ago ...(intervenes).

CHAIRPERSON: *Ja*.

MR SIMONS: And this is part of what ...(intervenes).

CHAIRPERSON: Oh, you covered that.

MR SIMONS: *Ja*, and this is part of what happened in Australia

...(intervenes).

CHAIRPERSON: Yes.

MR SIMONS: When I explained.

CHAIRPERSON: Oh, okay. No. Thank you. There was something that you said was not here. Is that ...(intervenes).

MR SIMONS: No, no. I in fact ...(intervenes).

CHAIRPERSON: You have dealt with it now?

MR SIMONS: In fact I see it is here.

CHAIRPERSON: Yes. Okay. Alright.

10 **MR SIMONS**: Paragraph 50.

CHAIRPERSON: Yes. Okay.

ADV SUSAN WENTZEL:

MR SIMONS: Where I said that:

“Shortly before the April 2014 elections ...(intervenes).”

CHAIRPERSON: Yes.

MR SIMONS: “ ... I drafted a letter for Minister Chabane for the attention of the President requesting and informing him that Mr Manyi was no longer the CEO of GCIS and therefore had to vacate the position he was occupying on the MDDA Board.”

20

CHAIRPERSON: Okay. Thank you. You may proceed Ms Wentzel.

ADV SUSAN WENTZEL: Thank you. Just to finish off on the business dealings of the young gentlemen. After the event of Oliver Tambo Airport was a further attempt made by any of them to contact Mr Chabane – Minister Chabane?

MR SIMONS: In fact on – I cannot recall if it was that particular trip, because Minister Chabane was very active with the envoy appointed by the President to negotiate the peace settlement in South Sudan at that stage. So we would very often find ourselves flying to South Sudan, Ethiopia or Kenya where the – because Kenya was also part of the AU facilitating country to ensure that there was stability in South Sudan.

So at one of our – Minister Chabane would – I mean on all the trips that I travelled with him. He stayed at the Intercontinental in Nairobi and that was the – one of the last incidents where I recall a
10 Zuma family member directly where I was a witness to it trying to meet with Minister Chabane, but that meeting never happened at the hotel.

Whether the family member was there to meet with Minister Chabane. That solely I cannot verify that as well, because I do recall reading that and they were also involved with potential business deals in Sudan – oil deals in that part of the continent. So Nairobi would probably just have been a very central place for people to meet.

ADV SUSAN WENTZEL: And who is the family member you are referring to?

20 **MR SIMONS:** As indicated it is Mr Khulubuse Zuma.

ADV SUSAN WENTZEL: And what did Minister Chabane say when he said he wanted to meet him?

MR SIMONS: He said I must ensure that no meeting takes place. That he did not want to meet with him.

ADV SUSAN WENTZEL: Now Mr Simons from paragraph 51 of your

affidavit you also deal with the appointment of Mr Steve Tshwete's son as the DDG in the Communications Department of the Department of Home Affairs under Minister Gigaba.

MR SIMONS: *Ja.*

ADV SUSAN WENTZEL: Could you explain how Minister Chabane was involved with this?

MR SIMONS: As the relevant Minister and I think Judge I need to explain the relevance of it. Broadly the relevance of it is that this was one of the occasions where the Minister indicated to me – he in fact
10 came to my hotel I was staying at in Cape Town. So after the Cabinet meeting had ended I was in bed already and he came.

He phoned on my cell. I got to the cellphone too late and then the room phone rang. I answered it. It was Minister Chabane who said look I am downstairs. Come down and I want to have a chat. So I went down. It was roughly about 11 o' clock/half past 11 the evening. The Minister then indicated to me he is concerned.

Saying that for the first time he was told after sometime within the ANC and after sometime as a senior politician that this is a political decision and therefore the only thing I had to do was endorse
20 that and I asked what he was referring to and he was referring to the appointment of Mr Tshwete as the DDG in the Office of the then Minister, I think it was it Home Affairs, Mr Gigaba.

Now DPSA raised certain concerns at that stage with the appointment itself. Part of that would be for example you needed a particular amount of years of experience to be appointed at a DDG

level. You needed certain qualifications in order for you to be at that level and some of the reports and I think it is also attached in the affidavit where DPSA also raised concerns with the overall competency of the nominated candidate for this particular post, but the correspondence to and from between Home Affairs, at that stage, and DPSA was that they wanted the appointment expedited.

CHAIRPERSON: Irrespective of whether the candidate qualified or not?

MR SIMONS: Yes.

10 **CHAIRPERSON**: That is ...(intervenes).

MR SIMONS: H'mm.

CHAIRPERSON: That was their stance?

MR SIMONS: In fact part of the process within Government and I think maybe even in the private sector. If you want a particular candidate appointed and your prescripts would say the advert must indicate that you require a post graduate qualification. You can change the advert to some extent that you can say you know you are looking for a three-year qualification, relevant qualification or you can be very direct.

So DPSA had raised certain concerns regarding the process.

20 Regarding the appointment and obviously the Minister felt that he was within his legislative duty then to sit, ask certain questions and then to apply his mind because the memorandums for appointment from Deputy Director-General level upwards goes through the Public Service and Administrative Minister.

So Minister Chabane had not signed the memorandum. The

appointment was – the – well was made. It was discussed I think at Cabinet level. Cabinet had announced that the appointment is endorsed and the following day the Minister signed the relevant documentation. I doubt that he still signed the actual memorandum – Cabinet memorandum, because it was already discussed at that level and technically endorsed.

So when he came to my hotel he was – again you know Ministers are human at the end of the day. They are prone to all emotional characteristics that we as any human would be exposed to
10 and I think he felt a bit upset and also a little bit of anger at that stage, because he was saying you know that I thought I used be in the inner circle where political decisions are made and then I am told that it is a political decision and I am – I was not even party to that discussion, but it is the responsibility of the relevant Minister and that is why he then signed the documents.

It was not backdated. It in fact reflects the actual dates when he signed it. So that was part of the discussions that the Minister would for example raise with you when he wanted to talk to someone.

CHAIRPERSON: Now do you have a clear recollection whether for
20 example in the case of Mr Tshwete. Mr Mayihlome Tshwete whether what requirements he did not meet for that position of Deputy G ...(intervenes).

MR SIMONS: He ...(intervenes).

CHAIRPERSON: Or do you no longer have a clear recollection of that?

MR SIMONS: I think the documentation is in the affidavit as well, but it

talks about the – at that stage it specifically referred to the overall competency. The competency in terms of whether you have the ability to manage staff. Whether you have the ability to sit at a particular executive level and entertain and discussions etcetera.

The other issues were for example the CV would say that I qualified for – to get a particular degree from Unisa in 2013 and then 2013 you appointed at Chief Director level. So part of the concerns would be that you need to have a level of experience either at Deputy Director level – at Director level in order for you to qualify to be a Chief
10 Director for example in Government and in order for you to be appointed at DDG level you also need to have next to your overall competencies outside of the Public Service, but you need to have a particular amount of experience that you have gained in terms of overall management of staff, finances.

So I think part of the concerns raised by DPSA at that stage was around financial management aspects, overall competency in terms of people management, supervisory responsibilities and also I think there is a direct reference to the person does not have the relevant academic qualification.

20 **CHAIRPERSON:** H'mm. Well I am interested to get relevant documents that may show exactly what was required for the position and what it is that he did not have to meet the requirements. We have had a situation – we have had evidence where according to Mr Ramatlhodi and Mr Morphe, Minister Zwane or his Department Mineral Resources wanted Minister Ramatlhodi when he was Minister of

Public Service ...(intervenes).

MR SIMONS: *Ja.*

CHAIRPERSON: Administration to approve the appointment of Mr Mzwanele Manyi as DG of ...(intervenes).

MR SIMONS: *Ja.*

CHAIRPERSON: Of the Department of Mineral Resources. Mr Ramathodi said he refused ...(intervenes).

MR SIMONS: Yes.

CHAIRPERSON: To approve that appointment, because Mr Manyi did
10 not have, I think, a Degree or a Post Graduate Degree. One of the
academic qualifications that was required he did not have
...(intervenes).

MR SIMONS: *Ja.*

CHAIRPERSON: According to Mr Ramathodi and he refused to
approve his appointment. Mr Morphe who was Mr Ramathodi's Advisor
at the time gave evidence that subsequently Mr Manyi went to
Mr Morphe and told him that the former President was very unhappy
about the fact that they, I assume that is Mr Ramathodi, had refused to
approve his appointment ...(intervenes).

20 **MR SIMONS:** Yes.

CHAIRPERSON: And – but nobody has said Mr Ramathodi was
mistaken or was wrong to think that Mr Manyi did not have the required
academic qualifications. So the picture one gets is as if there was a
requirement in terms of the law or in terms of the advert to say the
people who may be appointed – the person who may be appointed as

DG must have this qualification – academic qualification.

Mr Manyi did not have it. So Mr Ramathodi refused, but according to Mr Morphe Mr Manyi went to see him and said the former President was very unhappy or was unhappy that he – they had refused. So you are telling me now about an instance where as you recall somebody did not meet certain requirements and your Minister at the time – Minister of DPSA at the time, Mr Chabane, refused to approve the appointment of this person as DDG, but Cabinet over - overruled him. So I would like to get more information about that.

10 **MR SIMONS**: I ...(intervenes).

CHAIRPERSON: So if you can assist with whatever information, documentation that you – there may be other than what is here. Please do, but ...(intervenes).

MR SIMONS: *Ja*.

CHAIRPERSON: It has been many years. So it might not be easy to find. Okay.

ADV SUSAN WENTZEL: Chair it is 16:00 but I don't expect that I'll be much longer with the witness, I don't know ...(intervenes).

CHAIRPERSON: Okay let's try and finish. I'm sure Mr Simons will
20 prefer that too, let's try and finish. I would imagine it shouldn't take more than ten minutes to finish.

ADV SUSAN WENTZEL: I don't think so.

CHAIRPERSON: *Ja* let's try and finish.

ADV SUSAN WENTZEL: Chair subsequent to Mr Simons giving evidence the Commissions investigators asked pursuant to request for

information from DPSI certain documentation has been obtained which has also been included in the bundle. I don't know if it's sufficient documentation and whether Chair you would like us to obtain more but I can just quickly go ...(intervenes).

CHAIRPERSON: It must just tell me – if it tells me what requirements Mr Mhlongo Tshwete did not meet and what the requirements were for the position that will be enough.

ADV SUSAN WENTZEL: Yes.

ADV SUSAN WENTZEL: Could I refer you to page 59, is it correct
10 that this is an Executive protocol regarding the appointments of DG's and Deputy DG's?

MR SIMONS: Yes.

ADV SUSAN WENTZEL: And was Minister Chabane involved in designing these sorts of protocols?

MR SIMONS: In fact when the Minister joined the Ministry, Public Service and Administration we brought into his speeches the fact that we were referring to the re-inventing the way we work as Public Servants and re-inventing the way Public Servants should be working and part of his position was that we actually need to ensue – and that
20 is why at that stage there was already draft documentation about if you are applying for a post in the public service at Deputy Director Level, you should at least have four to five years experience as an Assistant Director. If you are applying for a Director in the Public Service you should at least have four to five years' experience at the level of Deputy Director and so on and then obviously questioning, you know

salaries that Public Servants were being paid at that particular time, whether the structure of those payments were correct and he would often, you know say, we pay people to deal with media and communications in Government more than what we pay a policeman who – and woman who daily puts their lives at risk to protect us and he questioned that, he said there was something fundamentally wrong with that and that is why he was beginning to look at how do we restructure the entire Public Service so that South Africans actually get maximum benefit from the services being rendered and that we don't have this
10 que operation. So you would find that in there, there would also be your Senior Management Services hand-book which would also outline the process for the appointment of DDG's, DG's etcetera and this would largely have been influenced by that document.

ADV SUSAN WENTZEL: Thank you. I want to refer you to sub-paragraph 7.5. sub-paragraph 7A on page 78 because it is relevant to this aspect and there it deals with the selection committee and requires it states, sub 7:

“A selection committee constituted for the appointment of, and then Sub A, a Head of a National Department shall be Chaired by the Minister responsible for the
20 portfolio in which the vacancy exists and include at least two other Ministers and a National Head of Department.”

Do you know whether Minister Gigaba was part of the selection committee ...(intervenes)?

CHAIRPERSON: Ms Wentzel, I'm sorry I'm not so interested in that,

I'm interested in what the requirements were that were laid down, which ones did Mr Tshwete not have, not about what other procedures were followed or not followed.

ADV SUSAN WENTZEL: Yes Chair, you will see in paragraph 7.8 on page 81 it refers to the submission of a Cabinet memorandum which is a requirement and then I want to refer you to page 111 and you'll see that this is a draft recommend – memorandum which has got place for Minister Chabane to sign on page 118 and it's a Cabinet Memoranda 8 of 2015 of the 4th of March 2015. Did Minister Chabane sign this?

10 **MR SIMONS:** No that was not signed.

ADV SUSAN WENTZEL: And if I can show you the document on page 120 it says:

“Comments for the Minister's attention, appointments five-year contract appointment, Department of Home Affairs, post applied for, Department Director General Communications Services and the name of the candidate Mr M Twetwe.”

If you – who prepared this documents ...(intervenes).

20 **CHAIRPERSON:** Ms Wentzel that's taking too long. Does the document tell me what the requirements for the position were, which requirement Mr Tshwete didn't meet, that's all I need, nothing else, let's go there?

ADV SUSAN WENTZEL: Yes if you have regard to page 121 paragraph 6, and in particular paragraph 6.1, firstly whose comments were these?

MR SIMONS: These were obviously sourced from the legal and relevant sections within DPSA.

ADV SUSAN WENTZEL: And it says:

“Relevance of job specifications, qualification versus the post as advertised. The post was advertised with a three-year degree in Public Relations Management and/or a Grade 12 certificate educational requirement. A post graduate degree in the relevant field would be an advantage. According to the job description a B Degree in Public Relations Management and Communication Services or an NQF level 6 equivalent is required whilst a post graduate Degree in the relevant field would be an added advantage. It should be noted that the advert was specific to a three-year Degree in Public Relations Management and/or a Grade 12 Certificate educational requirement and the recommended candidate is in possession of a Bachelor of Administration Degree. Based on this the recommended candidate does not seem to meet the educational requirements of the post as advertised, a copy of the job evaluation report which informed the advert is not availed.”

Can you give any comments on that?

MR SIMONS: That obviously would have been handed to the Minister as well, from the Department’s side and it should have influenced his decision to rather do a thorough investigation. So what you find here is

the request from DPSA for the provision of more detailed information. So they do respond via an e-mail but that is all after the actual fact.

CHAIRPERSON: Well you may or may not be able to enlighten me on this paragraph because it's been quite some time since these events but this requirement here for a three-year Degree in Public Relations Management and/or a Grade 12 Certificate educational requirement and recommended – how do you say you want a candidate to have a Degree and/or a Grade 12 Certificate. What does that mean, so what does this requirement mean?

10 **MR SIMONS:** In fact, that is why I said earlier Chairperson that within the Public Sector as well as in the Private Sector it's very easy to try and get a person appointed that you have already identified and prior to – so what you will do is, you will craft your advert around the kind of qualifications that you think the candidate would have. Now part of the concerns, if you read through the documentation in its entirety is the competency for example and you've been in Government for two years, you started at Chief Director level and now all of a sudden we are appointing you at DDG level. So those were some of the concerns that were raised with the Minister then.

20 **CHAIRPERSON:** *Ja* but what it does mean if I understand this requirement correctly, is that, if you had the three-year Degree in Public Relations Management or you just had a Grade 12 Certificate you would be fine.

MR SIMONS: You would be – yes.

CHAIRPERSON: So the question is, well one, why do you want that

particular degree if Grade 12 is good enough?

MR SIMONS: That's it.

CHAIRPERSON: Because they are not saying that Degree would be an advantage or is recommended, it seems to be put as a requirement.

MR SIMONS: Yes.

CHAIRPERSON: But if you just have Grade 12, a Grade 12 Certificate is good enough, so it may therefore well be that Cabinet's decision be that Mr Tshwete be appointed even if he didn't have that Degree in Public – three-year Degree in Public Relations Management
10 was based on the fact that the advert said a matric is good enough.

MR SIMONS: Yes.

CHAIRPERSON: Okay let's wrap up.

ADV SUSAN WENTZEL: Chair if I can just point one further thing out to you if you don't mind and – because I think it might be helpful. Could you turn to the document on page 124, it's an e-mail dated the 3rd of March 2015 which purports to deal with the comments and queries raised and with regard to the qualifications, Chair if you can have regard to paragraph 6.1 ...(intervenes).

CHAIRPERSON: I'm sorry which page do you want me to look at?

20 **ADV SUSAN WENTZEL:** It's page 124, sorry Chair.

CHAIRPERSON: 124.

ADV SUSAN WENTZEL: Yes and in the middle of the e-mail at the second half of the page you will see it says, para 6.1 which is where this issue of his qualifications had been raised and Chair the answer is not, he had a Certificate, this is the answer that had a matric

Certificate, the answer that is given is:

“The post was advertised with a three-year post matric qualification of Grade 12, matric with relevant qualifications. Mr Tshwete is in possession of a three-year post matric qualification as well as matric with relevant qualifications.”

So ...(intervenes).

CHAIRPERSON: Yes it’s not worth – at least on what I have been to it’s not worth spending more time on it, *ja* okay is there anything else
10 you want to cover?

ADV SUSAN WENTZEL: Yes, finally Chair if I can just deal with the last part of his evidence, I don’t think it will be more than five minutes, could you just tell the Chair what happened after you posted something on Facebook in and around June 2015 dealt with at paragraph 56 of your affidavit?

MR SIMONS: Chairperson as indicted to you earlier I believed in – you know our organisation allowed people to express their views and opinions it was guaranteed and protected in our constitution etcetera so I’d been very vocal against what I thought was – that the ANC, the
20 country has been taken in the wrong direction and that the leaders of the then President Zuma. So I usually expressed my views very openly and in a discussion with some of the Senior Public Servants and also comrades based in the Eastern Cape and Gauteng etcetera I actually asked the question, why it was our then President was at the centre of most of the corruption, scandals that were happening in our country

and being reported in the media and then someone who participated in that discussion took it to the then Acting Minister of Public Service and Administration, Nathi Mthethwa, he called me he was very, very upset and angry that I had said this in a group with fellow ANC members and so on. Questioned me and that is where I was then – the next day, I was basically told, look I don't want you in the Ministry. So I was moved sideways, I sat on a half empty floor in a particular corner there in DPSA for almost nine months, close to 10 months when I was – eventually when Minister Ramathodi re-joined – not re-joined, joined

10 DPSA he then said, no you can't have someone sitting and doing nothing and earning a salary which I had been raising with my DG consistently on a monthly basis, then look I'm being paid, I'm not being used. You either charge me or you don't charge me etcetera. There was a charge sheet it was never presented to me, it had about 15 charges on it, the African National Congress was raising every charge that was being raised against me but at the end I was re-assigned to head up the Chief Directorate for Knowledge Management within the Public Service and we produced a Knowledge Management framework for the entire Public Service and that is now formally been endorsed but

20 I mean and the issue was just that even though the senior management guidelines allows for any Public Servant to participate in the affairs in political parties – discussions of political parties in your private capacity in your private time people always turn around and say, you know, there's perhaps – we would be wiser to say there's no – if you are a Public Servant there's no private time, no private capacity but

that was protected within the Senior Management Service handbook and I think that, to a large extent, was my main defence, I actually had to appoint a lawyer as well who also asked DPSA consistently, when is my client being charged and eventually after a year and a half, two-year period we said that you no longer have the legal authority to charge me because you should have done that almost two years ago. So that's what happens within the Public Service, I mean, one of the charges was that my actions were treasonous and I asked for a definition of treason because I don't think my actions were anywhere
10 close to being treasonous but that currently still is what you'll find because most of the people who would threaten you then were with these treasonous actions or disciplinary action, I mean, I eventually left the Public Service but you still have some of the individuals there and it's their right to serve.

CHAIRPERSON: So this discussion which put you into trouble, was this a discussion that you were having with a group of friends and/or colleagues or comrades within the ANC during your own time.

MR SIMONS: On a Sunday afternoon.

CHAIRPERSON: On a Sunday afternoon and do you know whether
20 maybe almost everybody was participating in the discussion was also a member of the ANC?

MR SIMONS: Yes.

CHAIRPERSON: That was so?

MR SIMONS: That was so.

CHAIRPERSON: So it was like – was it like discussing an issue of

interest to members of the ANC?

MR SIMONS: We were dealing with the issue around corruption and we felt then that the ANC had passed – at almost every National Conference that the ANC resolutions are adopted that says it is the responsibility of each and every ANC member, no matter where you find yourself, in society to combat, expose ...(intervenes).

CHAIRPERSON: To fight corruption.

MR SIMONS: And fight corruption and on that basis we were having this discussion. Someone screen grabbed it and sent it to Minister
10 Mthethwa who was obviously very, very angry that I had made that statement and that I was regarded as a Senior member in his Ministry that he was the Acting Minister of and so on.

CHAIRPERSON: But is the position that you were expressing your *bone fide* views about something of concern to you as a member of the ANC and to you as a citizen to friends and comrades who you were used to conversing with on issues?

MR SIMONS: *Ja* most of the participants in the group were, in fact, Senior Managers within the Public Service.

CHAIRPERSON: Yes, yes.

20 **MR SIMONS:** But most of them were also very active within the ANC and it just happened that one of those people were closer to Minister Mthethwa and because you are discussing it in a Facebook chat you expect it to be a public – it's not a private closed discussion and so that is how the threat of disciplinary action then arose within the Public Sector but I'm glad to say that no charges were formally put to me at

any stage.

CHAIRPERSON: But did you say that you were stopped from doing your normal work as a result of this and made to stay in some office for what, nine months or so doing nothing but being paid, is that what you said?

MR SIMONS: Yes.

CHAIRPERSON: Yes were you on suspension or were you not on suspension?

MR SIMONS: I have asked my DG then whether I was formally
10 suspended, I was never ever suspended in the Public Service and then I asked for charges to be formally put to me and those charges were never formally put to me until someone in DPSA brought me a charge sheet which is also part of the affidavit that says that these are the charges that are being prepared against you so you need to prepare yourself for it. The lawyer then requested that the charge sheet be formalised and that I be handed that formally and for almost two years of asking no charges were then brought forward.

CHAIRPERSON: Was it for about two years or about a year?

MR SIMONS: No remember I think it was from about 2015 until
20 Minister Ramathodi joined the Ministry as formal Minister of Public Service and Administration when I was given another alternative post within DPSA and then I stayed there for about a year before normally resigning from the Public Service.

CHAIRPERSON: But is your recollection that the time you spent sitting in an office and not doing anything but getting paid, is your

recollection that, that was about a year?

MR SIMONS: Yes.

CHAIRPERSON: Okay alright, thank you.

ADV SUSAN WENTZEL: Yes and Chair the charge sheet referred to is at page 46 I don't think we need to go there and I have no further questions Chair.

CHAIRPERSON: Yes, no thank you. Thank you very much Mr Simons for coming to share what you know with the Commission we appreciate it, thank you very much, if we have need for you to come back we'll ask
10 you again but thank you very much you are excused.

MR SIMONS: Thank you.

ADV SUSAN WENTZEL: Thank you Chair.

CHAIRPERSON: We are going to adjourn now, tomorrow we are going to start at 10:30 so we'll – and then tomorrow and the days after we'll – I'll be hearing evidence relating to Law Enforcement Agencies.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: We adjourn.

INQUIRY ADJOURNS TO 15 JANUARY 2020

20

**TRANSCRIBER'S CERTIFICATE FOR COMMISSION OF INQUIRY INTO STATE
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