COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

CITY OF JOHANNESBURG OLD COUNCIL CHAMBER

158 CIVIC BOULEVARD, BRAAMFONTEIN

20 MAY 2021

DAY 399

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DATE OF HEARING:

20 MAY 2021

TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH

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PROCEEDINGS RESUME ON 20 MAY 2021

CHAIRPERSON: Good morning Mr Pretorius, good morning

everybody.

ADV PRETORIUS SC: Morning Chair.

CHAIRPERSON: Are you ready?

ADV PRETORIUS SC: Yes. The witness Stephen has been

sworn in chambers and is ready to give evidence under an

order of protected identity issued by yourself.

CHAIRPERSON: Yes. So I just want to …

ADV PRETORIUS SC: Stephen are you there?

10

CHAIRPERSON: The media is reminded

STEVEN: I am here Sir.

CHAIRPERSON: The media is reminded and the public are

reminded that I issued an order in respect of this witness’

evidence aimed at protecting his identity. I will not repeat

the order everybody knows the substance of the order.

Okay. Good morning once again Stephen.

STEVEN: Good morning Chairperson.

CHAIRPERSON: Thank you once again for availing yourself

to assist the commission. We appreciate it very much.

20

STEVEN: It is a pleasure Chairperson.

CHAIRPERSON: Yes. You have already taken the oath so

Mr Pretorius can start.

STEVEN: Thank you Chair.

ADV PRETORIUS SC: Stephen do you have a bundle before

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you after the divider YY7? Bundle SSA02.

STEVEN: Advocate I have it.

ADV PRETORIUS SC: Bundle SSA2(a) what appears on the

face of it to be an affidavit attested to you by yourself. Do

you have that?

STEVEN: Yes I do.

ADV PRETORIUS SC: Alright. The affidavit appears at

YY7 SSA page 302 would you look at page 302 please; is

that your affidavit as the first page?

STEVEN: Yes it is my affidavit Advocate Pretorius.

10

ADV PRETORIUS SC: And if you go to page 314 whose

signature is that at the top of the page?

STEVEN: It is my signature Advocate.

ADV PRETORIUS SC: Alright. And as far as you are

concerned are the contents of this affidavit true and

correct?

STEVEN: Yes that is so.

ADV PRETORIUS SC: Alright. Let us go to page 302

please you state there in the introductory portion what your

current position and current duties are. We need not detail

20

those at present but you have a history of intelligence

activities with the Intelligence arm of the ANC Mkhonto

Wesizwe is that correct?

STEVEN: That is correct Chairperson – Advocate.

ADV PRETORIUS SC: Yes and in 1995 is it correct that you

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were absorbed into the New Intelligence Structure of South

Africa?

STEVEN: That is true.

ADV PRETORIUS SC: And if we can go on to page 10 the

Chair can read the background set out in the other

paragraphs but in paragraph 10 it says you were appointing

– appointed as acting Deputy Director General Domestic

Intelligence, is that correct in 2015? Let me put it this way

the allegations in paragraph 10 are they correct? Can you

hear me Stephen? Stephen can you unmute please. In

10

other words switch your microphone on.

STEVEN: Yes I can.

ADV PRETORIUS SC: And leave it on.

STEVEN: I did.

ADV PRETORIUS SC: Yes.

STEVEN: I did. I did. I did.

ADV PRETORIUS SC: Alright so if you would look at

paragraph 10 it talks of an appointment in 2015 and are the

details in paragraph 10 correct?

STEVEN: That is correct.

20

ADV PRETORIUS SC: Right. Let us then go to the

substance of your affidavit and paragraph. We know that in

2015 the State Of Nation Address was set to occur at 19H00

on Thursday the 12 t h of February 2015. Do you recall that?

STEVEN: I recall that Advocate.

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ADV PRETORIUS SC: Right. And what notice did the SSA

receive regarding the potential for disruption of that event?

STEVEN: What we received at the time was that one

political party in Parliament met the former President to

address the joint sitting of Parliament. Our task was to

ensure that the President of the Republic is able to address

the Joint Sitting of Parliament. That is what we know –

knew at the time.

ADV PRETORIUS SC: Were there concerns about the

safety of the President?

10

STEVEN: Yes there were concerns about the safety of the

President.

ADV PRETORIUS SC: Right. And in paragraph 18…

STEVEN: Because of the…

ADV PRETORIUS SC: I am sorry I interrupted you.

STEVEN: I am saying because of what was then generally

known in public that certain political organisations in

Parliament were not happy that the President was going to

address the Joint Sitting.

ADV PRETORIUS SC: Right. In paragraph 18 you set out

20

the steps taken to deal with this threat. What were those

steps? These are all matters of public knowledge now I

might add. But what were those steps? Paragraph 18.

STEVEN: The steps that we had to put in place as the

National Joints because when we deal with events of such

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magnitudes – magnitude it may not necessarily be the State

of the Nation but even events such as elections we work

within the auspices of the National Joints. So in terms of

the decision that we took as a National Joint based on the

threat assessment at the time ordinarily when there is a

sitting of that nature the SONA there are role players. The

military is part of the Nat Joints SSA, it is part of the Nat

Joints and the lead department is SAPS who then becomes

the Chair of the Nat Joints. SSA becomes the co-chair as

well as the defence.

10

ADV PRETORIUS SC: Right.

STEVEN: So …

ADV PRETORIUS SC: Just for the record before you go on.

STEVEN: (inaudible)

ADV PRETORIUS SC: I am sorry to interrupt you just for

clarity sake Nat Joints – N-a-t J-o-i-n-t-s appears to be a

joint committee representing various entities in which the

SSA plays a leading role, is that correct?

STEVEN: Yes but it is not SSA that plays a leading role. It

is the SAPS that is the Chair. The two departments

20

meaning SSA and the Defence are co-chairs of the National

Joint Intelligence structure.

ADV PRETORIUS SC: Alright.

STEVEN: In brief Nat Joints.

ADV PRETORIUS SC: Yes. Okay.

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STEVEN: So as a rule when the sitting of Parliament we

normally ask our colleagues in the Defence from the Joint

perspective that they must ensure that the – there is no fly

zone – the Parliament precinct becomes a no fly zone. But

below a certain radius the military cannot enforce the flying

of smaller devices such as drones that is where the SSA

then came in to deploy the device that we deployed which

eventually jammed the signals in Parliament.

ADV PRETORIUS SC: So a jammer was deployed to

prevent a drone from being operated at a low altitude at the

10

State of Nation Address, is that correct?

STEVEN: That is correct.

ADV PRETORIUS SC: Right. What do you say in

paragraph 19 then?

STEVEN: The – this is correct it is true that the jamming

device was to be placed outside the chambers in a position

where the former President was supposed to take the final

salute before he enters the chamber. Then after that the

jammer was supposed to be removed from sight because

that is the area which was identified for that purpose. But

20

what then happened a decision was taken without the

knowledge of the Joint chiefs by Mr Thulani Dlomo. The

jammer ended up being deployed inside the chamber in the

gallery where the visitors are allowed to access Parliament

on that day. That is what happened that day

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ADV PRETORIUS SC: What was the effect of putting the

jammer inside Parliament?

STEVEN: The effect would have meant that cell phones

were not going to be able to function on that day if that

jamming device was placed inside at the chamber. Because

the jamming device is – is operating on a radio signal. So it

interferes with other radio signal and the cell phone works

on the basis of that signal – the radio signals. So it

confuses the – the cell phone device – the GSM system and

as a result of that cell phones would not function. That was

10

the effect of placing the jammer inside the chamber.

ADV

PRETORIUS

SC:

And

would

that

have

as

a

consequent – consequence that there could be no filming or

sound

recordings

transmitted

from

the

Parliamentary

chamber to the public as to what was happening within

Parliament.

STEVEN: No – no because the jamming device does not

interfere with the terrestrial lines. The billing of what is

happening in Parliament is based on terrestrial lines. So

there would not have been any interference in terms of the

20

jamming device and the billing of the activities inside the

chamber.

ADV PRETORIUS SC: Yes but sorry I did not make it clear.

It would prevent cell phone images being transmitted.

STEVEN: Yes.

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ADV PRETORIUS SC: Is that correct?

STEVEN: That is correct. That is correct.

ADV PRETORIUS SC: Did this event or series of events

particularly the use of the jamming device in Parliament to

block cell phone transmissions raise concern amongst the

public and particularly the South African National Editor’s

Forum?

STEVEN: That is correct. Not only the SANAF I think

South Africans as a whole were not happy with what

happened on that day.

10

ADV PRETORIUS SC: Alright. What did SANAF do? You

deal with that in paragraph22.

STEVEN: SANAF is the – SANAF is the organ – is the

organisation

that

represents

journalists.

I

think

it

represents editors. That is where they are feeling dumb. I

would like to think that it is the board that represents them

in the affairs that may affect journalism or journalists as it

were.

ADV PRETORIUS SC: Right what did they do? Did they

react to the series of events?

20

STEVEN: Yes they did they filed – they actually challenged

this issue at court in Cape Town meaning they challenged

the State Security that we – we did something that was

untoward and we did not have a mandate to place such a

device in the chamber. So we were challenged.

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ADV PRETORIUS SC: Yes.

STEVEN: In other words we were being sued.

ADV PRETORIUS SC: In paragraph 21 you say that the

basis

of

the

South

African

National

Editor’s

Forum

challenge was an assertion that the public had a right to

know what was happening in Parliament and the…

STEVEN: That is correct.

ADV PRETORIUS SC: The jamming device interfered with

the exercise of that right.

STEVEN: That is correct.

10

ADV PRETORIUS SC: Another issue you say – is that

correct?

STEVEN: That is correct.

ADV PRETORIUS SC: You say in paragraph 21 another

issue was that television viewers of the Parliamentary

broadcast were deprived of the right to see visuals of the

EFF MP’s being ejected from the chamber as the camera

remained focussed on the Speaker of Parliament and the

Chairperson of the National Council of Provinces. Is that

correct?

20

STEVEN: That is correct Sir.

ADV PRETORIUS SC: Right. So what happened then

consequent to the launching by SANAF of legal proceedings

after the 12 t h of February 2015 in relation to yourself.

STEVEN: (Inaudible)

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ADV PRETORIUS SC: Paragraph 23.

STEVEN: After that there was an outcry – after the

jamming then Minister Mahlobo instructed me to meet with

him at his official residence in Tshwane. I did go to his

house. I was in the company of my colleague who was

assisting me in terms of moving me from point A to point B.

We arrived at Minister Mahlobo’s residence. I entered the

house alone. I found him inside the house but at the gate –

maybe let me first describe what the situation was like at

the official residence of Mr Mahlobo.

10

Every time I am requested to or instructed to come

to Mr Mahlobo’s house – Minister Mahlobo’s house his

protectors would be outside the residence at the gate to

usher me in because inside the yard there would have been

police who are securing the official residence. I would not

be made to sign any document in terms of indicating my

presence in the official residence. I would walk straight into

the house.

As you get into the house you would turn right. On

the right side of the house that is where this meeting – the

20

meeting that I had with Mr Mahlobo took place. It is a

lounge. I think that lounge is basically meant for these

meetings because every time I go there that would be the

space we sit for discussions.

That is what happened on that day when I was called

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after the journey.

ADV PRETORIUS SC: Where is this residence?

STEVEN: So it must have been a week –

ADV PRETORIUS SC: I am sorry.

STEVEN: The residence is in – the residence is in Pretoria.

ADV PRETORIUS SC: Okay.

STEVEN: Next to Waterkloof.

ADV PRETORIUS SC: Right if you would go on please;

what happened?

STEVEN: Then whoever entered the house Mr Mahlobo

10

said to me hey Boetie – Boetie is brother I will talk in Zulu

but I will translate. (Speaking in vernacular). Meaning he

is going to connect me to is – to use a colloquial language

Tsotsi’s. These Tsotsi’s are judges. So I was anxious that

okay for a first time I would be able to talk to people of that

calibre – judges.

So after we had our own small talk the two

gentlemen were ushered into the house. There was a black

guy and a white guy who looked a bit older. I think he must

have been in his 50’s – late 50’s and a black guy shorter I

20

think not that – very tall. He must be what 1.65 in terms of

height. So – and very dark without spectacles. The white

judge also did – or the person who was introduced as a

judge – white judge did not have spectacles but the white

guy was a bit nervous whereas the black person who was

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introduced

as

Mgwenya

[?]

Mr

Mgwenya.

I

cannot

remember the white judge’s name or the person who

Mahlobo said is a judge – the white one as well as this guy

– the black guy. The black guy I remember because he said

he is Mgwenya.

What made me to remember the name even now is

because when you look at this person who was introduced

as Mgwenya he does not look like a person who have come

from KwaZulu Natal or Eastern Cape or Mpumalanga

because Nguni people would have certain features as a

10

South African I would be able to distinguish that. But this

person Mgwenya seems to be a person who may have come

from Bushbuckridge or Limpopo Province. That is why I

could remember the surname.

But

I

was

not

convinced

that

this

person

is

Mgwenya. It must have been a code name given to me by

Minister Mahlobo. Then after…

ADV PRETORIUS SC: Sorry before you go on.

CHAIRPERSON: Ja maybe before you ask the next

question Mr Pretorius can you let me ask this. Stephen you

20

gave a translation for (speaking in vernacular) as my

Tsotsi’s.

I

think

that

translation

is

not

necessarily

inaccurate but do you also agree that can be translated as

criminals?

STEVEN: Yes, yes it can be that if you broaden the

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translation Chairperson.

CHAIRPERSON: Yes. And maybe you might be able to say

this – to say something about this. Would it be true that

sometimes in the township people use that term for people

that – they have some admiration for – they use it in a

positive sense even though it is a bad term because if you

are a (speaking in vernacular) it means you are involved in

crime. Is that your experience or is that something you do

not know?

STEVEN: For me coming from a township as well if I say

10

(speaking in vernacular) nickname mean it is my friend.

CHAIRPERSON: Yes.

STEVEN: And they mean there is people that we do things

together.

CHAIRPERSON: Ja.

STEVEN: And are comfortable with them.

CHAIRPERSON: Ja no I think I …

STEVEN: That is what I would think.

CHAIRPERSON: Ja I think you are right. Sometimes it is

used in a positive sense by the person who is using the

20

term but it is normal meaning is that of somebody involved

in crime. Is that right?

STEVEN: Yes, yes.

CHAIRPERSON: Yes. Okay no that is fine. I just wanted

to

make

sure

whether

you

have

that

experience

of

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understanding it is in that way. Mr Pretorius you may

proceed.

ADV PRETORIUS SC: Can you tell Stephen from the

manner in which the term was used and the context within

which it was used what meaning the term had for Mr

Mahlobo?

STEVEN: I would like to believe that the term was used in

the context of what these two gentlemen were going to do

for us because Mr Mahlobo said we are in trouble we would

need to find a way to win this case against us in – on what

10

transpired in Cape Town as we are being challenged by

SANAF.

ADV PRETORIUS SC: Alright let us go back again.

STEVEN: So he then went on to say

ADV PRETORIUS SC: I am sorry I would like to…

STEVEN: I missed that.

ADV PRETORIUS SC: I did not want to interrupt you but I

wanted to take you back to paragraph 25.

CHAIRPERSON: Before you do that Mr Pretorius I just

once – want to go back to the term just so that I know

20

whether

Stephen

understands

it

in

the

same

way

I

understand it. Now Stephen you have said that you – you

live in the township or you have lived in the township. You

know the use of the term Inja in the township?

STEVEN: Yes Chairperson.

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CHAIRPERSON: Inja is the same.

STEVEN: (inaudible)

CHAIRPERSON: Ja Inja is a dog is it not and ordinarily

nobody would like to be called a dog is it not?

STEVEN: Yes, yes.

CHAIRPERSON: But in the township can it be used in a

certain positive way among certain people?

STEVEN: You can only use it to people that you are

comfortable with.

CHAIRPERSON: Yes.

10

STEVEN: Because a dog cannot be associated with a

person.

CHAIRPERSON: And..

STEVEN: So the context is correct.

CHAIRPERSON: Yes. And when it is used the people who

are referred to as my dog Injayane they would also not take

offence would they?

STEVEN: No they would not.

CHAIRPERSON: Yes.

STEVEN: They would not take offence.

20

CHAIRPERSON: Yes. Okay alright. Continue Mr Pretorius.

ADV PRETORIUS SC: Well perhaps just finally for clarity

Stephen in case it becomes a matter of dispute later when

referring to the two persons present in the manner he did.

Do you think Mr Mahlobo was intending to insult them or

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address them in a friendly collegial way?

STEVEN: I think the – it was more the collegial way than

insulting them.

ADV PRETORIUS SC: Right. If I may take you …

STEVEN: But my view was that the white (inaudible)

ADV PRETORIUS SC: I am sorry.

STEVEN: Yes. No I was saying he – the white guys did not

seem to be comfortable he was a bit jittery.

ADV PRETORIUS SC: Right.

STEVEN: Whereas the black person Mgwenya was more

10

relaxed.

ADV PRETORIUS SC: Right. Let us go back to before the

two men arrived in the lounge. When you arrived in the

lounge as I understand it you were alone with Minister

Mahlobo, is that correct?

STEVEN: That is correct – that is correct.

ADV PRETORIUS SC: If you go back to paragraph 25

because we have left out some of your evidence. Did

Minister Mahlobo explain to you what the purpose of your

visit to him was?

20

STEVEN: On the phone he did not. I only got to know

when I was in the house.

ADV PRETORIUS SC: What did he tell you?

STEVEN: That the purpose was really – the purpose was to

discuss what transpired in Parliament and to deal with the

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legal challenge because we needed to get this thing

managed through the help of lawyers. That is what I got to

know when I was in the house. But when I was still on the

road I did not know why I was being called.

ADV PRETORIUS SC: Right in paragraph 26 you talk about

your relationship with Minister Mahlobo and what you knew

of his activities. What – what did you know?

STEVEN: I enjoyed a very cordial relationship with Minister

Mahlobo.

1. Because of the position that I occupied in my acting

10

capacity. I was managing operational work of the

agency meaning collection work. I would not want to

go into details.

And I would be requested from time to time to assist

with

operational

work

especially

when

there

were

challenges in the country. What comes to mind is that

during the elections I think it was in 20 – local government

elections there were problems in Tshwane and then we were

asked to prepare a presentation to brief Lithulu House as to

what was the problems Were we going to have a safe – or

20

safer elections so I would prepare such presentations

together with our analysis at headquarters.

Then he would then say he wants me to accompany

him so that I can do the presentation. So I would do those

presentations of course there were – they would have been

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sanctioned by SSA.

On certain occasions he would say to me hey you

must come to my house when I am in Parliament – in Cape

Town. When I get to the house I would not really why I am

being invited to the house at such general talk things that

are not even operational.

So that was the type of cordial relationship I had with the

Minister Mahlobo. On occasion when there would be

something that he wants to be checked maybe there is

somebody whose phone is being taken by a criminal he

10

would say hey Boetie can you assist to locate the phone?

Boetie is a brother. He used to call me Boetie can you

locate – help locate the phone because this phone is

[indistinct – word cut] So I would then work with the service

provider to assist us to check where the phone is and then

– he would then use that information, maybe to ask the

police to assist whoever might have lost the phone. So, I

would be working with Minister Mahlobo on some of those

issues.

ADV PRETORIUS SC: Apart from those specific incidents.

20

Did you ever come to learn of Mr Mahlobo’s activities or

conduct in relation to operations?

STEVEN: Yes, yes. I came to know about them. I would

cite one example but there are many. If the Commissioner

allows me, I will go to two or three. One. We visited a

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place called Eersterus. The President was going to have

to engage with the communities there because there were

complaints or grievances from communities ...[intervenes]

CHAIRPERSON: You said Eersterus?

STEVEN: One of the visits was... Yes.

CHAIRPERSON: I am sorry. Did you say Eersterus?

Eersterus, yes. Yes, Chairperson.

CHAIRPERSON: Okay alright.

STEVEN: So when I got there – when the communities

were complaining about the government not building them

10

RDP Houses since they have been there. There are no

RDP

Houses.

Amongst

other

complaints,

was

that

Eersterus is invested with drug dealing and they even knew

the houses where drugs would be.

So the police were not doing anything about

that. So I sat next to Minister Mahlobo in a marquee. He

then said: Hey, buthi. I can see that you guys, you try but

I do not seem to get a feeling that you know exactly what I

want. That is why I am now handling this operation by

myself because you are not giving me what I want.

20

When we were talking like that, I then said to

him: Minister Mahlobo, I think you must seize to involve

yourself in operations because you will get into trouble.

Ministers must confine themselves to their role which is

executive oversight because if you are part of us who are

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doing this work and there is a challenge one day, who is

going to be a referee?

He said: No, no, no. I was grade(?). I got a

training for three weeks. Or something like that. I said:

No, three weeks are not enough in Intelligence. You need

at least ten years to begin to know basics. Ten years

would just give you the basics. But if you have been

around and you have been working for more than ten

years, then you begin to develop a sense of what this work

is all about.

10

And then after that, he then said: Hey, buthi.

After the meeting in Eersterus. He said: I needed to pay

one somebody but talk to my Head of Ministerial services

and give him an amount of R 4000,00. And I said: What is

this for? Is there a record that you are paying somebody

so that I can then put a claim against that asset? The

answer was that: No, no. This matter will be managed by

my Holmes(?).

We went back to HQ to do what the Minister

instructed we do – we must do. I then said to Holmes,

20

Head of Ministerial Services: Do you want some kind of

coverage as we drop off this money to your asset? And the

answer was yes. I think asked my colleagues, who are in

surveillance, to monitor the space where the drop off was

going to happen. Nothing happened. There was no one.

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I called this person – to Holmes to say: What

happened? Because we were there. We never saw any

movement. Where did you drop this thing? He just

laughed at me. That was one.

The second one. Minister Mahlobo instructed

myself and the now Provincial Commissioner, General

Molwena(?) about an alert that there was going to be

somebody who would have come from the neighbouring

states and that person was in Zeerust in a hotel. They

were coming to sabotage Pelindaba(?). And it was a

10

Friday afternoon.

We

went

to

see

Minister Mahlobo

at

his

residence. When we left, we then said to ourselves,

because this was mine. Chairperson, ...[indistinct] I was

his courtship(?). We needed to bring in a defence because

we can leave and alert without testing the veracity of the

information and the only to test that veracity of information

would have to been operationalise the alert.

Then on my side, I was then saying: Okay I will

deploy surveillance. We deployed surveillance. Molwena

20

said: I will deploy the police to conduct roadblocks in and

around that space of Pelindaba. The minute we said we

would deploy our forces inside – now we deployed all these

forces for a period of two weeks. There was nothing.

I called Minister Mahlobo because we discussed

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with General Molwena that maybe we should see the – this

asset

that

gave

this

alert

to

Minister Mahlobo.

Minister Mahlobo said: No, no. Did I not know what he

reported has already happened at Pelindaba? I said:

What would have happened? He said: What I reported that

there will be a sabotage happening.

So I said: No, but it cannot be. We have been

here throughout with our forces, taking them from their

homes on a Friday, working for two weeks, deploying huge

amounts of resources, putting petrol, putting – giving them

10

substance allowance because they are in an operational

work, for nothing.

Then I called Frank because Frank knew about

this... I asked Frank: Who is this asset? Because we

would like to have an engagement with the asset to

determine exactly where this thing is coming from. Frank

said: No, no. This thing – this asset belongs to the

Minister. He the forwarded me in a rural area with kids

around ...[intervenes]

CHAIRPERSON: I am sorry.

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STEVEN: [Indistinct] [Break in transmission]

CHAIRPERSON: I am sorry, Steven. We did not hear you

for a few seconds after you said you spoke to Frank. So

we missed out something. You want to go back to that

part?

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STEVEN: Okay. I spoke to Frank. Then Frank laughed at

it. He said: No, this asset – this information came from

Minister Mahlobo. It is not his. It is not one of his assets.

He then forwarded me a photo of an old man who was

surrounded by kids. I asked: Where is this old man

based? He just laughed. He said: This is the person who

gave the alert to Minister Mahlobo that something was

going to happen at Pelindaba.

But part of what he was also saying is that I

must prepare an amount of three million to pay this

10

particular person. That is why we decided to launch a full-

scale verification process of this alert.

And the answer was nought. It was zero. There

was nothing. No thread whatsoever at Pelindaba. So

there are two examples that I want the Commission to

know, the extent to which Minister Mahlobo was so close to

operational work.

ADV PRETORIUS SC: Right.

STEVEN:

The

third

one.

We

were

discussing

...[intervenes]

20

CHAIRPERSON: Just before the ...[intervenes]

STEVEN: [Indistinct] ...[intervenes]

CHAIRPERSON: Just before the third one. Just before

the third one, Steven. Just for the benefit of the public.

The name of Frank you are using is a pseudonym name. Is

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that correct.

STEVEN: Yes. Yes, Chairperson.

CHAIRPERSON: Ja, okay.

COUNSEL: Chair?

CHAIRPERSON: H’m?

COUNSEL: Sorry. Good morning again.

CHAIRPERSON: Good morning.

COUNSEL: As you will know that I present the witness,

Mr Mahlobo and the other witness... Chair, I listened to

this evidence and I would choose or from the witness to

10

say he is using examples. And I must place it on record

that whatever examples in his testimony so far to these

transactions and whatever, not contained anywhere in the

documents including his affidavit.

CHAIRPERSON: Oh, yes.

COUNSEL: Thank you.

CHAIRPERSON: Ja, okay alright. Thank you.

COUNSEL: And just for the record. We are hearing for

the first time. So let me ...[intervenes]

CHAIRPERSON: Yes.

20

COUNSEL: ...we all follow and ...[intervenes]

CHAIRPERSON: Okay. No, thanks for that.

ADV PRETORIUS SC: I have not stopped the witness. It

is quite correct. This is not in the statement.

CHAIRPERSON: Yes.

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ADV PRETORIUS SC: But generally ...[intervenes]

CHAIRPERSON: It is an elaboration.

ADV PRETORIUS SC: Yes, it is an elaboration of

something said there.

CHAIRPERSON: H’m.

ADV PRETORIUS SC: A general statement made that

Minister Mahlobo spoke openly to me about operations he

ran but I do not want to – I just want to place on record,

which I was going to do in any event Chair, is that anything

that still needs to be put to Minister Mahlobo will be

10

...[intervenes]

CHAIRPERSON: Would be.

ADV PRETORIUS SC: ...subject to the written process of

question and answer ...[intervenes]

CHAIRPERSON: Ja.

ADV PRETORIUS SC: ...in due course.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: So he will have a full opportunity to

respond.

CHAIRPERSON: To deal with it, ja. No, that is fine.

20

COUNSEL: Thank you, Chair.

CHAIRPERSON: Thank you. You may then proceed,

Steven.

STEVEN: The third one, which I think those colleagues

who were working with me as General Managers, meaning

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Chief Directors because I was acting DG at that time.

There was another operation that was run by Mr Thulani

Dlomo. How we got to know about this operation is

through a capacity that we have at HQ. This capacity

supports operations, light operations.

If

we,

for

instance,

conduct

a

surveillance

operations, they will be able to say this number plat is

wrong because they are linked to the ...[indistinct]. So

they gave us the heads up that you are being investigated

as a collective by Mr Thulani Dlomo. And the name of that

10

operation was called Project Greenleaf.

In the document that was shared with us as

General Managers and myself and General Managers,

there were names of people. Our names as officials were

there. The name of the President was there. The name of

Mr Paul Mashatile was there, Minister of Basic Education,

amongst others. The list is endless.

There were also names of generals from the

army, generals in the police. We then confronted the DG,

DG Kudjoe. I think at that time, DG Kudjoe was supposed

20

to be travelling outside the country. We requested an

urgent meeting. She returned. She cancelled the trip.

She came back to HQ because this was more like a revolt

by senior members of the SSA.

We conveyed at her boardroom. When we

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convened, she called Minister Mahlobo that there is a

problem here. There is an operation that is directed at my

officers,

senior

officers

and

we

are

raising

serious

objection. Do you know about it? Minister Mahlobo said:

No, I will be coming to HQ.

When he came to HQ, we were already convert

in a boardroom and Ms Kudjoe was there. We then asked

a

question

because

now

it

was

a

meeting

where

Minister Mahlobo was present. We said to DG Kudjoe:

DG, did you approve this type of an operation against us?

10

DG Kudjoe’s response was a big no. I did not

approve of any operations against members, let alone

senior politicians in the country and members of the army

and the police. Then one member, a general manager,

said: If DG it is not you who approved this operation, then

it could only be Minister Mahlobo because Mr Dlomo, his

junior, to approve an operation that includes senior people.

That is not the protocol of how we do work in the

agency. Then Minister Mahlobo starting losing his cool.

He said to us: Who do we think we are? But also

20

targeting the person who was raising a question. I would

not mention the name of the member because he is still –

others who retired last year.

Other colleagues who retired last year but they

know this. He then instructed us, Minister Mahlobo, that

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we must launch an investigation to check as to who

authorised

this

thing,

this

operation

called

Project

Greenleaf, two general managers who were appointed to

investigate. The source of information was interviewed.

The person who signed that form which went to

that structure that I spoke about earlier on, we support

operation, was interviewed. She denied that she got an

instruction to work on this operation on Project Greenleaf

but she was, basically, saying: You know who I report to. I

do not know who approved it but you know who I report to.

10

I do not report to myself.

A report was written for Minister Mahlobo and

that was the end of the problem. We never got to know

why were being investigated. So I am trying to show the

extent to which Minister Mahlobo was involving himself in

operational work.

ADV PRETORIUS SC: Alright.

STEVEN: Thank you. Thank you, advocate.

ADV PRETORIUS SC: Alright. If we could go back then

to paragraph 27 and back to the meeting that took place at

20

the then Minister ’s residence in Pretoria. Let us go back

to the point at which the – you said two men arrived and

joined yourself and Minister Mahlobo in the lounge.

STEVEN: Yes.

ADV PRETORIUS SC: Describe the two persons, as you

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have described in paragraph 28? Did a conversation then

take place?

STEVEN: Yes.

ADV PRETORIUS SC: What was – between whom did the

conversation take place?

STEVEN: [Indistinct]...[intervenes]

CHAIRPERSON: Did he cover that, Mr Pretorius? What is

in paragraph 28, did he not cover that already? You

remember he spoke about the – even the ...[intervenes]

CHAIRPERSON: Yes, paragraph 28 has been covered. I

10

am on paragraph 29. Yes.

CHAIRPERSON: Ja, okay. I thought you said 28, ja. And

then maybe, Mr Pretorius. Remember to just ask him to

indicate timeframes about the Eersterus visit, for example.

ADV PRETORIUS SC: Alright.

CHAIRPERSON: Just to ...[intervenes]

CHAIRPERSON: The incidents that you have reflected on

and told the Chair about the three incidents. The first

incident, when did that take place?

STEVEN: The Eersterus one? It was just before the local

20

government elections on ...[intervenes]

CHAIRPERSON: In 2016?

STEVEN: ...the first one – it was 2016, yes. The second

one is the Pelindaba. That was around 2017 because soon

after that, the former DG left, resigned from the agency. It

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was in 2017. It must have been around June 2017. The –

including the one, the Project Greenleaf was around 2017.

ADV

PRETORIUS

SC:

Alright.

When

did

Minister Mahlobo seized to hold office for sometime in

2017, was it not?

STEVEN: Around September I think. September/October,

there.

ADV PRETORIUS SC: Alright. If we could go then to

paragraph 29. Does that cover the issues, Chair?

CHAIRPERSON: Yes, that is covered, ja.

10

ADV PRETORIUS SC: Please go to paragraph 29 and

deal with the conversation that took place as you set out in

that paragraph.

STEVEN: Yes. The meeting was about the discussion

following what transpired in Parliament and our role in

respect to the equipment that was used there and the

challenge by SANEF(?). So the – during the discussion,

Minister Mahlobo said: Now that you guys are here in

Gauteng and the matter will be presided on – or will be

heard in Cape Town. How is it going to be arranged?

20

It looks like they were saying: No, no, no. It

should not be a problem. They would know how to handle

it so that we get the outcome that is desirable to SSA. And

desirable to SSA would have been that we must win the

case, I guess, because I do not think we would get the

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lawyers so that we get into jail.

Now after that, my view was that, maybe when I

was – he instructed me that I should make plans to travel

to Cape Town so that I must then deal with these issues.

ADV PRETORIUS SC: Sorry, before you go on.

STEVEN: ...assisted by Sibo(?).

ADV PRETORIUS SC: Can you please ...[intervenes]

STEVEN: Yes.

ADV PRETORIUS SC: ...did it not strike you as odd or

strange that two judges in Gauteng would be asked to

10

influence two judges in Cape Town? That seems to be a

rather extraordinary proposition.

STEVEN: It was. It was a bit strange because – but I

thought – because I have never been in a court of law

where I would have to deal with these issues on my own

other than when I appeared before the TRC. That was a

different matter. Now on this one, I thought, because this

judges are in Gauteng, maybe one of them would travel to

Cape Town so that as I talk to these issues because my

engagement with the senior counsel in Cape Town was to

20

talk about the technicalities of this device.

What it can do, what it cannot do and why did we

take the decision as – to place the device there. So I had

to explain all those things. But to my surprise, when I was

in Cape Town, I did not see the faces that I have met at

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Minister Mahlobo. However, we won the first round in

Cape Town. The verdict favoured us. There was one

dissenting judge. The matter was then referred to the

appellate division.

ADV PRETORIUS SC: Yes, we know ...[intervenes]

STEVEN: [Indistinct] ...[intervenes]

ADV PRETORIUS SC: We know of the litigation. We need

not to go there for the moment.

CHAIRPERSON: Okay. Mr Pretorius, let us take the tea

adjournment.

10

ADV PRETORIUS SC: Right.

CHAIRPERSON: As it is quarter past.

ADV PRETORIUS SC: Yes.

CHAIRPERSON: And then we will come back at half-past.

We will take the tea adjournment, Steven. We will come

back at half-past eleven. We adjourn.

STEVEN: Thank you, Chair.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Thank you, let us proceed.

20

ADV PRETORIUS SC: Thank you, Chair. Steven, you

were about to tell the Chair of the conversation that

occurred between the two persons who joined the meeting

between yourself and Minister Mahlobo. You deal with that

in paragraph 29. Could you tell the Chair please of the

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detail of that conversation?

STEVEN: Thank you, Advocate. Maybe before I deal with

that let me just correct the timelines. What I spoke to I

think it was in 2015, late 2015/2016. Not 2017.

ADV PRETORIUS SC: Which incident was that?

STEVEN: In terms of the – the three incidents that I was

talking to. They happened in 2015/2016, not ’17.

ADV PRETORIUS SC: Alright, thank you. Let us go back

then to paragraph 29.

STEVEN: Yes, Sir. What happened there, was we were

10

discussing there is the issue about jamming and how they

would have to help given that the matter is not going to be

in Gauteng, it will be in Cape Town. The person who was

introduced to me, this other guy, the white judge, seemed

a bit uneasy whereas the black guy, Ngwenya, was saying

no, no, no, they will do it, they will use their contracts in

Cape Town and all these things but I did not know who

those contacts were because in my mind I thought in one

or the other we will see one of these guys called judges

who are going to talk to us in Cape Town, but I did not see

20

either of them, I only interacted with senior counsels.

There were two senior counsels in Cape Town.

ADV PRETORIUS SC: Right, you have dealt with the

…[intervenes]

STEVEN: And after...

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ADV PRETORIUS SC: I am sorry, go on, please?

STEVEN: Then after that I was released, I left Mr

Mahlobo and the two gentlemen. I left, I was released.

ADV PRETORIUS SC: Alright, before we go on to the next

issue, may I just ask, do you know or did you know at the

time that these two persons who joined the meeting were

actually judges?

STEVEN: Well, I knew when Mahlobo told me when I was

in the house. I did not know beforehand as I was driving to

the house that I was going to discuss judges. [inaudible –

10

speaking simultaneously]

ADV PRETORIUS SC: Yes but other than what Mr

Mahlobo told you, did you of your own knowledge know

them to be judges?

STEVEN: No, no, I did not know them because I really did

not pay attention to that seeing that they are not even

people that ordinarily we would do business with. We do

not vet them. If we were vetting judges, I would have

known then.

ADV PRETORIUS SC: Right.

20

STEVEN: In this instance I did not know them.

ADV PRETORIUS SC: And since that meeting have you

ever through your recollection of having seen these two

gentlemen, have you ever been able to identify them to

your knowledge as judges?

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STEVEN: I would not be able to say I have seen them.

What happened is that in 2018, when Jafta was appointing

Acting, he called me to his office to discuss this matter.

He then showed me photos of all the judges in the

republic. I was not able to say with certainty this is the

person that I think I met in the house. It is even worse

with the white judge, I could not recall his basic features

but the black judge was dark, without spectacles, shortish

a bit, 1.65 in terms of his height. That is all I could

remember.

10

ADV PRETORIUS SC: Alright.

STEVEN: In any case, I did not think at the time when I

was discussing this matter regarding the matter we were

seized with in parliament that at some point I would be

required to recall these faces because we are trained as

spooks to memorise but in this instance I think I failed.

ADV PRETORIUS SC: Right. Is it correct then that after

this meeting you travelled to Cape Town on instructions

and assisted in briefing counsel in relation to the aspects

relating to the jamming device.

20

STEVEN: That is correct.

ADV PRETORIUS SC: Right. We do not need to deal with

the SONA litigation it is a matter of public record but if we

could go to paragraph 48 please on page 310.

STEVEN: Yes, Sir, I am there.

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ADV PRETORIUS SC: Would you just deal with the

matters

that

you

testified

to

in

paragraphs

48

and

following?

STEVEN: That is correct.

ADV PRETORIUS SC: Tell the Chair about that.

STEVEN: Yes, in terms of that paragraph, yes, Director

Langa, when he came to join the SSA I was already acting

in the position of a DDG, meaning that I was the only

person that he could rely on as he was appointed, recently

appointed. So for a number of days that would have

10

required him to deal with alone he would call me and say I

am new here, tell me how do I manage this one, how do I

deal with this issue? He had been presented with a green

form, I think the Commission has heard a number of

witnesses talking about the green form so he was given a

green form. This green form was requiring him to sign for

an amount of 12 million. He then asked me whether he

must sign. I said no, you cannot sign, ask for a document

that details as to what is this thing that you are paying for,

that document must say this is a project, if it is a project or

20

if it is an asset, this is an asset, this is what the asset is

doing and it warrants that type of a payment but ordinarily

we do not pay such amounts of money as an organisation.

It was an anomaly in my view so said no, be extra careful,

do not do it. He then went on – I think on leave or trip, I

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was acting in his position. So I acted twice. This 12

million requisition came to me that I must sign, I refused. I

said I am not signing …[intervenes]

CHAIRPERSON: One second, Steven, I am sorry Steven,

just one second? Mr Pretorius, I do not want to adjourn

and talk in chambers, can we do what they do in other

jurisdictions, can you approach?

ADV PRETORIUS SC: The bench?

CHAIRPERSON: Okay.

ADV PRETORIUS SC: Thank you, Chair. Steven, just a

10

note please. In relation to yourself at any particular time,

if you could not mention your – the office that you held or

the position that you held and in relation to others too, do

not mention what positions they held so that we can stick

to the identity rules, if we may. Okay?

STEVEN: Thank you, thank you.

ADV PRETORIUS SC: Alright, so tell us about this R12

million.

STEVEN: So this 12 million, then the requisition came to

me, I refused to sign because the incumbent was not

20

around. I waited for him to come, I submitted this thing,

the requisition of 12 million. I think he succumbed to

pressure, he signed for this 12 million. After signing this

12 million he then said to me, you know, I saw this money

being loaded in paper bags by Frank and he took it to the

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former Minister. After that he was worried. I said to him

do not sign anything that involves such huge amounts of

money.

ADV PRETORIUS SC: Did you speak to Frank about this

issue?

STEVEN: Yes, yes, I did, I did.

ADV PRETORIUS SC: What did you …[intervenes]

STEVEN: But I think even numbers that I spoke to him, all

he could say is that Minister Mahlobo took 4 million out of

this for his project, the rest I think Frank managed, I do not

10

know what they did about it.

ADV PRETORIUS SC: What was the purpose of the 4

million being taken from the 12 million. I would not know,

Advocate, I would not know but there were projects,

Mayibuye 1, Mayibuye 2, Project Justice. I suppose the

money could have been for those projects because I came

to know about those projects when Minister Mahlobo came

to see the former director to push that we must send giving

the money for this projects because he is running projects,

we cannot be sitting with money. At that time Special Ops

20

had depleted its budget so I happened to know those

project in that context otherwise I would not have known

about them because of the need to know.

ADV PRETORIUS SC: Alright in paragraphs 48 and 50

you do mention the specific purpose of the delivery of the

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monies but I take it you are not going to place that

evidence on record now.

STEVEN: Yes.

ADV PRETORIUS SC: Right is that because it is not

correct, what is stated in the affidavit?

STEVEN: No, no, it is correct, it is correct, it is not

because it is not correct, I thought it is a given that Frank

took money and I also spoke to Frank in my capacity that I

would not [inaudible – speaking simultaneously]

ADV PRETORIUS SC: And the money was taken to

10

whom?

STEVEN: To Mahlobo, two paper backs.

ADV

PRETORIUS

SC:

Right

and

the

purpose

…[intervenes]

STEVEN: According to Frank.

ADV PRETORIUS SC: So the purpose of the money was

related to – or the purpose for which the money was

delivered and taken as stated in paragraphs 48 and 50 is

what you were told. You do not know directly, is that

correct?

20

STEVEN: Yes, I was told by my former boss.

ADV PRETORIUS SC: Alright.

CHAIRPERSON: When was this? When did this happen?

STEVEN: It must be around 2016, early 2016.

CHAIRPERSON: Early 2016?

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STEVEN: That is correct, Sir.

CHAIRPERSON: Okay, alright. Mr Pretorius?

ADV PRETORIUS SC: Yes so, for example, in paragraph

51 you say in the affidavit:

“Mr Frank told me that he regularly transported

cash to

Minister Mahlobo and was sometimes

accompany by Dorothy.”

I must just say to you that Dorothy denies that.

STEVEN: Well, I am not surprised because from what I

have seen from the Commission is that it has become a

10

normal to deny everything, so I would not be surprised.

ADV PRETORIUS SC: Alright.

STEVEN: That Dorothy would deny it.

ADV PRETORIUS SC: And do you persist in the evidence

that you give in the first sentence of paragraph 51 as to

what Frank told you?

STEVEN: Yes, I do.

CHAIRPERSON: And just to make sure, that sentence

says Frank informed you that he had delivered the R12

million cash to Minister Mahlobo.

20

STEVEN: That is correct, Sir.

CHAIRPERSON: Yes, okay.

ADV PRETORIUS SC: Let us deal with the next issue

then and that is the issue of the establishment of a trade

union to rival AMCU. Did you attend a meeting as set out

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in paragraph 53 on page 311?

STEVEN: Yes, I did, I did attend this meeting.

ADV PRETORIUS SC: Do not mention any names please

but …[intervenes]

STEVEN: No, I will not.

ADV PRETORIUS SC: Pursuant to that meeting were you

ever given an instruction by Minister Mahlobo?

STEVEN: Yes.

ADV PRETORIUS SC: What was that instruction?

STEVEN: The instruction was that there is a problem and

10

this person must be paid because if we do not pay this

person the former President’s involvement in this project

would have been exposed and the issue was that the asset

had even taped that meeting so there was proof that this

meeting – that involved the former President did actually

take place. So the issue was that in order for this person

not to go to court he must be paid the amount of money to

silence him.

ADV PRETORIUS SC: Was that …[intervenes]

STEVEN: Minister Mahlobo then said...

20

ADV PRETORIUS SC: I am sorry, in paragraph 54 the

meeting apparently discussed the fact that…

STEVEN: Oh, okay.

ADV PRETORIUS SC: That a particular person had been

kidnapped and threatened and needed money to deal with

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his security.

STEVEN: No, no, sorry, I am mixing the two, I thought we

were now on the issue of the other one.

ADV

PRETORIUS

SC:

Alright,

let

us

deal

with

…[intervenes]

STEVEN: This one is true, the person …[intervenes]

ADV PRETORIUS SC: Let us deal with the incident – I am

sorry to interrupt you, let us deal with paragraph 54 first.

STEVEN: Okay, yes, because I was dealing with

paragraph 54 instead of paragraph 53.

10

ADV PRETORIUS SC: Yes.

STEVEN: But let me first say on 53 it is correct, this thing

that is – the paragraph, that is on 53, is correct. I paid

this person 120 000 every month for his protection but I

became

concerned

because

we

are

audited,

serious

audited by internal audit, by the IG and the AG. I then

asked what am I going to say when the auditors are coming

to me to ask about these amounts of money that I am

paying because I do not have any record except the details

of this person and the signature where he signs for these

20

amounts. Then I then said can I do some checks if this

person indeed his life is under threat? He agreed. I then

did what we call counter-surveillance. It is not following

the person but it is to check whether this person that we

are giving money is being followed by others. There was

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nothing. This person would drive to a mall, stay in his

house, no problem. So I then report to Mr Mahlobo that I

am not going to be able to continue paying because from

what I got as a report from my colleagues who did the task,

there is no problem here, so I stopped, but after having

paid what Mr Mahlobo said I should do. In any case, I

reported these issues to my former DG.

ADV PRETORIUS SC: Alright.

CHAIRPERSON: How long did you pay this person if you

able to remember?

10

STEVEN: Chairperson, I am sure I can get those – I am

sure I can – but it was not once, it was a number of times

but I am sure I can get those records.

CHAIRPERSON: Okay, alright. Mr Pretorius?

ADV PRETORIUS SC: Right, you spoke of a second

meeting with Minister Mahlobo which is dealt with in

paragraph 57. What happened at that meeting?

STEVEN: At this meeting - I think I spoke to some of the

issues earlier on that it is a project that was run by Special

Ops and it had gone wrong because this asset started

20

demanding huge amounts of money and if they were not

prepared to pay those amounts of money, he threatened to

go to court and expose the operation but also to expose

the fact that at some point he was personally sitting in a

meeting involving the former President to discuss this

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matter. So the issue was that – from Mr Mahlobo, manage

this issue so that it does not go to court, pay this person.

My problem with that was that but why executive members

playing a role in operations because if you plan an

operation you also plan how you are going to wind it down.

So this was a classical example of an operation that is

poorly planned. He said I must pay this person 6 million. I

said I cannot pay this 6 million because your MPDs do not

allow me to do this thing, I cannot pay for that amount, I

have no authority to pay such a lot of money. I refused in

10

carrying his instruction but I was subsequently informed

that this person, asset was paid some monies, huge

amounts of monies.

ADV PRETORIUS SC: Alright. You deal in paragraph 62

and following with a third security contract. I do not want

to necessarily deal with that now, it is on record, but you

confirm the facts set out in paragraph 62 to 67. Are they

correct?

STEVEN: They are correct, Sir.

ADV PRETORIUS SC: Right. What happened in

20

September 2016?

STEVEN: September 2016 we were called to the

Minister’s office, all senior members of the agency were

called then, especially the domestic side but there were

some from foreign side. We were then introduced to the

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new DG, Mr Arthur Fraser, that this was going to be our

new DG. Then Mr Arthur Fraser immediately embarked on

a process which he termed realignment process. That

realignment process he also said he has got a vision or a

vision was developed for 2035.

Immediately when that process of coming up with a

vision was being developed, an organogram was also being

created that talks to this vision. The first people to be

victims of this vision, 2035, was the Director Domestic

Branch because the Director Foreign Branch had already

10

indicated that he was leaving the agency. I think the

reasons are better known to him but he was uncomfortable

with the arrangement especially following the appointment

of Mr Fraser.

Then the Director Domestic Branch was removed

from his position through an organogram that you can see

when it was presented that you do not have a box anymore

in the Domestic Branch, so eventually he was forced to

leave.

ADV PRETORIUS SC: What happened …[intervenes]

20

STEVEN: He kept on coming to work, he kept on coming

to work.

ADV PRETORIUS SC: What happened in regard to

yourself?

STEVEN: To who?

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ADV PRETORIUS SC: To you?

STEVEN: To me? I will come to that.

ADV PRETORIUS SC: Alright.

STEVEN: I want to give a picture so that the Commission

must see what really happened there.

CHAIRPERSON: Okay.

STEVEN: Then the director is moved, his office is flooded

– one day he gets to his office, the whole office is flooded

with water, he cannot come in. He then calls me to say

hey man, come and see my office is flooded, the whole

10

carpet is soaked. We then check whether maybe the

problem with the bathroom because their offices have

bathrooms. There was no sign of any leakage of water

from the bathroom. So clearly somebody came to put

water into his office. Then he said to me it means I am no

longer wanted here, I must work from home. That was the

last time he sat, it is for HQ.

Following that, the next person that was to be

removed was myself after worked in that position of acting

for two and a half years. This happens within a period of a

20

week. The second week, all these are happening that I am

just explaining.

Then as this project begins to take shape, all

general managers are told that he is going to work with

those general managers who are fit for purpose but he

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does not explain what the purpose is, there is no study that

is conducted to say if you fail to do the following you are

not fit for this particular purpose.

He then appoints junior members who are three

levels below our levels to occupy our offices. In my case I

was left even without an office, I had to come to HQ for a

period of two and a half years without being given any

work, being called or telephoned. Others were told that

they would be advisers and that position does not exist in

the agency, it never existed, it only existed in the offices

10

of the ministers and that position of advisers is regulated

by ministerial directives.

In my case I questioned that are you chancing my

conditions of service because I do not know what you are

talking about, I have been here since ’95, we never had

this thing. So I was then left in the cold for two years

whilst getting my salary, getting a bonus, my cell phone

was fully paid for, everything that you can think of which

comes as perks and this applied to all other GMS, general

managers, during Mr Fraser’s reign.

20

This project that he had was never even approved

by JSCI and yet it was implemented and whilst it was

implemented, certain DDGs were appointed under the

auspices of this project which was not sanctioned by JSCI.

We kept on asking where is the approval of this thing that

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has been implemented? There was nothing. Thank you,

Advocate.

ADV PRETORIUS SC: Yes, what happened in April 2018?

STEVEN: In April 2018 Mr Fraser then gets moved to

Correctional Services and then – no, no, I think it was in

March when we got to know that he was being moved.

Then I was called to come back but not to Domestic

Branch, to go Foreign site by …[intervenes]

ADV PRETORIUS SC: Well, do not mention the…

CHAIRPERSON: No, no. Initially I was called by DDG

10

Foreign Branch to come and help her because she was not

coping. This vision 2035 had killed Foreign Branch from

being a branch into a Chief Directorate without proper

funding. So they were not coping because the world did

not shrink when the Foreign Branch was shrunk. They had

to contend with the world as we know it with limited

capacity. So I was called to come back. I then asked the

DDG that if you call me to come and work, where is the

report that says now I am fit for purpose because I am still

waiting for the report that I am not fit for purpose. Then

20

when Mr Jafta was appointed, I was also called back. I

came back this time because Mr Jafta had nothing to do

with the fitness for purpose. He then asked me to go and

work in Foreign Branch to assist because there were

challenges. I worked there up until I was brought back to

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the Domestic site again.

ADV PRETORIUS SC: Thank you. Former Minister

Mahlobo is aware of the evidence that you have given by

way of notice and otherwise and it has been put to him in

his own evidence and he used the term in respect of you, a

peddler, an information peddler. What is your response?

STEVEN: Thank you, Advocate, maybe let me explain or

give a definition of what we understand as peddlers or a

peddler

or

peddling.

A

peddler

is

somebody

who

purposefully gives wrong information about something. Let

10

me make an example. At some point there was an

information that SSA or NIA then had to deal with. The

information was coming from some person in Mpumalanga

who said the current President and Mr Tokyo Sexwale were

planning – I think even [indistinct], they were planning a

coup against the administration of President Mbeki. We

worked on that only to find out there is nothing like that but

that information can only be confirmed by him alone, no

other source could confirm that information. So a peddler

is somebody who cooks information but the objective is to

20

get money but also to sow confusion. A peddler would not

be in the agency as I know it, as a person who would be

working in this organisation since ’95. Even in my previous

years as a member of the Intelligence of the ANC we knew

peddlers to be people who are outside our ranks who would

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come to us to sow confusion. That is how I understand the

definition of a peddler, but if Minister Mahlobo was saying

members of the Agency can at times be surrounded by

peddlers maybe that would make sense, but in my case I

would not be surrounded by pedlars, because the position I

occupy in the organisation does not allow me to handle

sources. I only deal with the directing of the work that

needs to be done, at the time when I was doing operational

work.

That is the understanding I have, so to call me a

10

pedlar would be something that is frowned upon in the

profession and the pedlar we classify them, work on them

and we blacklist them, we don’t want to do anything with

pedlars, in fact they are a nightmare to any intelligence

officer because you then follow the shadows based on what

they give you as alert. I think I alluded to something

earlier on about…[indistinct], that was a pedlar who gave

us that information because we could not confirm it but

there is no pedlar inside the …[indistinct], there is nothing,

thank you.

20

ADV PRETORIUS SC: Steven, the accusation that you

are a pedlar was based, amongst other things, on Mr

Mahlobo’s denial of the meeting that took place between

the two persons whom he referred to as Judges and

yourself at the former Minister ’s home. As I understand his

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version, you made the whole thing up, what is your

response to that?

STEVEN: I would not lie about the Minister and in my

history of working in this environment, firstly, in the

movement, I never was a liar. In the history of the

Intelligence since 1995, I worked in various capacities

there has never been an accusation directed at me that I’m

a liar. I have briefed senior people in the country, including

presidents, give them briefings. I have briefed Parliament

even with the current Minister on several occasions. Why

10

would I target Minister Mahlobo only on this one of the

Judges and it confirms the other issues in terms of these

projects that he instructed me to…[indistinct] he does not

have a problem with that, I’m not a pedlar when I talk

about that. I only become a pedlar when I talk about the

Judges. Well, my guess would be as good as the guess of

those

members

of

the

pubic

who

are

watching

the

proceedings, thank you.

ADV PRETORIUS SC: It was somewhat difficult to follow,

the answers to questions, put to former Minister Mahlobo in

20

relation to why you would invent, in its totality, the story

about the persons whom he said were Judges but as I

understand it, in summary he suggested that you might be

part of a faction within state security that sought to create

problems or discredit him and others, what is your

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response to that?

STEVEN: I know that is plausible enough for a person of

Minister Mahlobo’s calibre to say, I’m a faction. I am not a

card carrying member of any political organisation. Yes, in

the past I used to be a member of the ANC but when we

amalgamated in 1995 Minister Nklantla said he does not

think it’s a good idea that we must be card carrying

members because we are not going to be impartial. So,

from then on, I never took part in any political work of the

ANC. So, why would be a faction because factions would

10

only exist in a political organisation. In the agents there

are lots of possible as new Ministers gets appointed those

people who…[indistinct] who seek to be promoted because

in a situation that we have, where – especially during

Minister Mahlobo’s time, there was no one who was

appointed to a permanent position. Even if you were

appointed when it came you were told that you are now

acting in your own substantive position. So, that situation

created a state of flux where people were not sure and it

then brings this behaviour where people will then go and

20

drink tea about people’s name. In my case, I am not a

member of any faction. Yes, there are a lot of issues in

the agents, a moral issue, appointments that are not done

correctly in some instances without adhering to the policies

and that breeds contempt amongst members but that does

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not make one to be a faction and if you raise issues that

are correct and you raise them on the basis of policies and

principle and regulations then you are classified as a

faction. Maybe that is what he meant, but I’m not a

faction, thank you.

ADV PRETORIUS SC: He also referred, that is former

Minister Mahlobo, also referred to an investigation when

pressed in questions about you being known to him to be a

pedlar and being asked, well, what was done about it? Are

you aware of any investigation that took place within the

10

SSA in regard to whether you reported false information?

STEVEN: If I knew I would have said it to the

Commission. I’ve said, since 1995 I’ve worked in various

capacities in the agents, domestic, foreign even abroad,

I’ve never been investigated, even now as I’m sitting here,

I’ve never been investigated, nothing. Now to be told that,

hey, there’s a suspicion about you, that you have done the

following thing, never. I was hearing it for the first time

yesterday on TV.

ADV PRETORIUS SC: So, do I understand your evidence

20

you

have

never

been

warned

about

peddling

false

information,

you

are

not

aware

of

any

investigation

conducted in relation to the peddling of false information

and I suppose it follows that no inquiry ever, has taken

place in that regard?

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STEVEN: Nothing at all, nothing not even under Mr

Fraser, nothing.

ADV PRETORIUS SC: Bear with me a moment, Chair.

Thank you Chair.

CHAIRPERSON: Thank you very much Steven for availing

yourself, you are now excused.

STEVEN: Thank you Chairperson.

ADV PRETORIUS SC: Thank you Steven.

STEVEN: Chairperson, may I say something, if I’m

allowed?

10

CHAIRPERSON: Yes.

STEVEN: Chairperson, I would want the Commission to

seriously, as they conclude this process, that this agency

can only work if the President exercise his prerogative to

take political control of the agency because in my 26 years

of being part of this agency, Ministers who get appointed,

they come with their political agenda and they cause a lot

of problems in the agency.

CHAIRPERSON: H’m.

STEVEN: And I don’t think that is helpful for the

20

taxpayers who are paying us the salaries to do nothing to

protect them as well as the Constitution. So, my view and

my appeal is that maybe we must not have a Minister for

some time until all our problems are sorted but the high

level

panel

recommendations

have

never

been

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implemented, this is the third year I guess and nothing has

moved in that regard and if there is a process that process

does not involve members or senior members of the

organisation, if it exists somehow.

CHAIRPERSON: Yes.

STEVEN: Those things, I think, they need to be done to

ensure that we are back to our glory days, thank you

Chairperson.

CHAIRPERSON: Yes, thank you very much Steven I’ve

heard you, thank you very much. Thank you and then Mr

10

Pretorius…[intervenes].

UNKNOWN

COUNSEL:

Sorry,

before

my

learned

colleague proceeds, Chair if you have, obviously, the

document or the affidavit deposed by this witness and

we’ve agreed that there was some elaborations.

CHAIRPERSON: Yes.

UNKNOWN COUNSEL: Taking cue of that, there were

considerations last night.

CHAIRPERSON: Yes.

UNKNOWN COUNSEL: That we will be furnished with

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questions from the Chair, I would want to think that will

also form part of this questionnaire and will be sent to us,

this elaboration by this witness.

CHAIRPERSON: Yes, the transcript certainly the parts

that constituted or the elaboration should be given and Mr

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Pretorius will take care of that, maybe it will be more than

that part but that would be taken care of.

UNKNOWN COUNSEL: Thank you Chair.

ADV PRETORIUS SC: Two things will be done Chair, the

transcript of these proceedings will be made available to

all parties implicated by additional evidence or elaborating

evidence and secondly questions will, in addition to that,

be put but Minister Mahlobo certainly – Deputy Minister

Mahlobo

certainly

will

be

invited

to

make

whatever

comment he wishes quite apart from the questions that

10

he’s been asked.

UNKNOWN COUNSEL: Thank you Chair, thank you to my

colleague.

ADV PRETORIUS SC: Chair, just to set-up, may we take

a five minute adjournment please?

CHAIRPERSON: Okay, we’ll adjourn for five minutes.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV PRETORIUS SC: Frank are you present, can you

hear us?

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FRANK: Very good afternoon, I am present. Thank you so

much.

CHAIRPERSON: Good afternoon Frank.

FRANK: Good afternoon Chair.

CHAIRPERSON: Thank you once again for availing

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yourself to assist the Commission. We appreciate it very

much.

FRANK: Thank you very much Chairperson.

CHAIRPERSON: Yes the oath was administered to you

earlier this morning, so Mr Pretorius can continue.

ADV PRETORIUS SC: Right Frank …

FRANK: Thank you.

ADV PRETORIUS SC: Before you should be a file

containing various documents, including documents behind

the folder YY16. You have that in front of you?

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FRANK: Let me just compare that. YY16, yes I do have.

ADV PRETORIUS SC: Okay. There are a number of

documents that I will ask be admitted, including an affidavit

which we will deal with now. But if you could go Frank to

page 1146.1 towards the end of that divider.

CHAIRPERSON: And forget to admit Steven’s affidavit.

ADV PRETORIUS SC: Ja, going to do that now.

CHAIRPERSON: Ja, okay.

ADV PRETORIUS SC: So are you at YY16 and at page

1146.1?

20

FRANK: Let me check. You are saying yes on 1116.

ADV PRETORIUS SC: No, no.

FRANK: And page?

ADV PRETORIUS SC: 1146. 1-1-4-6.

FRANK: Oh 1146. Okay hold on we will get it there just

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now. Definitely I am there sir.

ADV PRETORIUS SC: 1146.1. Is that your affidavit?

Been identified by your attorney already?

FRANK: [Indistinct], yes it is.

ADV PRETORIUS SC: Right, if you would go to page

1146.34.

FRANK: 46. 1146?

ADV PRETORIUS SC: 1146.34.

FRANK: 1146.34 né.

ADV PRETORIUS SC: You got that.

10

FRANK: No, I am getting there. 1146.34. Definitely, yes.

ADV PRETORIUS SC: That signature has been redacted,

but do you recall signing this affidavit?

FRANK: I recall definitely.

ADV PRETORIUS SC: And as far as you are concerned,

and to the best of your knowledge are the contents of this

affidavit true and correct?

FRANK: Yes sir.

ADV PRETORIUS SC: Chair, may that then be admitted as

EXHIBIT YY16.1?

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CHAIRPERSON: The affidavit of Frank which starts at

page 1146.1 will be admitted and marked as EXHIBIT YY –

what is the number?

ADV PRETORIUS SC: 16.1

CHAIRPERSON: 16.1. Ja. Mr Pretorius I do not want to

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forget this.

ADV PRETORIUS SC: Oh.

CHAIRPERSON: Okay, thank you.

ADV PRETORIUS SC: Frank is it correct and I am now

going to page 836 of EXHIBIT YY16, that on the 19 t h of

January a request for …

FRANK: Hold on sir, do not – you are saying YY?

ADV PRETORIUS SC: Page 836. I am only going to refer

now to the page numbers in the top left hand column, the

black page numbers.

10

FRANK: Okay page?

ADV PRETORIUS SC: Top left hand corner, page 836.

FRANK: [Indistinct], same mark you gave me?

ADV PRETORIUS SC: Yeah, no, no, not the affidavit.

FRANK: Oh okay.

ADV PRETORIUS SC: Page …

FRANK: 800 …

ADV PRETORIUS SC: And 36.

FRANK: 836. Hold on for me quick. 836. 836. Yes.

ADV PRETORIUS SC: On the 19 t h of January 2021 …

20

FRANK: Yes.

ADV PRETORIUS SC: The Commission sent to you are

request for an affidavit. Correct?

FRANK: Yes.

ADV PRETORIUS SC: And that was followed up by a letter

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dated the 9 t h of February 2021 on page 841.

FRANK: 841. Yes sir, I recognise that.

ADV PRETORIUS SC: And Ms Jabulani Lavuno and

Advocate Sam Ngiba were they your representatives at the

time, 9 t h February 2021?

FRANK: Yes. Yes.

ADV PRETORIUS SC: Okay. Contents of those letters are

self-explanatory. And I do not want to deal with them in

any detail. Is it correct that on the 6 t h of November 2019

an interview was conducted internally with an SSA as part

10

of the Veza investigation?

CHAIRPERSON: Is it Veza?

ADV PRETORIUS SC: Veza.

FRANK: Are you making ...[indistinct]), are you making

...[indistinct] turn the page?

ADV PRETORIUS SC: Yes, page 845.

FRANK: Yes sir.

ADV PRETORIUS SC: That is a transcript that was

provided to us by the SSA and do you confirm that you

were indeed interviewed on that date?

20

FRANK: May confirm that I have been interviewed on that

day, however I also want to place it on record that this

transcript before me I saw it for the first time a year after

when served to me by the Commission. So it was never

shared to me as an affected party by the investigators.

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Only to say or suffice to say I see this transcript for the

first time as provided by the Commission.

ADV PRETORIUS SC: Yes. All I want to put to you at this

stage is the fact that you were interviewed. I will put

passages to you and can comment on whether those

passages accord with your own memory of what happened

in that investigation. So you will have a chance to

comment. But when you say it was not shared with you by

the

investigators,

you

are

referring

to

the

SSA

investigators, is that correct?

10

FRANK: Yes. Yes. Yes.

ADV PRETORIUS SC: Alright. If you could go to page 861

please.

FRANK: Yes sir.

ADV PRETORIUS SC: As part of the project being referred

to there, to your knowledge who were the persons who

received protection under the rubric of the project there

being discussed? First of all what project was discussed

at page 861? And then who were the persons being

protected?

20

FRANK: [Indistinct], can you repeat that for me sir?

ADV PRETORIUS SC: If you look at page 861.

FRANK: Yes.

ADV PRETORIUS SC: During the course of the interview it

appears from this transcript that you were being asked

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questions about a particular project. You see that?

FRANK: Yes, I see.

ADV PRETORIUS SC: Two thirds down the road or down

the page rather, two thirds down the page a project is

mentioned, what project is that?

FRANK: Project Construção.

ADV PRETORIUS SC: Alright, Project Construção. Now

as part of Project Construção who received VIP protection?

FRANK: In reference to this page were Dudu Myeni and

Colin Maynier, Maynier.

10

ADV PRETORIUS SC: At the time who was Colin Maynier,

what office did he hold?

FRANK: He was the president of the ANC youth league.

ADV PRETORIUS SC: Youth league?

FRANK: Yes.

ADV PRETORIUS SC: And was there a third person who

received protection?

FRANK: Still on this page. Yes.

ADV PRETORIUS SC: Who was that?

FRANK: And the deputy, the deputy president. The then

20

deputy president Desmond Muela.

ADV PRETORIUS SC: Of the ANC youth league?

FRANK: Yes.

ADV PRETORIUS SC: Right. And you say just above the

passage where you mentioned Project Construção,:

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“I will tell you why I know for sure because the

protection of these people fell squarely on projects

I was running.”

Is that a correct statement?

FRANK: Can you read? Where does that follow?

ADV PRETORIUS SC: Alright it is two thirds down the

page 861.

FRANK: Yes I can see that. I can see that.

ADV PRETORIUS SC: Next to the word in red Frank.

FRANK: Yes.

10

ADV PRETORIUS SC: It reads:

“I will …”

FRANK: I see that. [Indistinct].

ADV PRETORIUS SC: Is that correct? Is that correct?

FRANK: It is correct. Correct.

ADV PRETORIUS SC: Right. And then in page – sorry.

And then on page 860 you refer to co-workers. Or co-

workers are referred to in the transcript. Do you see that?

FRANK: No, I am trying to look at it, specifically, what?

Where? Yes sir.

20

ADV PRETORIUS SC: Were co-workers employed or

pointed to conduct operations such as Project Construção?

FRANK: Can I, can I clarify?

ADV PRETORIUS SC: Yes please.

FRANK: I think there is a, there is a misconstrued idea

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here. Co-workers did not fall under ...[indistinct] Project

Mr ...[indistinct]. Co-workers was another, it was a team of

other employees operative within the EDSO. It did not fall

within my spec, my …

ADV PRETORIUS SC: But do you have a mask on?

FRANK: Yes I do.

ADV PRETORIUS SC: Won’t you take it off please and

make sure that nobody is near you? So that I am having

difficulty in hearing your words.

FRANK: Alright then.

10

ADV PRETORIUS SC: Thank you. Explain who were co-

workers.

FRANK: Co-workers was a set of other employees

attached to CDS chief directorate. Special operations, but

they did not fall within my area of work. So that part of the

transcript it’s not correct.

ADV PRETORIUS SC: Well are you saying you did not say

that? That part of the transcript?

FRANK: Yes. Yes it might have been misunderstood. The

co-worker specifically part of it.

20

ADV PRETORIUS SC: Well next to the word Frank, one

third down the way, page 860 it says, now I like that part:

“One of the things I did was primarily, one we had a

letter that we wrote to DG Kudjoe at that time to

say, look based on the fact that we are working in

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this environment with these people, we request a

waiver of advertisement and adsorption of these

people so that they can be taken for necessary

training

within

the

environment

which

is

our

environment here, although most of them would

come from a foreign country.”

Is that incorrect?

FRANK: Let me have a look at it quickly. I am not sure

the construction of the word of the paragraph as it ends,

they come from a foreign country. I am not sure what it

10

was meant there. But I remember that part of the

discussion.

ADV PRETORIUS SC: Right. Did you say that apart from

the fact that they came from a foreign country?

FRANK: Yes we had a discussion around that.

ADV PRETORIUS SC: Right. And further down that page,

mention is made of the fact that at least some of these co-

workers were relatives of people involved in SSA. You see

that?

FRANK: Where is that sir? Can you direct me please?

20

ADV PRETORIUS SC: Well you say two thirds down the

page of page 860:

“Let us not say these people. Most of these people

were relatives of Thulani. I just want to say it

bluntly. They were relatives of Thulani you were

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asked. Frank, yes.”

Did you say that?

FRANK: No.

ADV PRETORIUS SC: No?

FRANK: It’s misconstrued here.

ADV PRETORIUS SC: But what was misconstrued? It is

just a recording of what was said.

FRANK: I mean …

ADV PRETORIUS SC: No one is construing anything. It is

just a recording of what was said, so all that I think that I

10

am asking you is, did you say this or did you not say this?

FRANK: No, I did not say. Let me leave it at that.

ADV PRETORIUS SC: So someone must have inserted

this in this transcript, is that what you are suggesting?

FRANK: I am not suggesting that. I was, I was actually

saying the wording there, it might have been but as far as

my recollection is concerned.

CHAIRPERSON: Could it be, would it make a difference

Frank if the position is that in the conversation you

specified the country from where you believe they came.

20

And what is confusing you now is that, in the place of the

name of the country it is simply written a foreign country.

Is that what maybe confuses you?

FRANK: No, no, no.

CHAIRPERSON: It’s not that?

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FRANK: Not at all Chair. Not ...[indistinct] if you say, if

you say they came from a foreign country, the insinuation

was that these were not South African citizens.

CHAIRPERSON: Yes.

FRANK: The discussion there was making reference to

say they were trained outside a foreign country. That was

the discussion, as far as I can recall.

CHAIRPERSON: Would, is it possible that what you said

was that most of the people were trained from a foreign

country and maybe whoever transcribed thought you were

10

saying they came …

FRANK: Yes.

CHAIRPERSON: From a foreign country?

FRANK: Yes.

CHAIRPERSON: Is it possible that …

FRANK: Exactly that.

CHAIRPERSON: Ja, you …

FRANK: Exactly Chairperson.

CHAIRPERSON: You may have said they were trained …

FRANK: [Indistinct].

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CHAIRPERSON: You may have said they were trained

from a foreign country, not that they were coming from …

FRANK: Yes. So there is an omission.

CHAIRPERSON: Okay.

FRANK: So there is an omission there.

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CHAIRPERSON: Yes. Okay.

ADV PRETORIUS SC: But further down the page the

statement appears on that page and it reads:

“Let us not say these people, most of these people

were relatives of Thulani, I just want to say it

bluntly.”

You asked according to the transcript, at least they

were relatives of Thulani. Frank, yes. I have difficulty in

understanding how a statement could be misconstrued in

this regard. It seems pretty clear, but perhaps you can

10

explain. Perhaps you did not say it at all and someone

else inserted this, so surreptitiously or perhaps it is …

FRANK: Ja.

ADV PRETORIUS SC: A incorrect record of what you did

say.

FRANK: Chair, in the same context that I was trying to

correct there, that that paragraph with the foreign country,

I want to make reference even to this paragraph there.

The discussion was to say there were also relatives of

Thulani.

20

ADV PRETORIUS SC: Alright. Who were employed as co-

workers?

FRANK: Yes, they were. So ...[indistinct] I do not know,

but I say there were.

ADV PRETORIUS SC: Alright.

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CHAIRPERSON: Unless if, if most were relatives of

Thulani, would that indicate in any way whether they were

South Africans or people from another country or would it

not?

FRANK: Chairperson can you repeat yourself?

CHAIRPERSON: If most were relatives of I think he has

just referred to as Thulani, if they …

FRANK: Yes.

CHAIRPERSON: If most were relatives of Thulani, would

that indicate whether those who were relatives of Thulani

10

were South Africans or were from another country?

FRANK: I am not there Chairperson, but …

CHAIRPERSON: You are not sure.

FRANK: But ...[indistinct] it would be, it would – let me

say I am not sure what does the name but …

CHAIRPERSON: Okay.

FRANK: To me it will be misleading information.

CHAIRPERSON: Okay, alright.

ADV PRETORIUS SC: Yes. If we could go to page 892

please.

20

FRANK: Yes sir.

ADV PRETORIUS SC: And I want to first ask you about

what appears on this page, the bottom one third of the

page. It is recorded here at least that you were asked:

“You were chosen again to do wave.”

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That is W-A-V-E. You are recorded as having said,

what wave. The answer is, the project, to run Project

Wave. And you are recorded as having saying, having

said:

“No, no, no I just wrote it, I wrote it.”

And then you were asked who wrote the operational

plan, the answer is:

“I wrote it ma’am.”

The question is why and then the answer is:

“I was asked to do so.”

10

What was Project Wave? Well firstly did this

exchange take place to the best of your recollection?

FRANK: I may not remember the exact wording but I

remember it could have fallen(?) amongst the things that

we had discussed in that particular interview.

ADV PRETORIUS SC: Alright. Did you

write the

operational plan for Project Wave?

FRANK: Let me put it clearly, that is why I am saying

some of the words do – I just put it on paper, the

conceptualising, conceptualising of it, it was as per the

20

estimate at the time and in a brief discussion which I was

also present with other members. Was given to me and

then I was asked to put the whole thing into pen, pen and

paper.

ADV PRETORIUS SC: What was the purpose of Project

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Wave?

FRANK: I may not be able to give a exactly detail, the

exact detail of the project, but it was one of the counter

intelligence measures that were, were meant to be put in

place. Specifically or initially to assist in counter –

intelligence operations ...[indistinct] of the country.

ADV PRETORIUS SC: Alright, there was no spec of the

project that we will deal with later. We do not need to take

that any further for the present. You could go with me to –

if you would bare with me Chair because I am trying to up-

10

down …

CHAIRPERSON: Ja.

ADV PRETORIUS SC: Given time constraints.

CHAIRPERSON: Ja, that is fine. Maybe during lunch you,

you could check with Mr Meyberg, his evening witness from

what I recall did not appear in ...[indistinct] somebody who

would take very long. And therefore maybe the 3 o’clock

cut off point might not be strictly adhered to for your

purposes.

ADV PRETORIUS SC: I should ...[indistinct] adjournment.

20

CHAIRPERSON: Ja.

ADV PRETORIUS SC: If you could go to page 898 please.

Again two thirds …

CHAIRPERSON: Now let us …

ADV PRETORIUS SC: Two thirds down the page.

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FRANK: [Indistinct].

ADV PRETORIUS SC: Page 898.

FRANK: Yes sir, I am there.

ADV PRETORIUS SC: It says next to the word Frank:

“There were no people at that time at Wave. The

only time I started paying Wave ma’am it is when

this team were, was that came in to be trained by

Media. I think they were paid for about five months

if I am not mistaken for the entire duration. At one

point you see it is a pity. At one point I know there

10

was a problem where Thulani wanted R20 million on

Wave to be paid.”

And then later on a few lines down, Frank:

“I do not know what it is, but all I know there was

money at one point and Thulani wanted R20 million. He

was ...[indistinct] at nothing.”

CHAIRPERSON: [Indistinct]. That is R20 million.

ADV PRETORIUS SC: R20 million, yes.

“He was stopping at nothing that Lilly must make it

available because I was close to …”

20

Then that sentence ends there. But I wanted to ask

you was this matter discussed during this interview.

FRANK: There was a discussion definitely yes.

ADV PRETORIUS SC: Do you know what the purpose of

the request for R20 million in relation to the execution of

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Project Wave was? Or?

FRANK: Chairperson can I put it on record, that at that

particular time or at that particular phase of the project I

was not involved there, so I will not know.

ADV PRETORIUS SC: Alright. Page 901.

FRANK: Yes.

ADV PRETORIUS SC: Two thirds down the page. You see

that? Next to the word, Frank:

“Ma’am I do not know, I do not know, I do not know.

Really I do not know. These are instructions that

10

come. This is what has to be done, do that.

Everyone knows that we are drawing this money,

even the money that goes to the minister for

example was going cash.”

You are asked:

“Why was it going to the minister?”

Frank:

“I do not know.”

You were asked:

“Who was giving an instruction that money had to

20

be given to the minister?

Your answer, or Frank answers:

“It was him and Thulani. Remember there were two

projects that were running from the minister ’s

office.”

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Question:

“Which are?”

Frank:

“It is not project it was operations. One of them it

was Lock(?). Yes.”

And then there is a discussion about Lock. Did this

discussion take place?

FRANK: I could say it would have taken place. However I

need to put it to context. [Indistinct] writing that. It says

the minister. And I had not, at no given stage in my

10

...[indistinct] to the minister. I think the reference was

made to the ministry. I think I need to put that on record.

ADV PRETORIUS SC: Yes. Well to you knowledge what is

the difference between the minister and the ministry?

FRANK: The minister could be the person himself. The

ministry could be an office in which we were dealing with

officials in that office.

ADV PRETORIUS SC: Right. Did you as part …

FRANK: [Indistinct] perhaps elaborate. Sorry.

ADV PRETORIUS SC: I am sorry.

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FRANK: Perhaps at a later stage you clarify that entire

thing with that office.

ADV PRETORIUS SC: Yes. We will deal with that later

when we get to your affidavit Frank.

FRANK: Yes.

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ADV PRETORIUS SC: But for the moment do I understand

your evidence to be that you told the investigators in the

Veza investigation that money was being taken to the

ministry. Is that correct?

FRANK: Ministry, yes that is correct.

ADV PRETORIUS SC: Is that a correct statement, a fact

you were obviously telling them the truth?

FRANK: I am telling them the truth, correct sir.

ADV PRETORIUS SC: Is it correct then that money for the

execution of SSA Project was according to your evidence

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taken to the ministry?

FRANK: Yes, yes sir.

CHAIRPERSON: Was that something that you had

personal knowledge of or was it something that you had

heard about?

FRANK: I am saying in as far as I am concerned the

monies that I was taking through to ministry was delivered

by an official. I have never taken money personally to

Minister Mahlaba. I am talking in relation to me, myself.

CHAIRPERSON: Oh, you were talking about occasions

20

when you, personally have taken money to the Ministry,

that’s what you are talking about?

FRANK: Correct.

CHAIRPERSON: Alright okay.

ADV PRETORIUS SC: On page 902 in the third line you

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say,

“No, it was not always me ma’am or it is recorded

that you said, no it is not always me ma’am so I

would deliver this money to the office”,

Is that the office of the Ministry, is that correct?

FRANK: Yes, correct.

ADV PRETORIUS SC: Now, when you delivered money to

the office or to the Ministry to whom did you deliver the

money?

FRANK: To the officials referred to in my affidavit, J and

10

B.

ADV PRETORIUS SC: J is that Jay?

FRANK: No, no, I’m not sure how it is written in these

documents…[indistinct].

ADV PRETORIUS SC: What officials, what office did they

hold?

FRANK: In the Ministry.

CHAIRPERSON: Hang on one second Frank, the names

you are using for the record, when you said J that’s a

pseudonym is that right?

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FRANK: Yes, correct Chairperson.

CHAIRPERSON: Okay, alright. Mr Pretorius you may

have thought about it, I was just asking about the positions

they held but they might not be operatives.

ADV PRETORIUS SC: Well, they – that’s what I wanted to

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get to.

CHAIRPERSON: Yes, ja okay.

ADV PRETORIUS SC: Were these persons members of

the SSA or operatives?

FRANK: Yes, one of those was a member – I mean, was

yes because he’s no longer – was a member of SSA and

…[indistinct] operative yes.

ADV PRETORIUS SC: In the office of the Ministry?

FRANK: Yes.

ADV PRETORIUS SC: And the other one?

10

FRANK: Was an official in the office.

ADV PRETORIUS SC: Just an employee at the office of

the Ministry is that correct, not a SSA member or

operative?

FRANK: Yes.

ADV PRETORIUS SC: What was his name?

FRANK: [Inaudible audio distorted].

ADV PRETORIUS SC: I’m sorry.

FRANK: I may not be able to disclose that, but he was a

member of SSA but not an operative.

20

ADV PRETORIUS SC: Alright, is that the second person?

FRANK: Yes.

CHAIRPERSON: I’m sorry, Frank, just to clarify the

distinction. When reference is made to a member of the

SSA, is that different from an employee or official of the

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SSA?

FRANK: Chairperson, in this context, yes because we are

making reference to operations so try distinguish what’s

that. One had capacity to be involved in operations, one

did not have.

CHAIRPERSON: Okay, so if you – if you are the

employee of the SSA who is also authorised or whose

duties include being involved in operations you would be a

member of the SSA but if you are an employee of SSA

whose duties do not include being involved in operations

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then you’ll just be an employee or an official, but you are

not a member, is that right?

FRANK: No, it’s not right Chairperson.

CHAIRPERSON: Oh, what is right just explain it to me?

FRANK: What is right in terms of …[inaudible – audio

distorted] particular persons and trying to distinguish in

relation to capacity of what would be, one with the capacity

or two can be participating…[indistinct], would not be able

to have a …[indistinct] member because any person that is

an employee and there’s an issue with the appointment

20

…[indistinct] is therefore, a member.

CHAIRPERSON: Oh, to be a member you have to be

issued with a specific number?

FRANK: Have an appointment number, yes.

CHAIRPERSON: Oh, okay so those who have not been

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issued with such a number would then be, just ordinary

employees or officials.

FRANK: Of which I don’t know any of – any of such

person.

[Indistinct]

establishment

is

a

…[indistinct]

regardless of his particular position or casting.

CHAIRPERSON: Oh okay.

FRANK: So, you’d not be in that…[inaudible – audio

distorted] not a member.

CHAIRPERSON: You would not be at SSA unless you are

a member?

10

FRANK: Yes, whether at the Ministry or at OTC, unless

you’re a member.

CHAIRPERSON: Even if you are – no matter what your

position is, you would be a member?

FRANK: Within those two establishments I’m referring to.

CHAIRPERSON: Ja that’s what I’m talking about.

FRANK: Because there could be people who were part of

the agents who are not…[indistinct] that is something else

outside those two establishments I’m making reference to.

CHAIRPERSON: Okay, alright, Mr Pretorius?

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ADV PRETORIUS SC: Yes, could I ask you to go to page

905 please.

FRANK: Yes.

ADV PRETORIUS SC: The first paragraph on that page,

line three reads as follows,

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“So, when that happened ma’am that’s how the

Ministry took over the project. It went out of my

hand, I know nothing about it, the subject was paid

from the Minister ’s office, I would draw the money

under Ops Lock, deliver the money to them at the

Ministry,

they

would

sign

for

it,

either

two

pseudonyms, Bokani or Jay, he would sign for the

money they would go and deliver and bring back the

certificate. They would take the money and I would

take the certificate, I would settle like that. There

10

was another project, for example, Ops Justice there

was money being drawn, that money started as

R1.3million up to R21.8million I used to draw that

money”,

Did that discussion take place?

FRANK: Chairperson that discussion took place, however,

I need to put certain things into context because I think the

describer omitted that context part. This taking over by the

Ministry

was…[indistinct]

saying

after

facing

some

challenges in this operation …[indistinct] intervention by

20

the Minister in which the Minister himself, then tasked

these two officials to …[indistinct] with operatives how best

can these be dealt with and one of the agreed propositions

with the officials was that the withdrawal of this money

needs to be confirmed either in the office delivered to

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them. They would then arrange a …[indistinct] and upon

that – and upon return from it would then receive

certificate with a signature of the subject, which we had in

our disposal as, what do you call, as an example, so we

knew exactly how the subject would sign upon receiving

this money and I would then collect that certificate for

settling

the…[indistinct],

but

I

want,

also

to

correct

something, Chairperson.

CHAIRPERSON: Yes.

FRANK: It talks here about money that started at

10

R1.3million…[indistinct] Ops Justice and that money went

up to R21.8million, that’s an incorrect affirmation of the

statement.

CHAIRPERSON: Yes.

FRANK: The operation, when it started, it was allocated

R1.3million and then at a later stage the operation was

allocated R1.8million to …[indistinct] for the operation.

So, that R21.8million, it’s wrong information…[intervenes].

CHAIRPERSON: What is the correct figure?

FRANK: R1.3million to R1.8million.

20

CHAIRPERSON: Oh okay.

FRANK: Not R21million I don’t know anything about

R21million,

I’ve

never

drawn…[indistinct]

of

me

ever

drawing that R21million.

CHAIRPERSON: H’m.

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ADV PRETORIUS SC: Ja, so apart from the figures and

the context, and I’ll come to the context now, is it – did this

discussion take place as recorded here?

FRANK: Definitely it was recorded but…[indistinct].

ADV PRETORIUS SC: Yes, let’s go back then to page

904, you do, in fairness deal with the context there.

FRANK: [Inaudible – audio distorted].

CHAIRPERSON: In the same Bundle.

FRANK: Yes, but I’m saying what part of that 904?

CHAIRPERSON: He will tell you just now.

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FRANK: Oh, okay.

ADV PRETORIUS SC: 904, two thirds down the page.

FRANK: Okay.

ADV PRETORIUS SC: So, you were asked,

“Do you think and the name there is the subject of

Operation Lock, has a relationship with the former

President Zuma”.

FRANK: Hold on, hold on, where are we?

ADV PRETORIUS SC: Two thirds down the page, or three

quarters down the page, 904.

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FRANK: Okay…[indistinct].

ADV PRETORIUS SC: You there, Frank says,

“He didn’t have but he had, did they meet, in

answer to the question, do you think the subject has

a relationship with the former President Zuma. I

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think they met, because one thing that I intervened

was him, at one point, wanting to go meet the

President with Thando and I said but where is this

man going to meet the President. Even with my

discussion with the President I said, but baba he

only said to me, now that I’m telling you what the

President said to me, he said that this man, at one

point was helpful to him especially when he was

released. He helped him with some things but when

I

went

to

ask

him,

but

why

do

we

have

a

10

relationship with this particular person, but why are

we allowing and the question is, the President saw

his value, that’s the former President. Frank, at

that time he said he had a point that’s why they’re

working. Then I said in my intervention, I’ve got

that report ma’am, I said even – I even said in my

intervention, this is a problem that we are sitting

with. We can no long, the Minister for example has

promised this guy R3million”,

Did this discussion take place?

20

FRANK: Sir can I confirm that we had a discussion of that

nature,

however,

the

construction

of

that

paragraph,

…[indistinct] the end, has been taken out of context.

Perhaps I need to explain one thing sir, my involvement

with this project or…[indistinct], was merely because there

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were challenges…[indistinct] the Minister request me to

conduct an investigation, together with some officials from

the Department of Correctional Services and report back

with my findings. So, this issue discussed here, it refers

to that investigation in which, according to these officials,

according to these officials there indicated the reason why

the subject was placed under the care of SSA Special Ops,

it was because he was helpful in conducting or revealing

some information which was not revealed even through the

GRC or any other form for which did help the President in

10

some decisions that he had to make and that they,

themselves did a discussion with the President in that

matter, it’s not my discussion with the President. It’s a

discussion with…[indistinct] the officials of Correctional

Service and their understanding, that was the reason why

the subject was placed under our care. So, I wanted to

clear – and …[indistinct] it was not in accordance to words

told to me by the Minister it’s in accordance to information

of the officials when I interacted with them. So, I could not

– I don’t have the proof of that particular …[indistinct].

20

ADV PRETORIUS SC: Alright so…[intervenes].

CHAIRPERSON: I think we should take lunch.

ADV PRETORIUS SC: I’m sorry I missed that Chair.

CHAIRPERSON: Ja, it’s about seven minutes past one,

we’ll take the lunch break and resume at ten past two, we

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adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES:

CHAIRPERSON: Okay, let us continue. Frank.

FRANK: Good afternoon.

CHAIRPERSON: Good afternoon. Let us continue,

Mr Pretorius.

ADV PRETORIUS SC: Thank you, Chair. Hello, Frank,

again. Frank, we are on page 905 of wire 16.

FRANK: 905?

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ADV PRETORIUS SC: Yes, please.

FRANK: I am on page 905, sir.

ADV PRETORIUS SC: At the end of the first paragraph

the following appears. There was another project for

example Ops Justice, there was money being drawn and

then there is a reference to figures which you have dealt

with. I used to draw that money. The question is asked

why. The answer that you give is deliver because it was an

instruction and the question then is where did it go and the

answer

is

it

would

go

to

the

Minister.

Did

that

20

conversation take place?

FRANK: Yes, remember in the context that I have alluded

to with that correction of the Ministry.

ADV PRETORIUS SC: So you say it should read the

Ministry?

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FRANK: Not Minister, yes.

ADV PRETORIUS SC: Now when you refer to the Ministry,

I take it you are referring to officials within the Ministry

rather than the building.

FRANK: Yes, yes, yes, yes.

ADV PRETORIUS SC: Correct. Now from all the

knowledge that you had and the context that you have

described, these officials, were they acting in their official

capacity as officials of the Ministry?

FRANK: Yes, they were. Remember, they were part of

10

the team that was asked to resolution – to rectify the

actual [indistinct] that existed... [intervenes]

ADV PRETORIUS SC: Yes, but now we are talking about

Justice now, huh?

FRANK: Yes, I am talking – remember, all those projects

that are there or those operations, not projects, are as a

result of the ministerial intervention.

ADV PRETORIUS SC: Okay, fine.

FRANK: So the money is combined for all ops, ja.

ADV PRETORIUS SC: And then it goes on to say for what

20

purpose.

“Frank - they knew who they were dealing with.

Remember that there was a point where Justice was

complaining that...”

And then you correct yourself, you say:

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“No, there was a complaint that the judges were

colluding

to

overthrow

the

government,

so

an

operation was established. So they said there is

someone who is working closely to understand that.

So this person was being paid this money to deliver

this.”

Did that conversation take place?

FRANK: I can confirm.

ADV PRETORIUS SC: Right. So there was a project that

had something to do with judges and a person within the

10

Ministry was paid – being paid money to deliver that money

in execution of that project. Is that correct?

FRANK: May I correct something, Chair.

CHAIRPERSON: Yes.

FRANK: There was never a project. There was an

operation.

ADV PRETORIUS SC: Yes. I am sorry, that technical

distinction sometimes eludes me. An operation. But

otherwise my proposition, do you agree with it?

FRANK: Yes, that there was that conversation in and

20

around these operations and the officials would facilitate

that transactions [indistinct] distributions.

ADV PRETORIUS SC: Yes.

CHAIRPERSON: I am sorry. Frank, just so that I

understand, are you able to... [intervenes]

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FRANK: Chair.

CHAIRPERSON: Are you able to explain the distinction

between a project and an operation publicly?

FRANK: Yes, I can.

CHAIRPERSON: Yes, please do that for my benefit.

FRANK: Yes. Remember a project, Chair, a project is

established based on the national intelligence estimates

which [indistinct] that is put forth. There is a [indistinct] of

the

planning,

the

costing

and

all

those

things,

né... [intervenes]

10

CHAIRPERSON: Yes.

FRANK: ...that results in the project with the [indistinct]

and with a person who is allocated to run that particular

project.

CHAIRPERSON: Ja.

FRANK: Now with the preparation if there is anything that

arises within the context of evidence that needs to be

taken

care

of,

remember

part

of

our

work,

every

information that comes to us is valuable, as a result of

such part of it is that we need to put counter-intelligence

20

measures in place to confirm or refute the existence of that

particular threat. So this operation comes in the midst – in

the middle of the project running, so we then accommodate

within a particular project.

CHAIRPERSON: Alright.

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FRANK: The operation arises because of a particular

[indistinct].

CHAIRPERSON: Oh, so within a project there could be

different operations. Is that right?

FRANK: Operations, exactly. Exactly, Chair.

CHAIRPERSON: Yes and there could be an operation that

is not attached to a particular project or an operation must

always be attached to a project?

FRANK: Because of the cost factors, né, we look at the

relevant projects that can be related to that particular

10

threat. So I would [indistinct] within that context of a

project [indistinct] which had its own purpose, then a local

or a threat that arises it was well best to place it within

that particular project.

CHAIRPERSON: Oh, okay. Thank you. Mr Pretorius.

FRANK: Yes. Yes, Chair.

CHAIRPERSON: Thank you very much.

ADV PRETORIUS SC: Let us go a little further down the

page, the next paragraph.

“Frank - no it was meant to deal with the issues of

20

the judge. Actually let me not confirm whether this

person is a judge or not. I do not know. All I know

is that I am delivering this money to the office to

deal with the issue of the judges. That is the one

thing I know.”

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Did that conversation happen as stated there?

FRANK: Chairperson, it seems going forward in that

particular statement it was a mixture of two factual issues

looking at the figure that follows there. That particular

issue deal with [indistinct] Operation Justice.

ADV PRETORIUS SC: Yes, so in so far as you were

referring

to

Operation

Justice,

that

conversation

did

happen?

FRANK: Yes, we did have a conversation around that

Project... [intervenes]

10

ADV PRETORIUS SC: Yes and what is said in the first

three lines of that paragraph, that is correct from your

point of view as I understand it?

FRANK: No, although it is not put into context, but it is in

line with what I have explained around Operation Justice.

I then meant to investigate, confirm or refute, yes.

ADV

PRETORIUS

SC:

Yes

and

then

the

issue

changes... [intervenes]

FRANK: So it is not well explained there.

ADV PRETORIUS SC: I am sorry, I interrupted you. What

20

did you say?

FRANK: Yes, I am saying in that particular paragraph

there is a reference of issues instead of putting into

context what issue, what it was.

ADV PRETORIUS SC: Yes, so I am coming to that now.

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FRANK: [Indistinct 00:08:42].

ADV PRETORIUS SC: Okay. I am only dealing in the

questions to date or to this point with the first three lines

as

it

deals

with

Operation

Justice.

Then

you

do

change... [intervenes]

FRANK: Okay, sir.

ADV PRETORIUS SC: The topic does change. You say

then there was another money, 2.5 million I think we used

to take. They used to call this money Commitment. That

is another issue as I understand it. Commitment is another

10

operation. Is that correct?

FRANK: Yes.

ADV PRETORIUS SC: Right.

FRANK: Yes, that is correct.

ADV PRETORIUS SC: And then you asked what was it for

and the answer is recorded here as:

“This money was going to some operation. I do not

know what operation it was, but I would take this

money. Actually there was no money. We would

not receive the money. We would get a call from

20

the

Minister forcing that this

money

must be

available. I said but Minister, this money only

comes out when we draw the entire money for the

month. So if we cannot even draw money to pay

people, where will we get this 2.5 million. Do you

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understand? So I would draw this money and take

it, so at the Ministry I would drop off R2.5 million,

this 1.3 and this 200 000, I would drop these

monies in the Ministry, take what is due for me to

make the payments for the workers, that is it.”

Did that conversation take place?

FRANK: Chairperson, that conversation took place.

ADV PRETORIUS SC: Right. So you did get a call from

the

Minister

saying

that

the

money

must

be

made... [intervenes]

10

FRANK: Made available [indistinct] ... [intervenes]

ADV PRETORIUS SC: Sorry, let me finish the question

please.

FRANK: No, no, no.

ADV PRETORIUS SC: Alright, you make your answer, I

will then ask the question.

UNKNOWN MALE: Chair, I think there is a technical

glitch. I do not think my learned colleague understood. It

looks like there is a break in the technical. The witness

was still proceeding [indistinct].

20

CHAIRPERSON: Did you remember to take off your mask,

Frank, after lunch?

FRANK: No, no, no, I am well placed, Chairperson. I am

well placed. I am [indistinct].

CHAIRPERSON: Okay.

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FRANK: It is just a technical – it is a technical issue.

ADV PRETORIUS SC: Yes, so I interrupted you. I am

sorry. The technical issues are difficult. Give your answer

and then I will ask my question.

FRANK: Yes. I wanted to confirm, but again I want to

correct the [indistinct] because there is reference of the

Minister and then the Minister again, so I want to put those

things into context.

Firstly, remember we said these are ministerial

intervention projects which then forced that all these

10

particular monies and operations need to be coordinated

with the officials in the office of the Minister. So that 2.5

fall squarely within those operations that are identified to

the need to be there.

Now, there would be instances where there would

be a complaint to the Minister. I do not know by whoever it

is related to the project, because I am not privy to the

project to say we have made the delivery late or not yet.

So I would explain to the Minister, no, we have not done

the monthly withdrawal of funds with respect to all the

20

other operations inclusive of our own which are not

necessarily the ones within the Ministry for intervention.

So that paragraph there, it needed to establish and

put that into context so it is understood that that call was

not specifically because there was only people that the

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Minister – no, no, no. The Ministry would call to say we

are aware that there is this intervention in these particular

operations and we have received a complaint, this has not

taken place, what has happened. Then I would explain

that.

ADV PRETORIUS SC: So I understand your evidence to

be that even though there is a clear distinction in this text

here between the Minister on the one hand and the

Ministry on the other. The Minister having made the call

and the money being taken to the Ministry. You say that is

10

wrong. It should be the Ministry in both.

FRANK: No, no, no, no. I am saying it is correct to say

the Minister did call. Remember he is part of the people

that is receiving this [indistinct] intervening, so he would

call me to say what is happening because [indistinct]

intervene in this matter.

ADV PRETORIUS SC: Alright.

FRANK: So what is happening. I am hearing that you

have not complied or you have not delivered this particular

operation and I would explain the reason to say but,

20

Minister, we have not done our monthly withdrawals or we

still face the challenge of funds or we are still waiting,

whatever the case.

ADV PRETORIUS SC: Alright. So what emerges from that

is that this recordal here appears to be correct, firstly, and

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secondly that the Minister knew about the monies being

paid to the Ministry.

FRANK: He knew about the intervention by the Ministry

and that it took [indistinct] officials for that. So he made to

be understand by whoever was the recipient that that

particular operation has not taken place. So that is what

he meant there.

ADV PRETORIUS SC: Yes and he spoke to you personally

about this as you say in this paragraph.

FRANK: Yes, sir.

10

ADV PRETORIUS SC: Alright. Thank you. The

R2.5 million or the project referred to in relation to the

R2.5 million appears later at the bottom of the page to be

in regard to Commitment. Do you see that? It is a name

we have heard before in evidence.

FRANK: Ja, let me put it on record, sir, that Commitment

it is what was referred to because we were not privy to the

operation. Nobody wanted to what you call [indistinct] the

purpose, so we would always make that reference as the

Commitment, but remember there is this part of the

20

commitment of monies that needs to go out. So it was not

in relation to 2.5. It was in relation to all the commitments

that we placed as part of [indistinct].

CHAIRPERSON: So is the position that sometimes you

would use the word commitment to refer to undertakings or

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promises or obligations that you had undertaken that

sometimes you would use the word commitment to refer as

a code for money?

FRANK: That [indistinct] the point, Chairperson.

CHAIRPERSON: Okay. Alright.

ADV PRETORIUS SC: The reception is not good. I have

messaged

or

I

have

asked

that

the

technicians

be

messaged on the other side to deal with the... [intervenes]

CHAIRPERSON: Yes, no that is... [intervenes]

ADV PRETORIUS SC: The connection is not good.

10

CHAIRPERSON: Ja.

ADV PRETORIUS SC: But we will be patient.

CHAIRPERSON: His response to my question was that

they sometimes use the word commitment to refer to

undertakings or promises or obligations, but sometimes

they used the word as a code for money.

ADV PRETORIUS SC: Alright. Well, whatever the case,

we have heard the word commitment in another context,

but that we can deal with in due course. What I want to

refer you to, please, Frank, is the top of page 906.

20

FRANK: Yes, sir.

ADV PRETORIUS SC: Kim says, in terms of where you

thought the money was going, Frank is recorded as saying:

“They were actually saying the money was going

towards the project of the President. That is what

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they used to say, but I do not know where, which,

who was receiving. You see, the one person who

was also delivering this money was that boy who

passed on.”

Right, well let us leave the quote ‘boy who passed on’ out

for the moment. Did you hear from anyone that the money

was going towards the project of the President and that

would be the former President?

FRANK: If I can also put that into context. I think it was

the writing that you are not understanding. When we heard

10

about these other commitments to operations that we were

not informed, there was also reference – there was always

reference that, you know, some of these operations would

be looked at at the presidential level. So there was no

direct reference to say it was for the formal projects.

There were projects looked at at the presidential level.

That is my understanding.

ADV PRETORIUS SC: So were the words ‘project of the

President’ in that context used by you?

FRANK: No, it was the presidential project – presidential

20

level, sorry.

ADV PRETORIUS SC: What is a presidential project?

FRANK: I do not know.

ADV PRETORIUS SC: So whether it was project of the

President or presidential project, those words were used.

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FRANK: At the presidential – no, no, no. At the

presidential level.

ADV PRETORIUS SC: Well, what is it? You have said

presidential project and you have said projects at the

presidential level. What words were used?

FRANK: I used presidential level that these 2.5 had to do

with anything at the presidential level.

ADV PRETORIUS SC: Alright. Now what is a project at

the presidential level?

FRANK: I would not know. That is why I am saying it is

10

something [indistinct]. I do not know anything about it.

CHAIRPERSON: Is that how they were referred to by

other people as well?

FRANK: Yes, that is what I heard around. Remember this

was [indistinct] as operatives, as [indistinct] if someone

else would have to do – to deliver that money, because I

was not the only one delivering. My understanding at the

level of operations and our operatives, that was the

understanding that there is a presidential level. As to what

is that presidential level a need-to-know principle applied.

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I had never asked about it.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: I would like you to go to page 909,

please.

FRANK: Yes, sir.

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ADV PRETORIUS SC: The last line, Demi is recorded as

having said:

“What was the spending on Wave?”

W-a-v-e. And at the top of the page 910 you are recorded

as having said:

“Exactly, that is what I am saying, ma’am. We

would draw money from the beginning which I do

not dispute.”

Demi is recorded as saying:

“Because the first withdrawal of 20 million. Frank -

10

exactly. Demi - of the 30 million. Frank - exactly

there was those withdrawals as instructed to go to

the relevant person that we must go and give and

they do. So I agree with you that there was

expenditure not related. Demi - okay, which is

irregular. Frank - yes, I agree with you, ma’am.”

Did that conversation take place?

FRANK: The conversation took place and that reference

of 20 million it was a reference of allocation. The first

allocation of the project was 20 million, not withdrawn.

20

And then later the project was further allocated 30 million.

ADV PRETORIUS SC: And do you confirm that you said

that that was irregular, that particular withdrawal?

FRANK: What irregular?

ADV PRETORIUS SC: Well, I am asking you the question,

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if I may, because... [intervenes]

FRANK: What is that was irregular? I do not follow.

ADV PRETORIUS SC: Well, I asked you... [intervenes]

CHAIRPERSON: We will help clarify. You said withdrawal

was the wrong word used there. What was the right word

that you said... [intervenes]

FRANK: Yes, it was allocation.

CHAIRPERSON: Allocation.

FRANK: Allocation, yes. And later 30 million.

CHAIRPERSON: So instead of withdrawal of R20 million

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it is supposed to be an allocation of R20 million.

FRANK: Allocation, yes.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: But then you say or it is recorded

against your name as you having said:

“So, I agree with you that there was expenditure not

related. Demi - okay, which is irregular. Frank -

yes, I agree with you, ma’am.”

Let me ask you, you confirmed that that conversation took

place. What does that mean?

20

FRANK: Okay, what it meant here is that remember when

these projects [indistinct] personnel had to be [indistinct]

to this project, which means Project Wave was going to be

utilised in conjunction with personnel recruited specifically

to deal with that operation or that project.

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So when an approval took place in January 2015 or

in November 2014, somewhere there, I am not really sure,

personnel had not been recruited as yet. However,

because of the pressing need to carry out the operation

money was utilised in that process, you know, without this

particular personnel. So the personnel came into being

almost, you know, towards the middle of the project

already. So other personnel within other assets were

utilised for the implementation of the project.

ADV PRETORIUS SC: Alright. I must just say, Frank, that

10

we do have a recording of the interview in fairness to you

that is the source of this transcription. So if you need to

listen to that or obtain it, we can possibly make it available

to you, but I just want to place on record that this

according to the investigators... [intervenes]

FRANK: I was just... [intervenes]

ADV PRETORIUS SC: Let me finish. Let me finish,

please.

FRANK: I was making a... [intervenes]

ADV PRETORIUS SC: That this is according to the

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investigators an accurate transcript of a tape recording of

the interview. We can move on then to page 922.

CHAIRPERSON: I think, Mr Pretorius, if there is a

recording available it should be made available to him to

listen to and compare with the transcript.

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ADV PRETORIUS SC: Yes, Chair.

CHAIRPERSON: And then subsequently he can do an

affidavit to say whether where he said it is not correctly

recorded he still sticks with [indistinct].

ADV PRETORIUS SC: Yes, we will do so. That would be

very useful.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: Because then we have it in its

totality.

CHAIRPERSON: Ja.

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ADV PRETORIUS SC: Let us go to page 922 if you will.

FRANK: Yes, sir.

ADV PRETORIUS SC: I do not want to go into too much

detail now because we are really pressed for time, Frank,

but there is a discussion here about two amounts, one

R20 000

which

is

R20 000

extra

and

an

amount

of

R300 000 from halfway down the page to the bottom. Do

you see that?

FRANK: I can see that. Yes, I can see that.

ADV PRETORIUS SC: Did that conversation take place?

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CHAIRPERSON: I am sorry, what... [intervenes]

FRANK: Yes, it did... [intervention]

CHAIRPERSON: Mr Pretorius.

ADV PRETORIUS SC: Page 922.

CHAIRPERSON: 922, okay. Continue. You may continue.

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ADV PRETORIUS SC: Yes. Demi asks you two-thirds the

way down on the page in relation to the R300 000:

“That was meant for Mahlobo and was discovered

by Daryl. You do not know of that? Frank - no, no,

no, it is not

possible that

Daryl

would

have

discovered such. I will tell you why, ma’am. Money

that was meant for Mahlobo would leave here to the

Ministry.”

Was that said by you?

FRANK: Again, I know we have discussed about the

10

excess money, the issue of excess money. I am not quite

sure – conversant with the direction in which the money

was taken. I know we spoke about was there a possibility

that you guys would draw extra money and then I made a

reference that I [indistinct] which money was sent to us in

the office and it was in excess of 20 000 which were

refunded back to the office.

ADV PRETORIUS SC: It is not clear... [intervenes]

FRANK: I know I had that discussion, but going forward I

am not [indistinct].

20

ADV PRETORIUS SC: No, but I just want to know whether

you said the words ‘money that was meant for Mahlobo

would leave here to the Ministry’. Did you use those

words? If necessary we can check on the transcript

recording.

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FRANK: Yes, that is why I am saying I am not sure about

that, but I know we had a conversation of extra funds –

withdrawals from funds, yes.

ADV PRETORIUS SC: And you say you cannot remember

saying money that was meant for Mahlobo would leave

here to the Ministry?

FRANK: Specifically that, yes. Yes.

ADV PRETORIUS SC: You cannot remember that.

FRANK: Yes.

ADV PRETORIUS SC: And if we give you the transcript

10

you can confirm with us whether you said that.

FRANK: Will confirm, sir. Will confirm, sir.

ADV PRETORIUS SC: Right. If we could please then

move on to – Chair, can we admit this as EXHIBIT YY16.2?

The affidavit is YY16.1 and this transcript beginning at

page 845 would that be YY16.2.

FRANK: Can you repeat for me, sir?

CHAIRPERSON: No, he is speaking to me, Frank. On

mine, Mr Pretorius, the transcript starts at page 845. I

thought you said 842.

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ADV PRETORIUS SC: Yes.

CHAIRPERSON: It starts at 845.

ADV PRETORIUS SC: Yes.

CHAIRPERSON: Okay. The transcript of an interview

involving Frank that starts at page 845 would be admitted

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as

an

exhibit

and

would

be

marked

EXHIBIT YY... [intervenes]

ADV PRETORIUS SC: 16.

CHAIRPERSON: 16.

ADV PRETORIUS SC: Point 2.

CHAIRPERSON: Point 2. Yes. And you said you would

like me to admit the affidavit as well.

ADV PRETORIUS SC: Yes, as 16.1. I think we have done

that, but [indistinct].

CHAIRPERSON: Well, I do not think we did that at the

10

beginning, but it is important we should do it. What page

does it start?

ADV PRETORIUS SC: The affidavit appears at 1146.1.

CHAIRPERSON: 1146.1. No, you are right, Mr Pretorius,

we did it.

ADV PRETORIUS SC: Yes. It was at that stage that you

called me forward.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: Are you at page 933, please?

CHAIRPERSON: 933.

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FRANK: 933, you said.

ADV PRETORIUS SC: Yes.

FRANK: 933. Yes, sir.

ADV PRETORIUS SC: At page 933 is a certificate of

veracity completed it appears by Gauteng Transcribers and

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then there is a transcript of an interview at page 934 and

following. It appears that – well, let me ask you. Were

you interviewed by Mr Mufamadi as part of the high level

review panel investigation?

FRANK: Yes, I was.

ADV PRETORIUS SC: And if we could go to page 1010,

please. Well, before that let us go to... [intervenes]

FRANK: One?

ADV PRETORIUS SC: I am sorry. Let us go to page 950.

FRANK: 950.

10

ADV PRETORIUS SC: Yes.

FRANK: I have got up to 945.

ADV PRETORIUS SC: On the first half of the page it

appears from the transcript at least that you told the panel

about

Operation

Justice.

Did

you

tell

them

about

Operation Justice?

FRANK: Yes, I think we did.

ADV PRETORIUS SC: And the content of the first half is

consistent with evidence you have already given in that

regard. Do you have any comment?

20

FRANK: Can you repeat for me, sir?

ADV PRETORIUS SC: Alright. At 975 if you would go

there, please.

FRANK: 975.

ADV PRETORIUS SC: Yes, please.

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FRANK: 975. Yes, sir.

ADV PRETORIUS SC: Alright. That speaks about

Operation Lock and traverses issues that we have already

traversed. Can you confirm that you told the high level

review panel about Operation Lock?

FRANK: Yes, we did discuss with the panel. I did discuss

with them.

ADV PRETORIUS SC: And then if we can go to 1010,

please.

FRANK: 1010.

10

ADV PRETORIUS SC: At the bottom of page 1010 you will

recall there is... [intervenes]

FRANK: Hold on, sir. Hold on, sir. I am at 1010.

ADV PRETORIUS SC: Right. At the bottom of the page

you are recorded as having said:

“Project Wave, W-a-v-e, was established in the

sense

that

we

wanted

to

recruit

and

handle

journalists around Africa specifically because we

felt that South Africa actually at that time there was

a need for us to expand in terms of exposure in

20

understanding, you know, of what South Africa is

doing and so forth, especially around the areas

of...”

And I have read it exactly as it is printed there. Did that

conversation take place and did you tell the panel that?

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FRANK: I can confirm it took place, sir.

ADV PRETORIUS SC: And it is correct, is it?

FRANK: It is correct, sir.

ADV PRETORIUS SC: Then let us go over the page to

1011, the second paragraph.

FRANK: Yes, sir. Yes.

ADV PRETORIUS SC: You are recorded as having been

asked – well, not asked, but speaking about Project Justice

and you say halfway down the first paragraph:

“It was an operation, the one that I referred to

10

earlier when I said it was intended to have an

understanding who sit where within the justice

fraternity.”

The next paragraph reads:

“Specifically issue that pertain the judges, because

there was this feeling with these judges are being

handed...”

I presume it should mean handled.

“...by

foreign

intelligence

services.

So

my

understanding of the project was there.”

20

Unknown female is recorded as having asked:

“Was it not intended to influence decisions of

judges. Frank - at a point I can say it was because

I know for [indistinct] even within Project Justice we

are paying a lot of money a month and these

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monies were said to be paid to a certain set of

judges that were working on high profile cases and

so forth and so forth. Unknown female – yes.

Mr Frank - but I was not directly involved. I only

know because I used to draw money for Masanda he

gave direct to the office of the Minister because

that project was being handled direct from that

office of the Minister. Mr Mufamadi says it is fine.”

Did that conversation take place?

FRANK: Conversation took place, Chair.

10

ADV PRETORIUS SC: It took place... [intervenes]

FRANK: Yes, I would say also... [intervenes]

ADV PRETORIUS SC: I am sorry, I interrupted you.

FRANK: Suffice to say I can assume now that it is making

reference to the issue of the 2.5 million that we spoke

about – I mean, the Operation Justice that we spoke about

in last transcript.

ADV PRETORIUS SC: Yes. Can I ask whether what you

said here was to the best of your knowledge what you knew

correct?

20

FRANK: No, no, no, I did not know much about it. I just

made speculation of investigation of the judges, because I

did not have in depth of that project [indistinct], you know.

I

only

know

that

there

was

this

assumption

–

not

assumption or that information that reflected a threat, you

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know, by judges colluding with foreign intelligences within

the justice system. Therefore there was a need to confirm

or refute that information by form of investigation.

ADV PRETORIUS SC: Well, you knew as I understand it,

and correct me if I am wrong, that within Project Justice,

we, that is the SSA, were paying a lot of money a month.

Is that correct?

FRANK: Yes, remember I was making reference to that

1.3 and then 1.8.

ADV PRETORIUS SC: And it goes on to say, and these

10

monies were said to be paid to a certain set of judges. Is

this what was said?

FRANK: No, these monies were paid to deal with set of

judges suspected of being involved in actual fact.

ADV PRETORIUS SC: Sorry, just say that again. These

monies were paid... [intervenes]

FRANK: Were paid to deal with a set of judges suspected

of being involved in this particular threat.

ADV PRETORIUS SC: Alright. Did you say however ‘and

these monies were said to be paid to a certain set of

20

judges’. Did you say that?

FRANK: Not set of judges.

ADV PRETORIUS SC: No, no.

FRANK: Set of judges – monies were paid to deal with a

set of judges, yes. Not paid to the set of judges.

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ADV PRETORIUS SC: Alright... [intervenes]

FRANK: Because I would not have the information.

ADV PRETORIUS SC: Okay. You say your understanding

of what you learnt was that they were paid – the money

was paid to deal with a set of judges... [intervenes]

FRANK: Set of judges, yes.

ADV PRETORIUS SC: ...and you did not say, as I

understand your evidence, and these monies were said to

be paid to a certain set of judges.

FRANK: No, I would not because I do not have that

10

evidence. I do not even know.

ADV PRETORIUS SC: Alright. Well, again we have the

recording. We will provide the recording to you and we will

ask you questions in relation to the recording, okay.

FRANK: Okay.

ADV PRETORIUS SC: Because the last sentence of that

paragraph says, that where – I presume it means were,

that were working on high profile cases and so forth and so

forth. That sentence only makes sense if the money was

paid to judges. At least that is something that can be

20

extrapolated or inferred from that. Maybe it is not the only

interpretation. What do you say about that?

FRANK: Ja, Chair, it could be that you choose to

understand that way, however in my context this set of

judges that were suspected [indistinct] is because these

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are a set of judges that are working on high profile cases

that foreign intelligence seeks to influence. That is my

understanding.

ADV PRETORIUS SC: Alright. Let us get the transcript

and we can clarify that in later questions. Right, then the

next page, page 1012 and this in fairness to you when you

placed matters of the Minister and the Ministry in its

context, I just want to put this on record. In the middle of

page 1012 you are recorded as having said:

“We just drew the money to say look, there is this

10

operation running. So on your monthly withdrawals

can you include this particular [indistinct] and that

money was directly taken to the office of the

Minister because he had people in his office.

Mr Mufamadi - who was receiving that money?

Mr Frank -

sometimes it would be pseudonym

Fukani [?]. Mr Mufamadi - yes. Mr Frank - who was

the resurgent office of the Minister or it would have

been IT XXX...”

And I think it is XXX he is the manager and then his

20

particular post is described, which I am not going to detail.

Did that conversation take place?

FRANK: Yes, I can confirm it did. I was making reference

to JMZ.

ADV PRETORIUS SC: Yes, subject of course to all the

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evidence

that

you

have

given

about

the

Minister ’s

knowledge and his phone calls and the like. But that is all

in the transcript and I do not want to go back there. Then

on page 1013, line 10, Mr Frank is recorded as having

said:

“Remember this tasking that you were given that

come from above. Mr Church - where is above?

Mr Frank

-

the

Minister

or

the

DG

because

remember we work directly longer with the DG,

Mr Dlomo. That is the only person we work with or

10

the Minister.”

Is that correct?

FRANK: [Indistinct 00:13:12].

ADV PRETORIUS SC: Alright. The passage at the bottom

of the page is inconclusive, but we may ask you about that

later. If I could just take you then to page 1036.

FRANK: 1036. Yes, sir.

ADV PRETORIUS SC: At a stage you were suspended. Is

that correct or... [intervenes]

FRANK: That is correct.

20

ADV PRETORIUS SC: Is that correct?

CHAIRPERSON: What is that stage?

ADV PRETORIUS SC: Page 1034.

CHAIRPERSON: Ja, but what is that stage? It is the

stage of the letter?

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ADV PRETORIUS SC: No, no, no, page 1034 of the

bundle, Chair.

CHAIRPERSON: Yes, but that page I have got a letter.

ADV PRETORIUS SC: Yes, that is correct.

CHAIRPERSON: Ja, so that letter is dated June 2019.

ADV PRETORIUS SC: 3 June 2019, yes. I am going to

ask about this letter, but in leading up to that question I

must first establish as Mr Frank would want the context,

Chair.

CHAIRPERSON: Ja, that is fine.

10

ADV PRETORIUS SC: You were suspended, Frank?

FRANK: Yes, sir.

ADV PRETORIUS SC: And this letter at page 1034

appears to be a letter written by yourself requesting a

review of the suspension of yourself. Correct?

FRANK: Yes, sir. Correct, sir.

ADV PRETORIUS SC: Did you write this letter or did you

have this letter written on your behalf?

FRANK: I wrote it personally, sir.

ADV PRETORIUS SC: You wrote it personally.

20

FRANK: Yes.

ADV PRETORIUS SC: And can we rely on its contents as

being true and correct?

FRANK: Yes, sir.

ADV PRETORIUS SC: Could this be EXHIBIT YY – no, the

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transcript,

the

Mufamadi

panel

transcript

should

be

EXHIBIT YY3, Chair. I do not know if we have done that.

CHAIRPERSON: Well, we did not do that here, but we

would have done it when Dr Mufamadi gave evidence.

ADV PRETORIUS SC: Now I am not sure whether this

was admitted with Mufamadi, but perhaps it could be

admitted again just for safety’s sake.

CHAIRPERSON: The letter?

ADV PRETORIUS SC: No, no, Chair, I am going back.

Sorry, I am confusing issues.

10

CHAIRPERSON: Ja.

ADV PRETORIUS SC: But it is in the nature of the time of

day. Page 933... [intervenes]

CHAIRPERSON: When you finished late yesterday.

ADV

PRETORIUS

SC:

Yes,

Chair,

so

[indistinct]

mitigating circumstances. Page 933.

CHAIRPERSON: 923.

ADV PRETORIUS SC: 933.

CHAIRPERSON: 933.

ADV PRETORIUS SC: That is the... [intervenes]

20

CHAIRPERSON: Yes.

ADV PRETORIUS SC: ...Mufamadi panel transcript. If

that could be admitted as YY3.

CHAIRPERSON: It starts at – it actually starts at 934, but

the cover page is 933.

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ADV PRETORIUS SC: Yes, Chair. Certificate of veracity.

CHAIRPERSON: Certificate. I think we start there.

ADV PRETORIUS SC: Well, in fact the cover page is at

932, but I do not want to confuse issues, Chair.

CHAIRPERSON: Well, I think let us do it at 932.

ADV PRETORIUS SC: Right. Page 932 as YY3.

CHAIRPERSON: Is this transcript is the whole – does the

whole of it relate to the interview of Frank?

ADV PRETORIUS SC: Yes, Chair, only Frank.

CHAIRPERSON: And it will be 16.3?

10

ADV PRETORIUS SC: 16.3, yes. YY16.3.

CHAIRPERSON: Ja, okay. The transcript of an interview

between Frank and the high level panel which starts at

page 932 will be admitted and marked as EXHIBIT YY16.3.

ADV PRETORIUS SC: And then, Chair, if I may ask you

please at page 1034 to admit that letter that has just been

identified by Frank as YY16.4.

CHAIRPERSON: The letter of Frank dated 3 June 2019

that appears at page 1034 is admitted and will be marked

as EXHIBIT YY16.4.

20

ADV PRETORIUS SC: Frank, you say that the contents of

this letter we can rely on as being correct. It was penned

by yourself.

FRANK: Yes, sir.

ADV PRETORIUS SC: Go to page 1036, please, and I just

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want to very briefly put the paragraphs in the middle of the

page on record where you say under the head ‘members

activities within CDSO’:

“There were a number of other operations that were

undertaken by CDSO which the member had no

direct involvement to them other that the fact that

the member was instructed to draw funds as per

submissions and approval, deliver to the specified

individual, place or office. Such was the case with:

Operation Justice, started from 1.3 mil to 1.8 mil

10

withdrawal delivered to the Ministry, received by

code name Fukani or Head of the Ministry code

name J. Commitment Fund, 2.5 million delivered to

the Ministry. Operation Lock, R200 000 delivered to

the Ministry.”

Is that a correct recordal of the facts to your knowledge?

FRANK: Correct, sir.

ADV PRETORIUS SC: And there of course commitment is

used in a different context. It appears to refer to a specific

project or operation rather than just a general reference to

20

a promise or undertaking. Correct?

FRANK: Yes, sir. Yes, sir.

ADV PRETORIUS SC: Thank you. Let us then go on,

please,

to

your

own

affidavit

which

appears

as

EXHIBIT YY16.1 at page 1146.1.

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CHAIRPERSON: The page is?

ADV PRETORIUS SC: 1146.1.

CHAIRPERSON: Oh, okay.

ADV PRETORIUS SC: I am going to go through it fairly

fast because we do not have much more time. We can go

to paragraph 8, please.

FRANK: Paragraph 8.

ADV

PRETORIUS

SC:

Yes.

You

refer

there

to... [intervenes]

FRANK: Which page is this?

10

ADV PRETORIUS SC: Page 1146.3, paragraph 8. 1146.3.

FRANK: Yes, sir.

ADV

PRETORIUS

SC:

You

talk

there

of

Project Constração and Project Wave and you talk of an

allocation

of

30 million

to

Project Constração

and

20 million in respect of Project Wave. It is misspelt but I

presume it is W-a-v-e there. Is that correct?

FRANK: Yes, yes.

ADV PRETORIUS SC: Are those facts correct?

FRANK: Yes, this is correct, sir.

20

ADV PRETORIUS SC: Right and then at paragraph 14 on

page 1146.4 you talk of Project Constração and you speak

in paragraph 14 of recruits coming from outside the

intelligence environment and these recruits were also

trained in firearm handling. Is that correct?

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FRANK: That is correct, sir.

ADV PRETORIUS SC: We could go then to – well, I am

not going to – well, perhaps I should, other witnesses

given evidence in this regard. Firearms – you say in

paragraph 14:

“Firearms were sourced from the SSA armoury

through Mr XXX at the instruction of Mr Dlomo and

another person.”

Is that correct to your knowledge?

FRANK: That is correct to my knowledge, sir.

10

ADV PRETORIUS SC: Then if we go on, please, to

1146.7, I just want to ask you generally, please, is it

correct that... [intervenes]

FRANK: 114?

ADV PRETORIUS SC: 6.7.

FRANK: Can you repeat for me, sir?

ADV PRETORIUS SC: 1146.7.

FRANK: Yes, sir.

ADV PRETORIUS SC: Is it correct that on occasion the

SSA would employ external service providers companies to

20

undertake tasks on its behalf?

FRANK: Yes, sir, that is correct.

ADV PRETORIUS SC: Alright and what you say here in

detail is indeed correct in that regard. Is that correct?

FRANK: Yes, sir.

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ADV PRETORIUS SC: The statements in paragraphs 38

and following at page 1146.9 regarding Ntwanano Tours &

Travel, are those statements correct?

FRANK: Sir, I will have preferred if you did not mention

the name there, suffice to say... [intervenes]

ADV PRETORIUS SC: Oh, my apologies, it is not – I am

sorry.

FRANK: [Indistinct 00:25:02].

ADV PRETORIUS SC: I mispronounced [indistinct]. You

would never guess the spelling from my bad pronunciation.

10

I would like to go to paragraph 44 that is on page 1146.10.

FRANK: Yes.

ADV PRETORIUS SC: Were there dealings with the

company mentioned there? Its pseudonym is Kale, K-a-l-e.

FRANK: Yes.

ADV PRETORIUS SC: And were you introduced to the

relevant persons connected to Kale by Mr Dlomo and/or

Minister Mahlobo?

FRANK: Yes, I think one of those, yes, that would have

been correct.

20

ADV PRETORIUS SC: And can you confirm that an

amount of R12 million was allocated for that operation?

FRANK: I can confirm, sir.

ADV PRETORIUS SC: Right. Then on page 1146.11 you

give details in relation to Project Constração. I am not

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going to put those all on record, but those are set out there

and as far as you know they are correct. Is that so?

FRANK: They are correct, sir.

ADV PRETORIUS SC: And then on page 1146.12 you deal

with Project Wave. It was spelt there W-a-i-v-e. It should

be W-a-v-e as I understand it. Correct?

FRANK: Yes, sir.

ADV PRETORIUS SC: Right. You say in paragraph 54:

“My involvement with the project was limited to...”

And then there is an incorrect number.

10

“...one,

coordinating

resources

and

requesting

funds for the payment of identified operations and

assets with the obvious financial accountability.”

Is that correct?

FRANK: That is correct, yes.

ADV PRETORIUS SC: And then 50 – or it is numbered

53.2 on page 1146.13:

“Spotting and profiling of media personnel and/or

journalists with the aim of recruiting them for the

purpose of satisfying identified operational needs.

20

These targeted journalists were to be recruited from

outside South Africa.:

Let me just ask firstly, what were the operational needs

that had to be satisfied?

FRANK: Sir, I think that will have to be limited to that,

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given that they actually copied a version of that needs and

better explain [indistinct].

ADV PRETORIUS SC: But you do speak here of targeted

journalists being recruited. Do you see that?

FRANK: Yes.

ADV PRETORIUS SC: Is that correct?

FRANK: Yes.

ADV

PRETORIUS

SC:

Targeted

journalists

were

recruited. Correct? From outside South Africa.

FRANK: Yes.

10

ADV PRETORIUS SC: You do frankly admit – sorry, I did

not mean that. You do candidly admit that your wife was

involved in a particular company and one of your children

was recruited. Is that correct in the context of what you

say in paragraph 55 for your daughter? Is that correct?

FRANK: Yes, that is correct.

ADV PRETORIUS SC: And you do say children and

relatives of other members within CDSO and SSA were

recruited.

FRANK: Yes, that is correct, which is nothing out of the

20

normal.

ADV PRETORIUS SC: Yes. Paragraph 56 reads:

“Project Wave’s implementation of the media and

journalist operations... [intervenes]

FRANK: Can I – sorry, sir. Chair?

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ADV PRETORIUS SC: Yes, of course.

CHAIRPERSON: Yes. Yes, Frank.

FRANK: Can I draw you back to the issue raised by

Mr... [intervenes]

CHAIRPERSON: Pretorius.

FRANK: Yes, yes, with relation to my wife. I am not sure

there, but that the [indistinct] was made that the company

that [indistinct] it was registered under her name, that is

why it is not her involvement. It is not involvement. I think

...[intervenes]

10

ADV PRETORIUS SC: Alright. But it is important also in

fairness to mention that you do say that that company

received no financial benefit.

FRANK: Oh yes very very correct. It was not (inaudible)

CHAIRPERSON: Okay.

FRANK: And that played 00:00:19 by myself.

ADV PRETORIUS SC: Alright then on page 1146.14.

FRANK: Yes.

ADV PRETORIUS SC: You record your knowledge of

Project Mayibuye, you see that?

20

FRANK: Yes, yes Sir.

ADV PRETORIUS SC: And you say in paragraph 58

“I generated the memo requesting the establishment of this

project at the request and briefing given to me by Mr Dlomo

in a meeting attended by myself and two others.”

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FRANK: Yes that is correct.

ADV PRETORIUS SC: Right. And in paragraph 52 you say:

“I

however

need

to

mention

that

my

involvement under this project was as a

result of newly established operations within

the

project

namely

Operation

Justice,

Operation

Lock,

Operation

Seskona

and

Operation Safe Return.”

You see that?

FRANK: Yes. Yes Sir.

10

ADV PRETORIUS SC: And then in paragraph 61.1 you

describe Operation Justice. We have dealt with that.

FRANK: Yes.

ADV PRETORIUS SC: And you say at the end of that

paragraph:

“Such funds were dispensed”

FRANK: Yes.

ADV PRETORIUS SC: Well you do mention R1.3 million

and R1.8 million on a monthly basis for the purpose of the

operation. Is that correct as far as you know?

20

FRANK: That is correct.

ADV PRETORIUS SC: Such funds…

FRANK: That is correct.

ADV PRETORIUS SC: You say were dispensed to the office

of the then Minister of State Security Mahlobo. Is that

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correct?

FRANK: That is correct.

ADV PRETORIUS SC: And then Operation Lock is referred

to in paragraph 61.2 again the last sentence of that

paragraph reads:

“The dispensing of these funds”

That is the funds you mention in the paragraph.

“Was through the office of the Minister.”

You see that?

FRANK: That is correct. Yes Sir.

10

ADV PRETORIUS SC: And then Operation Seskona you

deal with in paragraph 61.3 and you describe its origins.

FRANK: Yes.

ADV PRETORIUS SC: Being a consultative meeting that

took place in the presence of various persons including

Minister Mahlobo. Correct?

FRANK: Correct Sir.

ADV

PRETORIUS

SC:

And

Operation

Seskona

you

described

as

being

an

operation

designed

to

launch

investigative operations monitoring and penetration into the

20

civil society movement that was responsible and the

destabilising and causing disorder in the City of Cape Town

in the name of protest against lack of service delivery. Is

that correct?

FRANK: Well described. That is correct.

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ADV PRETORIUS SC: Yes and then paragraph 61.4 you

refer to Operation Safe Return being an operation designed

to penetrate, investigate in order to confirm or refute the

involvement of the then newly formed political party in the

destabilisation of the Bojanala region in the North West

Province – Bojanala region of the North West Province. Is

that correct?

FRANK: That is correct. That is correct Sir.

ADV PRETORIUS SC: Then in paragraph 61.5 you say the

following:

10

“In

addition

and

operation

code

named

Commitment was undertaken by CDSO. I

have no recollection of the intended purpose

however I remember that the funds allocated

were to the value of R1.5 million on a

monthly basis and were dispensed to the

office of the Minister and or at times given

to my colleague.”

And then you mention two colleagues.

“The operation had the approval of the

20

Minister D Mahlobo and Mr Dlomo.”

Are those statements correct?

FRANK: Certainly it is correct Sir.

ADV PRETORIUS SC: And then paragraph 62 you deal with

Project Khusela – K-h-u-s-e-l-a and it is said here:

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“The establishment of this as a project was

after the Minister’s intervention into the

CDSO financial matters in which the budget

of CDSO needed to be reallocated as at the

time it had been depleted. Notable and

important is that the depletion of the CDSO

budget was as a result of the establishment

of the Presidential support unit which had no

allocated budget. Instead general CDSO

budget was utilised for the purpose of

10

supporting

PSS

logistical

needs

of

members.”

Correct?

FRANK: That is correct Sir.

ADV PRETORIUS SC: And Project Khusela’s operational

needs it appears from paragraph 6.1 arose out of the

establishment of the toxicology unit or operation. Correct?

FRANK: Repeat the sentence.

ADV PRETORIUS SC: About which we have heard in

evidence. Is that correct?

20

FRANK: Can you repeat that for me?

ADV PRETORIUS SC: Project Khusela’s operational needs

included the requirements or the needs of the team of the

counter intelligence named Toxicologist forming part of the

Presidential support operations. Correct?

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FRANK: Sir I do mention all the elements or components

which comprised that (inaudible) which includes not only

toxicology

but

also

the

technical

compass

and

the

legislature.

ADV PRETORIUS SC: Alright. But that is all there in the –

in the paragraph.

FRANK: Yes it is all there.

ADV PRETORIUS SC: Is that correct?

FRANK: Yes. 6.2 yes.

CHAIRPERSON: That is 62.1 huh?

10

FRANK: 62.1 Sir – Chair.

CHAIRPERSON: Ja okay.

ADV PRETORIUS SC: 62.1 yes I apologise Chair. On page

1146.16. Then it seems that in paragraph 74 you respond

to a number of documents – operational documents.

FRANK: Yes.

ADV PRETORIUS SC: That were provided to you by the

commission’s investigators. You were asked for you

response and you give your response. Do I understand the

position correctly? You were given a pack of documents –

20

financial documents – documentary evidence.

FRANK: That is correct.

ADV PRETORIUS SC: And I stress documentary evidence

in relation to various transactions.

FRANK: That is correct Sir.

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ADV PRETORIUS SC: So in the left hand column of the

table that appears at 1146.20 and the following pages there

is a brief description of the transaction as recorded in the

documents and referenced to your name. Is that correct?

FRANK: That is correct Sir.

ADV PRETORIUS SC: And in the right hand column are

your comments.

FRANK: That is correct Sir.

ADV PRETORIUS SC: Alright now I am only going to refer

to a few. If you could go to page 1146.25.

10

FRANK: Yes Sir.

ADV PRETORIUS SC: Are you there?

FRANK: Yes.

ADV PRETORIUS SC: You will see there is a document

referred to in the extreme left hand column as M3.

FRANK: Yes Chair.

ADV PRETORIUS SC: Right now before we go on I am

afraid I am going to confuse you a little. There is another

bundle.

FRANK: Yes Sir.

20

ADV PRETORIUS SC: Bundle SSA1. Do the persons who

are with you.

FRANK: Yes.

ADV PRETORIUS SC: Have that bundle and can they give

it you please.

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FRANK: Yes. I have got it.

ADV PRETORIUS SC: They are ahead of me then. Thank

you. If you could go to SSA1 page 01 page 378.

FRANK: 3 page?

ADV PRETORIUS SC: 378.

FRANK: 378?

ADV PRETORIUS SC: Yes.

FRANK: Did you say 378?

ADV PRETORIUS SC: Yes I did.

FRANK: Yes. Yes.

10

ADV PRETORIUS SC: Right on that page certain details

appear.

FRANK: Yes.

ADV PRETORIUS SC: Which are detailed in the left hand

column of the table that appears on 1146.25.

FRANK: Yes.

ADV PRETORIUS SC: That document is a declassified

document. It is the Financial Record received by the

investigators from the SSA. It is headed Certificate of

Receiving Cash.

20

FRANK: Okay.

ADV PRETORIUS SC: And your name appears at the top.

FRANK: Which page is that Sir?

ADV PRETORIUS SC: Page 378 of SSA01.

FRANK: Yes I am on it.

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ADV PRETORIUS SC: Are you there?

FRANK: Yes that is correct now.

ADV PRETORIUS SC: You see it is a certificate of

receiving cash.

FRANK: Yes.

ADV PRETORIUS SC: And the name of the person giving

the cash is Frank that is you, is it?

FRANK: Yes.

ADV PRETORIUS SC: And the amount is R2.5 million.

R2 500 000.00 and the reason for giving cash is Operation

10

Mayibuye. You see that? Whose signature is that below

there?

FRANK: It is mine.

ADV PRETORIUS SC: Your signature and it is dated the 8 t h

of July 2015.

FRANK: 15.

ADV PRETORIUS SC: Yes and the name of the recipient is

recorded here as a pseudonym as being Lilly but that is

what has been inserted as a pseudonym together with your

name inserted as a pseudonym. Now your explanation

20

appears in the right hand column. It says:

“According to what I can remember she Ms

Lilly requested that I collect and deliver on

her behalf. She was not available to handle

the transaction herself. I took it to the

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relevant recipient and they signed for it.

The recipient’s signature will not be that of

Ms Lilly but that of a recipient.”

Are those facts correct?

FRANK: Yes. Can I explain.

ADV PRETORIUS SC: Please.

FRANK: As to you so that we can (inaudible)

ADV PRETORIUS SC: Yes of course.

FRANK: I collected the money from the headquarters to our

remote office which I made Lilly to sign that she has – she

10

has received what she had asked me to collect. And in turn

she has delivered the money to the ended recipient. So

that signature at the bottom it is of the ended recipient. I

made her sign and then she makes the other recipient sign.

When she sign I keep a copy then finally she makes them

then sign and she give back to me and I take this one for a

settlement.

ADV PRETORIUS SC: Right now you need not mention the

name of any person.

FRANK: (Inaudible)l.

20

ADV PRETORIUS SC: I am sorry.

FRANK: So giving her to sign it was also to safeguard self.

I have delivered the money to her before she delivers.

Anything that can happen in between her trying to deliver

the money to the actual intended recipient I am covered that

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I had given it to her.

ADV PRETORIUS SC: Who was the relevant recipient?

FRANK: I would not know.

ADV PRETORIUS SC: You would not know?

FRANK: I would not know. Not in this particular context I

do not know.

ADV PRETORIUS SC: Yes well all the evidence we have so

far is that monies for Project Mayibuye were delivered to

the

Ministry.

Would

that

be

consistent

with

your

knowledge?

10

FRANK: You see (inaudible) 00:14:06. But within Mayibuye

there are operations of which commitment was one of those

that money derives and the projects are delivered to the

Ministry. It is not an entire 00:14:20 project monies that are

delivered to the Ministry. Those identified three operations.

ADV PRETORIUS SC: Yes I understand that but what I am

putting to you is we have other evidence that states that

monies in the amount of R2.5 million were delivered for

Project Commitment or Operation Commitment – I am

mixing it up again I am sorry and delivered to the Ministry.

20

FRANK: Yes but that is what we have been saying

consistently.

ADV PRETORIUS SC: Yes. And that is consistent with your

knowledge is it?

FRANK: Yes.

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ADV PRETORIUS SC: Right. Then let us go on please to

M14 on page 1146.

FRANK: From the original bundle.

ADV PRETORIUS SC: Well I am going to ask you – yes.

So the bundle with your affidavit in.

FRANK: Yes.

ADV PRETORIUS SC: Deals with the issue of M14 at

1146.26.

FRANK: Okay.

ADV PRETORIUS SC: And if I can take…

10

FRANK: M14.

ADV PRETORIUS SC: Yes. 1146.26 M14.

FRANK: Okay.

ADV PRETORIUS SC: Are you there?

FRANK: Okay alright. Yes.

ADV PRETORIUS SC: Now if I can take you to the other

bundle, Bundle 1 at page 449.

FRANK: 449.

ADV PRETORIUS SC: Right.

FRANK: 449. Yes Sir.

20

ADV PRETORIUS SC: You will see another certificate of

receiving cash. This is a declassified document from the

financial records of the SSA.

FRANK: Okay.

ADV PRETORIUS SC: The name of the person giving cash

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and we will have to redact a portion of those – or those

initials as they appear there in part but it is Frank. Do you

see that?

FRANK: I see that.

ADV PRETORIUS SC: The amount is R2.5 million.

FRANK: Yes.

ADV PRETORIUS SC: Reason for giving cash Operation

Mayibuye and the word thereafter seems to be Commitment,

you see that?

FRANK: That is correct. That is correct.

10

ADV PRETORIUS SC: Right. And the signature is the

same as the previous one is that your signature?

FRANK: Yes it is mine yes.

ADV PRETORIUS SC: And the date is the 30 t h of June

2016. You see that?

FRANK: 16 that is correct. That is correct.

ADV PRETORIUS SC: And then there is a recipient’s

signature I do not think we need go there but do you know

who that person is rather than give his name?

FRANK: Ja.

20

ADV PRETORIUS SC: Is he a person at the Ministry by any

chance?

FRANK: Look I do not want to speculate I am not sure that

is our view but it is definitely not – I am not sure.

ADV PRETORIUS SC: Alright do not worry about that. So

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once again we have a financial record that talks of the

receipt of cash in amount of R2.5 million for the purposes of

the Operation Mayibuye, Project Commitment. Correct?

FRANK: That is correct.

ADV PRETORIUS SC: Now there are two documents under

M14. I have just referred you to one and your comment is:

“These

dates

refer

to

two

separate

transactions.

One

for

Operation

Commitment

the

other

for

another

transaction. These transactions have the

10

same withdrawn amount.”

You say:

“I have no good memory of both however do

understand that my name reflects on the

document relating to Project Commitment.”

FRANK: Okay.

ADV PRETORIUS SC: Right but at least what we know from

the document as confirmed by your evidence that there is a

financial record of R2.5 million in cash being withdrawn

from SSA for the purposes of the implementation of

20

Commitment. Correct? Project Commitment.

FRANK: Correct.

ADV PRETORIUS SC: Alright. Then let us – before you –

do not worry there is something I wanted to point out but I

will come back to it in a moment. If you could go to 1146.27

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please. M15.

FRANK: I am there.

ADV PRETORIUS SC: Against the document number M15.

FRANK: Yes.

ADV PRETORIUS SC: Now there are several documents.

FRANK: Yes.

ADV PRETORIUS SC: I am sorry Chair I am just getting the

document that I want to put.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: And I am going to be in time.

10

CHAIRPERSON: Okay.

FRANK: Chair may I ask we take five minutes to run to the

bathroom while that is being sorted out.

CHAIRPERSON: Yes. Okay no that is alright.

FRANK: Thank you.

CHAIRPERSON: Mr Pretorius.

ADV PRETORIUS SC: Sorry Chair.

CHAIRPERSON: He has asked for a five minutes break.

ADV PRETORIUS SC: Sure.

CHAIRPERSON: So let us take that five minutes break.

20

ADV PRETORIUS SC: Thank you Chair.

CHAIRPERSON: We adjourn for five minutes.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay let us continue.

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ADV PRETORIUS SC: Hello, Frank. Thank you, Chair.

FRANK: Good afternoon, sir. Good afternoon, Chair.

ADV PRETORIUS SC: If I could take you, please, to page

1146.27 and the documents ...[intervenes]

FRANK: Yes, I am there.

ADV PRETORIUS SC: ...in 15.

FRANK: Yes.

ADV PRETORIUS SC: And if I may take you to the other

bundle, Bundle 1 at page 463?

FRANK: Yes, sir. 463.

10

ADV PRETORIUS SC: Right. Again, this is a certificate

of receiving of receiving cash. It has been classified,

extract from the financial records of the SSA. Name of the

person

getting

cash,

Frank.

Amount,

R 2.5 million.

Reason for giving cash, Operation Mayibuye. Underneath

that, commitment. Date, 30 June 2016. I am going to go

through all the documents if I may and then ask for your

comment.

At page 464 of Bundle 1. The name of person –

a similar document. Name of person giving cash, Frank.

20

Amount, R 1.4 million. Reason for giving cash, Project

Mayibuye, Operation Justice. Date, 9 June 2016.

The third document at page 465. Amount,

R 1.4 million. Name of person giving cash, Frank. Amount

in words, one million four hundred thousand rand only.

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Reason for giving cash, Operation Justice (Mayibuye).

Date, 30 June 2016.

Another document. Similar document. Page 466

of Bundle 1. Name of person giving cash, Frank. Amount,

R 300 000,00. Amount in words, three hundred thousand

rand. Reason for giving cash, Operation Lock. Date,

30 June 2016.

And finally. Page 467. A similar document.

That is a certificate of receiving cash. Name of person

giving cash, Frank. Amount, R 200 000,00. Reason for

10

giving cash. And this becomes a little bit difficult to read

but

R 30 000,00

remuneration.

Operation,

Lock.

R 70 000,00

it

appears.

Logistics

and

expenses.

Signature, 30 June 2016. Name of recipient, Correctional

Officer. And at the bottom of the page is a note.

R 30 000,00 remuneration. R 100 000,00. Current invoice,

R 70 000,00. Current ops expenditure. But appears to be

related to Ops Lock.

Now those documents were described on page

1146.27 in a table to you. And your comment in the right-

20

hand column is: Transactions herein are clear and self-

explanatory. Do you see that?

FRANK: I see that, sir.

ADV PRETORIUS SC: So I take it, you have no difficulty

with the contents of the document or the description in the

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left-hand column?

FRANK: No, I did not have at all.

ADV PRETORIUS SC: I am sorry. I did not hear that.

FRANK: Yes, I think I was answering to the column with

no difficulty.

ADV PRETORIUS SC: Alright. Now if you would look at

the description of the document on the left-hand page and

it may not be apparent because of the redaction but

...[intervenes]

FRANK: Yes.

10

ADV PRETORIUS SC: ...the investigators described the

documents in M15 as – and I am looking at the bottom half

of page 1146.27. Cash receipt, 30 June 2016. Operation

Mayibuye. Commitment, R 2.5 million handed over by

Frank to, and there is a name, right? And then underneath

that. Cash receipt, 30 June 2016. Operation Justice.

R 1.4 million handed over by Frank to, and then there is

another name.

FRANK: Yes.

ADV PRETORIUS SC: Now because of the similarity of

20

that name to a different name, I am going to be asked that

it be redacted. But is that person – does that person work

at a place that we have mentioned in evidence?

FRANK: Yes.

ADV PRETORIUS SC: And what is that place?

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FRANK: The last one?

ADV PRETORIUS SC: Yes.

FRANK: The last one works at that facility, remember?

ADV PRETORIUS SC: Is that the ministry?

FRANK: No, no, no. The last one. Are you referring the

one on page 1146.28?

ADV PRETORIUS SC: Yes. No, I am talking about... Oh.

No, no, no. I am not talking about 1146.28. I am talking

about, the bottom of the page, 1146.27.

FRANK: ...seven.

10

ADV PRETORIUS SC: Do you see there?

FRANK: Yes, I see that.

ADV PRETORIUS SC: It was handed over by Frank too

and we are not going to mention that name.

FRANK: Yes.

ADV PRETORIUS SC: And then handed over by Frank to

another name.

FRANK: Yes.

ADV PRETORIUS SC: My understanding is that that

person works at the ministry.

20

FRANK: Yes.

ADV PRETORIUS SC: Yes. Alright. You deal with certain

other facts on page 1146.30 and following. Do you have

anything to add?

FRANK: Can you repeat for me, what page is that?

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ADV PRETORIUS SC: Well, we have finished with the

tables in relation to documents.

FRANK: Yes? Okay.

ADV PRETORIUS SC: We are not going to deal with

anymore but at page 1146.30, your affidavit continues. It

is there for the record.

FRANK: Yes.

ADV PRETORIUS SC: I do not intend to ask you any

questions unless you have anything you wish to say?

FRANK: No, not at this juncture. It is fine.

10

ADV PRETORIUS SC: Thank you. Chair, if you bear with

me for a moment, please?

CHAIRPERSON: [No audible reply]

ADV PRETORIUS SC: Other projects are mentioned but I

take it as they are mentioned in your affidavit or in your

commentary, we can rely on that evidence as being correct.

FRANK: That is correct, sir.

ADV PRETORIUS SC: Alright. Okay, Frank. Subject to

your confirmation that the transcripts of your interviews

with the Internal SSA Investigator and with the Mfumadi

20

Panel, our concern – we will let your legal representative

have those. I have no further questions, Chair.

CHAIRPERSON: Thank you very much Frank. We, once

again, appreciate that you have availed yourself. I will

now excuse you. You are now excused.

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FRANK: Chair?

CHAIRPERSON: Yes?

FRANK: I am not sure but, you know, from the beginning

of this exercise ...[intervenes]

CHAIRPERSON: Yes.

FRANK:

...I

thought

perhaps

I

will

find

space

...[intervenes]

CHAIRPERSON: Ja.

FRANK: ...to, you know, at – to say something to you,

Chair.

10

CHAIRPERSON: Okay.

FRANK: And this one, Chair, is ...[intervenes]

CHAIRPERSON: Yes, go ahead.

FRANK: The first one is just to make an indication that

me being here, it is in response, not only to the request

made by the then acting DG, my being here, also, it was

also motivated, myself consciousness and willingness to

assist the Commission with this furthering of evidence.

CHAIRPERSON: Yes.

FRANK: However, also within my own context that I

20

thought, you know, this exercise in the end would have

been able to dispel some of the things that, you know,

were presented by some witnesses to the Commissions to

which they have made or that built(?) to the fact that, you

know, we operated, you know, as we believe, you know,

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without control, without discipline(?) and so forth.

CHAIRPERSON: Yes.

FRANK: However, I know this is a matter that can be

dealt with perhaps in the correspondence forum(?), but I

want to put it on record sir, that my understanding and my

view of things is that we only did the most(?) things(?) on

narratives as provided for in the investigation.

But that also we acknowledge that there might

be areas in which we might have acted or done things

wrong or perhaps we could have done it better or in a

10

better way ...[intervenes]

CHAIRPERSON: Yes.

FRANK: ...but we did not do.

CHAIRPERSON: Yes.

FRANK: Is the notion that suggests that we deliberately

created empowerments(?) in which we tend to mislead or

categorically(?) we walked(?) in the wrong boots. [Speaker

not clear – transmission not clear]

CHAIRPERSON: Yes.

FRANK: The brisket(?) in terms of the legislation, the

20

directives that we must not – that empower us in whatever

we are doing. Some witnesses may even said things that

in our view(?) there were no reports, that were no need(?)

in the planning. [Speaker not clear – transmission not

clear]

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CHAIRPERSON: Yes.

FRANK: In this particular(?) witnesses, they are not

familiar with operations like that.

CHAIRPERSON: Yes.

FRANK: [Break in transmission – speaker unclear] Even

in covert operations, if product assets are custodian(?)

...[indistinct] reports inclusive.

CHAIRPERSON: H’m?

FRANK: So, this – not have received reports. Witnesses

may not have seen the need.

10

CHAIRPERSON: H’m.

FRANK: Witnesses may not have seen whatever they

referred to but that is not suggesting that these things

were not there.

CHAIRPERSON: H’m.

FRANK: These things were there. [Indistinct] [00:11:55]

particular areas, we have not done wrong but we have

never

done

it

with

any

intent

to

cause(?)

harm(?)

[00:12:03] [Speaker not clear – transmission not clear]

CHAIRPERSON: Yes.

20

FRANK: I am not saying this because some of us still

have a career within the industry(?). We would love to

continue to this country going forward.

CHAIRPERSON: Yes.

FRANK: So, place that on record because I do not want

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anything that is to suggest we are here because we are

guilty, as said to be by some of the witnesses.

CHAIRPERSON: Ja.

FRANK: Might be the point maybe some witnesses that

even without evidence of things even without making

reference to legislature but confidently stood and say to

the Chair that this particular animal did conform to the

regulations of the states. So, perhaps, as we go on, Chair,

we will find a way of assisting the Commission further to

understand that this was done within the ambit of, you

10

know, serving our country.

CHAIRPERSON: Yes.

FRANK: Thank you very much.

CHAIRPERSON: Well, mister – well, Frank, what you

have said is important. So I would then suggest that to the

extent that you believe that some witnesses have given the

Commission a wrong picture or inaccurate picture about

the State Security Agency and how things are done there.

I would be interested in hearing your side of seeing things.

So I would encourage you to be in touch with the

20

Legal Team and I would encourage the Legal Team to

obtain an affidavit from you to the extent that they might

not already have which deals with that aspect. And if you

need to go to certain particular features of the evidence of

some of the witnesses who you believe did not give an

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accurate picture, I would like you to deal with that in an

affidavit.

And then within the constrains, time constrains

that the Commission has, we would try and find a way,

either for you to come back and deal adequately with that

or we could arrange that your affidavit or a summary of

your affidavit or the main features of your affidavit be read

out to me in a public hearing by an evidence leader so that

the public knows what you have to say so that the picture

that you believe is not accurate, is corrected at least from

10

your point of view. Would that be fine with you?

FRANK: Ja, I think you have said it well. I would prefer

to actually dispose to a kind of an affidavit which you know

can

be

used

and

by

the

omission

going

forward

...[intervenes]

CHAIRPERSON: Yes.

FRANK: ...without me having to come back.

CHAIRPERSON: Okay.

FRANK: Or even if you want to something of – without me

having to come back.

20

CHAIRPERSON: Okay. No, that is fine. If you prefer not

to come back, that is fine.

FRANK: Yes.

CHAIRPERSON: I just thought you might ...[intervenes]

FRANK: I will prefer(?) to dispose that.

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CHAIRPERSON: Yes.

FRANK:

I

will

definitely

dispose

to

an

affidavit,

Chairperson.

CHAIRPERSON: Okay. No, that is alright.

FRANK: Yes.

CHAIRPERSON: And Mr Pretorius will let me know once

he has got it and we can have it or at least its main

features ...[intervenes]

CHAIRPERSON: Yes, perhaps we could extent that

invitation to all the material witnesses.

10

CHAIRPERSON: Yes, yes, ja.

ADV PRETORIUS SC: Chair, and if I may make a

comment. From whatever perspective and whatever role

was played or alleged to have been played, all witnesses

seem to recognise that there are problems.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: And that there may be solutions

and perhaps they could deal with that issues as well.

CHAIRPERSON: Yes, yes. So any witness who feels that

the correct picture of SSA has not been given or some

20

witness gave a picture that is not accurate, they must feel

free to be in touch with the Legal Team of the Commission

and to depose to affidavits that puts what they believe is

the correct picture of the State Security Agency. But thank

you very much, Frank.

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FRANK: Thank you very much Chairperson.

CHAIRPERSON: Okay thank you. We are going to

adjourn the day session and then we – I am going to come

back after 15-minutes and then I will hear the evidence of

Ms Gigaba, Norma Gigaba, I believe. And after that, I will

hear the evidence of Mr Peter, I believe. So I will adjourn

for – I think I see the evidence leader for the next work

stream. Mr Myburgh is there. So I will take a 15-minutes

adjournment and then resume. We adjourn.

INQUIRY ADJOURNS

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INQUIRY RESUMES

CHAIRPERSON: Good afternoon, Mr Myburgh. Good

afternoon, everybody.

ADV MYBURGH SC: Good afternoon, DCJ.

CHAIRPERSON: Are you ready?

ADV MYBURGH SC: Yes, we are.

CHAIRPERSON: Yes. Okay. Ms Gigaba is legally

represented?

ADV MYBURGH SC: Yes, the representation is the same

as before.

20

CHAIRPERSON: Yes. Okay alright. Thank you, thank

you, thank you. Okay alright. Good afternoon, Ms Gigaba.

MS GIGABA: [No audible reply]

CHAIRPERSON: Your mic is off.

MS GIGABA: Good afternoon.

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CHAIRPERSON: Okay, thank you. Thank you for coming

back. Okay, Mr Myburgh.

ADV MYBURGH SC: Yes, thank you. Chairperson,

Ms Gigaba’s exhibit is Exhibit 26. I understand you have it

in front of you. I am going to start by taking her to a

supplementary/clarification affidavit that she recently filed.

I assume you would want the ...[intervenes]

CHAIRPERSON: Yes ...[intervenes]

ADV MYBURGH SC: ...the oath to be administered?

CHAIRPERSON: Yes. But maybe before that. For the

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benefit of the public, you could just indicate why she is

back to give evidence.

ADV MYBURGH SC: Yes. Chairperson, you will recall

that we had a marathon session that went on, I think it was

until half-past eleven on one evening with Ms Gigaba.

CHAIRPERSON: Yes.

ADV MYBURGH SC: Ms Gigaba did indicate, in the

course of her evidence, that there were certain things that

she was unhappy about. The content of the affidavit and

other things.

20

CHAIRPERSON: Ja.

ADV MYBURGH SC: It was always envisaged that she

would put in that affidavit and that we would then have to

deal with it.

CHAIRPERSON: H’m.

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ADV MYBURGH SC: So that is one leg of sitting this

evening. The other leg and I suppose it must follow after

we have dealt with the supplementary affidavit and any

corrections that she wants to make, we need then to put

Mr Gigaba’s version to her for her comment.

CHAIRPERSON: Yes.

ADV MYBURGH SC: So those are the purpose of this

evening’s session.

CHAIRPERSON: Okay. No, that is alright. Please

administer the oath or affirmation.

10

REGISTRAR: Please state your full names for the record.

WITNESS: I am Norma Mngoma Gigaba.

REGISTRAR: Do you have any objection to taking the

prescribed oath?

WITNESS: No.

REGISTRAR: Do you consider the oath binding on your

conscience?

WITNESS: Yes.

REGISTRAR: Do you solemnly swear that the evidence

you will give, will be the truth, the whole truth and nothing

20

but the truth? If so, please raise your right hand and say,

so help me God.

WITNESS: So help me God.

REGISTRAR: Thank you.

NORMA MNGOMA GIGABA: (d.s.s)

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ADV MYBURGH SC: So, DCJ, sorry. I have just been

advised that the oath has not been recorded because the

witness spoke too softly.

CHAIRPERSON: Oh, okay. Please try again. Okay.

REGISTRAR: Please state your full names for the record.

WITNESS: I am Norma Mngoma Gigaba.

REGISTRAR: Do you have any objection to taking the

prescribed oath?

WITNESS: No.

REGISTRAR: Do you consider the oath binding on your

10

conscience?

WITNESS: Yes.

REGISTRAR: Do you solemnly swear that the evidence

you will give, will be the truth, the whole truth and nothing

but the truth? If so, please raise your right hand and say,

so help me God.

WITNESS: So help me God.

NORMA MNGOMA GIGABA: (d.s.s)

CHAIRPERSON: Thank you. Okay.

MS GIGABA: Chairperson, I apologise. I would have

20

wanted

to

probably

just

assist

by

inserting

a

few

corrections

on

the

supplementary

affidavit

which

Mr Myburgh might be dealing with now. There are just

some two cosmetic changes so that we place them on

record so that we can place them on record ...[intervenes]

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CHAIRPERSON: Oh, those have not been conveyed to

Mr Myburgh as yet or is he aware of them? Do you want to

...[intervenes]

MS GIGABA: I would believe from the correspondence we

have had that they have not been brought to his attention.

However ...[intervenes]

CHAIRPERSON: Ja.

MS GIGABA: ...they do not appear as such on the

supplementary affidavit.

CHAIRPERSON: Okay. Mr Myburgh, are you of any

10

corrections to be made?

ADV MYBURGH SC: I – there were some things that were

discussed. I am not aware of exactly what correction

...[intervenes]

CHAIRPERSON: Oh.

ADV MYBURGH SC: ...my learned friend had in mind but I

have no objection ...[intervenes]

CHAIRPERSON: Ja.

ADV MYBURGH SC: ...to her placing on record if she

wishes to.

20

CHAIRPERSON: Ja, okay let us do that.

MS GIGABA: Chair, it is strictly to deal with paragraph

66.4 of the original affidavit bundle, page 1015.

CHAIRPERSON: Is the affidavit at – oh, the affidavit is

997 – page 977 is the ...[intervenes]

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MS GIGABA: Indeed, Chair.

CHAIRPERSON: ...the main one?

MS GIGABA: [No audible reply]

CHAIRPERSON: Okay alright.

MS GIGABA: At the first line, paragraph 66.4, shows the

date of 18 June 2020 ...[intervenes]

CHAIRPERSON: Paragraph 66.4?

MS GIGABA: 66.4.

CHAIRPERSON: Oh, page 1015.

MS GIGABA: At page 1015, Chair.

10

CHAIRPERSON: Yes, you say that the – so the correction

you would like to bring to my attention are corrections that

should

be

made

in

respect

of

the

main

affidavit

...[intervenes]

MS GIGABA: The main affidavit ...[intervenes]

CHAIRPERSON: But ...[intervenes]

MS GIGABA: ...the content is otherwise ...[intervenes]

CHAIRPERSON: Ja, but those corrections are not catered

for in the supplementary affidavit?

MS GIGABA: No, no. We missed them for something

20

stated here. I think we printed the final version, somebody

just did not put that up ...[intervenes]

CHAIRPERSON: Okay you can point them out but it would

be important to still have then another supplementary

affidavit to put them in because otherwise they may be

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missed out because we cannot amend the affidavit.

MS GIGABA: Indeed.

CHAIRPERSON: Ja.

MS GIGABA: Indeed, Chair.

CHAIRPERSON: Okay. Point them out.

MS GIGABA: Chair, it will be the ...[intervenes]

CHAIRPERSON: 66.4 paragraph ...[intervenes]

MS GIGABA: 66.4, first line.

CHAIRPERSON: H’m?

MS GIGABA: The date reflected there is 18 June 2020.

10

CHAIRPERSON: Yes.

MS GIGABA: It should state the 20 t h of July 2020. At the

second line, the date reflected is 24 June 2020. The

correct date would then be 22 July 2020.

CHAIRPERSON: Okay.

MS GIGABA: Apart from that, Chair, it will only be the

cosmetic change to the supplementary affidavit

CHAIRPERSON: Ja.

MS GIGABA: Where at paragraph 9.4 the last line

...[intervenes]

20

CHAIRPERSON:

Well,

where

do

we

find

the

supplementary affidavit?

MS GIGABA: [No audible reply]

CHAIRPERSON: Mr Myburgh.

ADV

MYBURGH

SC:

The

supplementary

affidavit,

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Chairperson, is contained at page 1027.8.

MS GIGABA: The supplementary affidavit is at 1027.8.

CHAIRPERSON: Yes, I have got it. Okay where do make

the corrections?

MS GIGABA: Paragraph 9.4, Chair. The last line of the

paragraph.

CHAIRPERSON: 9.4. Yes?

MS GIGABA: It says to “his commission” when it is

supposed to be to “this commission”.

CHAIRPERSON: Oh, okay. Okay. Yes?

10

MS GIGABA: That is it. Those are the only pages, Chair.

CHAIRPERSON: Okay. No, that is fine.

MS GIGABA: Thank you very much.

CHAIRPERSON: Okay. I think those are the dates that

are important. But of course, once you do a supplementary

affidavit, you may do a third one as well. Okay alright.

Mr Myburgh.

EXAMINATION BY ADV MYBURGH SC (CONTINUES):

Yes, thank you. Ms Gigaba, could I take you, please, to

page 1027.8 your supplementary affidavit.

20

CHAIRPERSON: You confirm that we are going to be

using Transnet Bundle 7?

ADV MYBURGH SC: Yes, Chairperson.

CHAIRPERSON: Ja, okay.

ADV MYBURGH SC: Ms Gigaba, could you please go to

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your supplementary affidavit towards the end of Exhibit 26

at page 1027.8?

MS GIGABA: [No audible reply]

ADV MYBURGH SC: It will be amongst the last ten pages

or so of that bundle.

MS GIGABA: In this bundle?

ADV MYBURGH SC: 1027.8.

CHAIRPERSON: I think someone must assist her.

MS GIGABA: Okay.

ADV MYBURGH SC: At 1027.8, are you there?

10

MS GIGABA: Yes.

ADV MYBURGH SC: You find the supplementary affidavit

of yours. If I could take you, please, to 1027.18?

MS GIGABA: [No audible reply]

ADV MYBURGH SC: You will see that it ends there and it

includes an annexure.

MS GIGABA: Yes.

ADV MYBURGH SC: 1027.19, the letter from your

attorney, through to 1027.22. Do you see that?

MS GIGABA: Yes.

20

ADV MYBURGH SC: If I could ask you, please, to go back

to page 1027.18? Do you confirm that you deposed to this

affidavit on the 18 t h of May 2021?

MS GIGABA: [No audible reply]

ADV MYBURGH SC: Do you confirm that?

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MS GIGABA: Yes, I do.

ADV MYBURGH SC: You confirm the truth and accuracy

of this affidavit?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: Chairperson, I would ask that you

admit

this

affidavit

of

Ms

Gigaba,

dated

the

18 t h of May 2012, commencing at Transnet Bundle 7, page

1027.8 as Exhibit BB-26.4.

CHAIRPERSON: The affidavit of Ms Norma Mngoma

Gigaba that starts at page 1027.8 is admitted and then

10

would be marked as Exhibit BB-26.4.

AFFIDAVIT OF MS GIGABA IS ADMITTED AND MARKED

AS EXHIBIT BB-26.4

ADV MYBURGH SC: Ms Gigaba, I am going to take you

through this affidavit before we turn to – me putting to you

Mr Gigaba’s version. You say at paragraph 2 that:

“Having held consultations with the evidence

leaders and/or further consultations with my

legal team prior to my appearance at the

Commission scheduled for 26 April, it became

20

necessary that I filed a supplementary affidavit

for

the

following

reasons

which

I

must

highlight, are not exhausted...”

You say at 2.1:

“To clarify the aspects of my affidavit which

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has previously served before this Commission

and on which the Commission led me on

26 April 2021...”

Do you confirm that?

MS GIGABA: Yes.

ADV MYBURGH SC: Sub-2:

“To highlight that when I deposed to the first

affidavit, I was not given sufficient time to go

through the affidavit before signing it.

The affidavit was signed in the presence of my

10

previous counsel, who for security reasons,

advised that I signed the affidavit immediately

and that for security reasons we should not

keep a copy thereof.

The Commission had dropped off a hard copy

with my counsel after they informed him they

could email it to us...”

You confirm that?

MS GIGABA: Yes.

ADV MYBURGH SC: And who is the previous counsel that

20

you are speaking of there?

MS GIGABA: It was Advocate ...[indistinct]

ADV MYBURGH SC: Sub-3:

“To provide context insofar as is necessary to

distinguish between information contained in

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my affidavit allegedly being common cause or

public

knowledge

which

was

not

in

my

personal

knowledge

but

that

was

instead

provided

by

the

Commission

through

its

investigators...”

You confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: Sub-4:

“To

raise

concern

with

the

Commission’s

decision to change evidence leaders when I

10

had at all times prepared and consulted with

Advocate

Paul

Pretorius

SC

with

the

understanding that he would be leading my

evidence and substituting him with Advocate

Anton Myburgh SC who had, seemingly though

no fault of his own, clearly not been given a

proper handover report on our consultations,

resulting in having to rehash the consultations

I had with Pretorius SC.

The result of this is that the concerns I

20

originally raised with Pretorius SC were not

known to Myburgh SC to my determent.

Even when similar concerns were raised with

Myburgh Sc, they were not dealt with.

Hence my continued concern with some parts

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of the affidavit...”

Do you confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: And then you deal with those

concerns.

“More

specifically,

the

very

fact

that

the

affidavit contained information that I had no

independent knowledge of and as a result

created discomfort that I had addressed with

Pretorius SC.

10

This situation added to the failure to make the

necessary corrections to my affidavit, some of

which were material...”

Do you confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: Sub-6:

“The issue of my security concerns had been

furnished

to

the

Commission

through

the

evidence

leaders

who

had

undertaken

to

ensure that I would be provided with security.

20

However,

and

despite

numerous

promises,

nothing had been done by this Commission in

this regard which indicated total disregard to

my safety concerns duly raised.

Following

my

appearance

before

the

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Commission on 26 April 2021, the Commission,

through my attorney, inquired if I still needed

security to be provided.

I advised my attorney that I no longer need the

security as I have already appeared before the

Commission...”

Do you confirm that?

MS GIGABA: Yes, I do.

CHAIRPERSON: Just before you proceed, Mr Myburgh. I

just want to indicate that subsequent to Ms Gigaba’s

10

appearance last time and in the light of the issues she

raised

about

the

Commission

not

having

attended

adequately or may not at all, as far as she is concerned, to

her security concerns.

I specifically asked the Head of the Investigation

Team, Mr Nombembe, to take steps to establish what

needs to be done and whether Ms Gigaba still needs

security so that her concerns could be addressed and dealt

with. I have been given a report but I do not think that

what I have been given is final.

20

So I just want to indicate that after I have heard

your

concerns,

I

did

give

instructions

that

you

be

approached to establish exactly what can still be done in

regard to your concerns.

MS GIGABA: Thank you, Chair.

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CHAIRPERSON: Okay alright. Thank you. Mr Myburgh.

ADV MYBURGH SC: Thank you, Chairperson. And at 2.7:

“My affidavit had been leaked to the media and

given to AJ Gupta without my knowledge,

permission or the Commission informing me or

my counsel.

These developments further exacerbated the

situation...:

And 2.8:

“The fact that a narrative has been created by

10

the Commission that I had, in fact, approached

the Commission to give evidence when that

was, in fact, not true...”

Do you confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: And then at 3:

“I attached hereto the letter that I caused my

attorneys

of

record

to

deliver

to

the

Commission, highlighting the concerns that I

have eluded to above, as Annexure NG-1...”

20

Now that is the letter that was read into the

record previously and dealt with, correct?

MS GIGABA: Yes.

ADV MYBURGH SC: Then at 4:

“In submitting this affidavit, I should not to be

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understood to waive any of my legal rights

which I hereby expressly reserve.

I confirm that some of the concerns expressed

herein and also raised by my during my oral

testimony

and

partly

addressed

by

the

Chairperson...”

Do you confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: Alright.

“Insofar as my first affidavit filed with the

10

Commission is concerned, I wish to clarify the

following paragraph as contained therein...”

And then what you do is, you refer to paragraph

6 of your original affidavit and perhaps we can – you can

keep our finger there and then you can open your main

affidavit which you will find towards the beginning of that

affidavit at paragraph 6, you will see a page 1000. The

paragraph

6

is

a

table

of

Mr

Gigaba’s

ministerial

appointments, correct?

MS GIGABA: Yes, sir.

20

ADV MYBURGH SC: What you say at your paragraph 5.1

of your correcting affidavits that:

“The dates set out when Mr Malusi Gigaba

held various positions in Cabinet.

These dates are not within my independent

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and/or personal knowledge or recollection.

They

were,

however,

inserted

from

the

information

provided

by

the

Commission

through its investigators.

Consequently, I cannot vouch for the veracity

thereof...”

Do you confirm that?

MS GIGABA: Yes, I do.

ADV MYBURGH SC: Then you deal with paragraph 10 in

your correcting affidavit. Paragraph 10 of your main

10

affidavit that deals with - at page 1001 deals with – one of

Mr Gigaba’s sisters, Mr Gugu Gigaba and makes reference

to the fact that she was employed at Transnet in a

particular position, a Manager in the Project Management

Office. In paragraph 5.2 of your correcting affidavit you

say:

“The specific position of Ms Gugu Gigaba who

is employed at Transnet is provided.

This information was not within my personal

knowledge and as a result I cannot vouch for

20

its veracity.

I have been informed, however, by Advocate

September that the information is subject of

testimony before the Commission.”

Do you confirm that?

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MS GIGABA: Yes, I do.

ADV MYBURGH SC: Then you deal with paragraphs 19

and 20. This is something that you have testified to before

the Chairperson. Paragraphs 19 and 20 of your main

affidavit at page 1003 deal with the Waterkloof issue,

correct?

MS GIGABA: Yes.

ADV MYBURGH SC: What you say in paragraph 5.3 of

your correcting affidavit is that:

“An impression has been created from the

10

reading of these two paragraphs that I went to

the Waterkloof Airport twice a few days before

the wedding and on the day of the wedding.

The correct sequence is that I did not go to

Waterkloof again on the day of the wedding but

had been there only once a day or two before

the wedding...”

Do you confirm that?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: Then you deal with paragraph 30.2

20

of your main affidavit and this relates to the India trip and

the date of it. It is something that you have also dealt with

in your evidence previously. You say at paragraph 5.4 of

your correcting affidavit:

“During

my

consultations

with

evidence

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leaders, I could not vouch for the accuracy of

the date in the absence of my passport as far

as the India trip was concerned.

It has since been brought to my attention that

according to Mr Gigaba, this trip, which is

common cause, took place in 2015 which date

I cannot dispute.

I travelled with Mr Gigaba to India only on one

occasion...”

I think you have dealt with that before. So you

10

want to correct the 2010 to 2015?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: Then you go on to deal with

paragraph 39 of your main affidavit. You say:

“On 26 May, Mr Gigaba was transferred back

to the Department of Home Affairs...”

So

this

is

another

date

of

ministerial

appointment?

MS GIGABA: Yes.

ADV MYBURGH SC: You say at your paragraph 5.5 of

20

your correcting affidavit, that this was not within your

personal knowledge. It is a repetition of the point

previously made, correct?

MS GIGABA: Yes.

ADV MYBURGH SC: Then you deal with paragraph 44 of

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you main affidavit at page 1009. It says:

“It is publicly know that Mr Gigaba, during his

term

as

Minister

of

Home

Affairs,

had

approved early naturalisation with members of

the Gupta family...”

In your correcting affidavit at paragraph 5.6, you

say:

“The information contained in this paragraph

was not within my independent and personal

knowledge...”

10

You cannot vouch for it.

“The information has been provided by the

Commission through investigators...”

Do you confirm that?

MS GIGABA: Yes.

ADV MYBURGH SC: And then the last correction that you

want to make relates to paragraph 55.2 and 55.2 you will

find at page 1012 where you say:

“On several occasions, I had also personally

observed Mr Gigaba transferring money from

20

his brown and black leather bags into his

brown leather personal carry bag...”

You attached some of the examples. And then it

goes on to say:

“He would later use the cash from his personal

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carry

bag

to

pay

for

our

meals

at

restaurants...”

Now the correction that you wish to make, you

find, it is a paragraph numbered 5.1 at the top of page

1027.13.

“Having read this paragraph, it is clear that the

information I provided was not adequately

and/or properly captured, to the effect that I

had indeed seen the bag being carried out of

the Gupta’s residence several times but I had

10

only seen Mr Gigaba transfer cash from the

bag to his carry bag only once...”

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: That is the point that you want to

make?

MS GIGABA: Yes.

ADV MYBURGH SC: So those then are your concerns and

your corrections?

MS GIGABA: Yes.

ADV MYBURGH SC: Now, on the balance of this affidavit,

20

you go on to deal with a different issue and perhaps I can

pick up at paragraph 8 at page 1027.13.

“The submissions and/or suggestions made by

Mr Solomons ...[intervenes]

CHAIRPERSON: Sorry, what page Mr Myburgh?

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ADV MYBURGH SC: Page 1027.13, Chairperson.

CHAIRPERSON: Okay.

ADV MYBURGH SC: Yes.

“The submissions and/or suggestions made by

Mr Solomon SC on behalf of Mr Gigaba in his

address to the Commission that I cannot be a

reliable witness as I am an unhappy and/or

bitter spouse going through a divorce and that

as a result, my evidence were only serve my

bitter purpose to seek to get to Mr Gigaba...”

10

And you say at paragraph 9:

“This narrative and/or suggestion cannot be

further from the truth.

I wish to demonstrate this point by providing a

chronology of events...”

Is that right?

MS GIGABA: Yes.

ADV MYBURGH SC: Could you take us through that

chronology of events, please?

MS GIGABA: So must I read it from 9.1?

20

ADV MYBURGH SC: You can read it or you can narrate it

for us.

MS GIGABA: Okay. So what happened in 2020 earlier –

last year, I went to Mr Gigaba. I told him that I want to – I

want a divorce, which then he said why I want a divorce.

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So I explained the reasons why I wanted the divorce. So I

have my personal reasons why I was not happy in the

marriage and I think he was comfortable with us to get a

divorce and also it was good for our kid to grow up in a

positive environment.

So then he said he does not – he is not ready for

a divorce because he was busy preparing for the State

Capture and also he was busy doing his submissions for

his PhD and thirdly he said he was not ready for a divorce

at all because he had a lot of distractions because he had

10

to focus on preparing for the state capture. So then he

agreed ...[intervenes]

CHAIRPERSON: I am sorry. Because he had to focus on?

MS GIGABA: Preparing for the state capture.

CHAIRPERSON: Oh, okay.

MS GIGABA: So then he agreed to – he asked me give

him time and I agreed to that.

ADV MYBURGH SC: Yes?

MS GIGABA: So then we continue that. So he came

again to me, I think it was later in the middle of the year

20

also last year. He asked me – he was like there was

someone at home who is an expert in IT. He was asking

for my gadgets, my cell phones. Someone is wiping the

information for us. So I asked: Why is someone wiping

the information for us?

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So then he made an example. Because he said

he was about to finish to wrap up his evidence to the state

capture

but

now

he

is

worried

that

based

on

the

information that I have. So he made an example about

Brian Molefe. So he said to me: It is because you were –

as a family we are close to Guy(?). So that is why it was

easy maybe for him make an example about Guy.

So he said to me there was a time – there was

an investigation about Brian Molefe. He said he went to

the

Gupta

house

–

and

then

when

there

was

an

10

investigation, the investigation showed that he went to the

President(?) compounds(?) more than two or three times.

So he said he does not want that to happen to him because

he want to say he was there two or three times.

So I said to him: Why do you not tell the truth?

Why do you not go to the Commission and give the truth so

that you do not have to say things and cover them up? He

said he does not want to. So I said: Okay. Unfortunately,

I will not be able to give you my devices. Because for me I

do not understand why he does not want to tell the truth. I

20

even reminded him because I remember in Parliament, I

think it was in 2017 because he resigned in 2018.

I think it was EFF, they asked him how many times

he has been there. He said he does not call but two or

three times. And I remember him on that – I remember

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then the evening I was asking him: Why you said you were

there three times? Because we were always ...[indistinct –

word cut] time, so he did not want to answer me on that

day. So when he said the person was there to delete then

I said I do not want to do that and then it ended there on

that day, I did not give him my gadget and then – so I think

a few weeks on the …[intervenes]

ADV MYBURGH SC: Please would you speak into the

microphone so I can hear you?

MS GIGABA: Sorry. So then I refused to give him my

10

gadgets because for me I felt like why he must delete the

information? So I thought it was easier for him to come to

the Commission to tell the truth so that we do not have to

come up and come up. And also, I asked him the other

thing, I was like why we cannot divorce just because you

are going to the Commission because I did understand how

I get involved with the Commission because Commission

has never called me – there is nothing that involves me

with any [indistinct] or with his work because I have never

worked for government.

20

So then he explained that if we divorce he is going

to – we are going to lose a spousal privilege, so he want to

go to the Commission while he was still married. So that

brought to confusion to me but I said to him I do not want

to give my gadget and it ended there. And he was a bit

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annoyed. So he went back – so that expert was in his

study room, so I think they spoke, the guy left.

A week or two weeks later that is where everything

started and then it was the arrest, where I got arrested.

So the Hawks came to our home because I sent a

Whatsapp to Malusi’s friend. So Malusi called me at home,

he said the police are calling me, so I went downstairs at

home and they said they want to all gadgets. So I asked

them why you want all my gadgets? They said they want

all my gadgets because I sent a Whatsapp message to

10

Malusi’s friend and then I said okay, I was carrying a

phone but not this one, the one before this upgrade. So I

said to them okay, here is the phone that I used but I

deleted the message. So they said they need to take the

phone, I said there is no problem but this is the phone that

I use, you can take it. They said no, we want all your

gadgets and we need to go with you upstairs because we

know that all your gadgets are upstairs. So I said okay, I

am coming back. They said no, I am not allowed to go on

my own, they had to come with me.

20

So ion the time we all went – before we go upstairs

then I said I want to go to the bathroom and then they

refused, they said I am not allowed to go on my own. Then

I begged them that can I go to the bathroom? So then one

police – I do not know, must I mention their names or I

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must not? I can? I do not know must I mention their

names or not?

CHAIRPERSON: Ja. Mr Myburgh?

ADV MYBURGH SC: I do not have any difficulty but, Ms

Gigaba, perhaps you could just speak to your affidavit?

MS GIGABA: Okay.

ADV MYBURGH SC: If you do not mind.

CHAIRPERSON: Yes.

MS

GIGABA:

So

what

happened

then

I

went

…[intervenes]

10

ADV MYBURGH SC: So what paragraph are you on now?

MS GIGABA: Sorry?

ADV MYBURGH SC: What paragraph are you dealing with

now?

MS GIGABA: I am 9.4.

ADV MYBURGH SC: 9.4?

MS GIGABA: Yes.

CHAIRPERSON: Yes, ja, continue?

MS GIGABA: Okay. So I went …[intervenes]

CHAIRPERSON:

Yes,

one

of

the

police

officers

20

…[intervenes]

MS GIGABA: I am reading that but it is like I prefer to

talk because everything that I am saying is what is here,

that I am to read?

CHAIRPERSON: No, that is fine, you – I think what Mr

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Myburgh – he just wants to know how much you have

covered.

MS GIGABA: Yes. Okay, ja, I am …[intervenes]

CHAIRPERSON: He is not saying do not speak.

MS GIGABA: Oh, okay.

CHAIRPERSON: Ja, you can speak and …[intervenes]

MS GIGABA: So what happened, Sir, they went upstairs

with me. My kids were there with me, so we all went

upstairs. Then we went to my bedroom. So then they said

they want my iPad. So then I said I have not used my iPad

10

for two years because I used to use where I used to work.

So then they said they want it and they also told that they

want my laptop. Then I gave them my laptop. And then

they asked me where is my Huawei phone? I was just

shocked because I did not tell them that I have a Huawei

phone. So they told me where is my Huawei phone? So

then I went with them in my walking in closet which – that

is my bedroom, then you go in closer to the bedroom. So

the police came with me, then I took the Huawei phone,

then I gave it to them. So they took all my phones and all

20

of this, we went downstairs.

So when we were downstairs they asked me to put

my phones at the centre of the table. They said they have

to check all my gadgets, they have to leave with them. So

then I asked them why all my gadgets need to be taken for

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a Whatsapp message and I am not denying that I sent a

message and here is the phone that I used so why all the

gadgets and especially the laptop? And I even told them

that I was using my laptop for school because I was writing

exams at that time so can they have it – so they refused,

they said they have to take everything.

Then I asked them can I call a lawyer? They said I

am not allowed to call a lawyer. Then I said I know that

right, it is in every person in South Africa, you have a right

to call a lawyer. They said that right only remains with

10

SAPS, not with the Hawks, they are the Hawks, so I do not

have that right, so which they refused for me to call the

lawyer because I wanted to call the lawyer to ask why my

gadgets were taken by the Hawks.

So after that they asked me – so one of them were

sitting on my right hand side, other one was sitting on my

left side, in my left hand side, and then they – so this one

on the right she said to me I need to put all my passwords

and my pins and they want to make sure that my gadgets

are working and firstly, we had an argument because I said

20

no, why I have to give you my gadgets because if you are

doing an investigation you can take the gadgets because I

work in the IT industry, you can take the gadgets, you put

them on the machine, you can able to download everything,

I do not have to give you my password and my pins. So

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they said I need to cooperate with them because if I do not

I am going to be arrested by that time.

So I still wanted to argue with them but I look at my

son, my son was behind me, because he was crying, I look

at him then I was like let me just not fight because I do not

want my son to see this, let me just give them my gadgets.

So then we started – I give them my pass code,

which they put, they wanted my pin, they put them, we

went through each and every gadget, they wanted to make

sure, they wrote on the paper, all my pins and everything

10

and then after that they took all my gadgets, five of them,

they put them in the plastic and then – so after that they

said oh, we are here, we heard there was a scratching of

the car in the house. So the minute they say that, they

said oh, we need to take the gadgets we are investigating

something in the house so we are going. So which they

left with my gadgets on the day, all of them.

Then after that I asked the helper to me the phone,

I called a friend of mine who is a lawyer, I told him the

whole story said no, it is a lie, Hawks and SAPS everyone

20

in the country, you have a right to call the lawyer and also

they are not supposed to take my gadgets just because I

sent a Whatsapp or even if there was a scratched car at

home and that – it was that they left.

I went to Malusi upstairs, he was sitting upstairs,

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then I told him that these people they took my phone, why

they are taking my gadgets? Malusi said to me just let the

police do their job. I was like why the police are doing

their job, why all that because I was just confused, what

have I done wrong and they left with my gadgets.

The whole week – so the whole week I kept on

asking him because I was writing exams and that time we

were on I think level 4, level 3, I was doing online clusters

and I need to submit my exams and then I had nothing to

use and I could not go to study at my friends place

10

because that time we were not allowed to visit. But

Malusi kept on telling me that no, the police are working,

they will bring back my stuff.

And then the week ended, the second week I went

to – I called a friend of mine again, I asked her can you

please get me a lawyer, I want o open a case because my

gadgets are not back yet and I do not understand, Malusi

keep on saying no, they are coming back. So then he said

he is going to call the General – I think the Brigadier,

which is Brigadier Ngwenya, those police who came they

20

are reporting to him. Malusi said he is going to call him to

bring back my gadgets and then I asked him two hours

later, I said what did he say? So he said no, he cannot

call him, you need to go meet him because the Intelligence

is linked to them and their phone.

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CHAIRPERSON: And ultimately when did they bring them

back or did they not bring them back?

MS GIGABA: My gadgets were brought back, they did not

– they only brought back my gadgets after I was arrested,

that was two weeks later.

CHAIRPERSON: And when they came back was the

information that – was the information still there that

…[intervenes]

MS GIGABA: A lot of information was not on my gadgets.

So the kind of information that was deleted on my gadgets

10

– because the day I got arrested I said to Malusi in the

morning if the police are not here today to bring my

gadgets because I have been waiting for you, I went to see

a lawyer and my lawyer- we are going to go open the case.

If they are not here by 2 p.m. I am opening a case and you

will explain that because I had everything that now this

was unlawful, was not supposed to happen.

So on that date we waited, Malusi said no, they are

on the way, then he said I am going to help you with my

own computer. So Malusi was typing my assignment, then

20

I was writing my other assignment, so which was two

assignments I was doing at the same time because I was a

bit behind but the school understood. So what happened

on that day, while I was waiting for them to bring my

gadgets came in the room, he said the police are here

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looking for you. I jumped quickly and I was so excited, I

thought they were bringing my gadgets. So when I got

there they said you are under arrest, we need to arrest

now. I said what have I done. They said you are under

arrest and then I asked them that can I go change? So

they said I am not allowed to go alone, so they went with

me, then I changed then I got arrested on that day. And

then …[intervenes]

CHAIRPERSON: And that was not the day they brought

back your gadgets?

10

MS GIGABA: No.

CHAIRPERSON: And how long after did they bring back

your …[intervenes]

MS GIGABA: They were brought back three days later on

Tuesday because I got arrested on Friday, the 31 July. So

I could not get a bail on the day because when the Hawks

arrested me they switch off their phones and also they

were nowhere to be found and they left the police station

with the docket.

CHAIRPERSON: Once the gadgets were bad were you

20

able to establish whether the kind of information that you

say Mr Gigaba had said he wanted to be deleted was still

there or not?

MS GIGABA: Because – so I went on my phone on

Tuesday after appearing in court on Monday, so on

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Tuesday we went to fetch my gadgets at the police station.

Then I started opening all of them. Then what I found out,

everything Malusi, when he explained, when he said what

we need to delete everything that related to the Guptas

and to the trips that we had taken as a family, to the car

that was bought by the Guptas. So then I started paging to

check. So they did not delete everything, all my data, but

what was deleted, it is all our trips that we did to Dubai

that the Guptas paid for us and it was all the pictures of

the car that was given as a gift to him and also it was a

10

picture that I took in Sun City at their wedding, at the

Gupta wedding. So most of – all the information it was

related to that. So everything was deleted.

CHAIRPERSON: Okay. Mr Myburgh?

ADV MYBURGH SC: Yes, thank you. So to carry on with

the chronology, at paragraph 9.5 you say that:

“Following this, in or about August 2020, I learnt

from the newspapers the announcement of divorce

proceedings being instituted by Mr Gigaba. The

summons was only served on me in September

20

2020.”

Is that correct?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC:

“What I want to say that only on 17 December 2020

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did I conduct a television interview with the eNCA

after which I was immediately contacted by the

Commission on 18 December 2010.”

Is that correct?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: So do I understand correctly from

what you have told the Chairperson that you were arrested

on the 31 July 2020, is that correct?

MS GIGABA: Yes.

ADV MYBURGH SC: At paragraph 9.7, continuing with the

10

chronology, you say:

“In

or

about

January

2021

discussions

on

settlement ensured between me and Mr Gigaba, as

is normal in divorce matters and with the principal

aim of avoiding a long and protracted process of

divorce.”

Is that correct?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: You go on to say that:

“This is when the allegations of supposed extortion

20

starting flying around. I must indicate that I am

totally astonished at the utter suggestion that I

would seek to blackmail or extort Mr Gigaba in any

force of settlement in respect of the divorce or into

any form. As a matter of fact I remained shocked

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as to what it is I would be seeking to achieve by

such conduct. I say this for the following reasons:

1. The house we live in is a rented house.”

Is that right?

MS GIGABA: Yes.

ADV MYBURGH SC:

“2.

We

are

married

out

of

community-of-

property.”

Is that correct?

MS GIGABA: Yes, it is correct.

10

ADV MYBURGH SC:

“3.

The other house that Mr Gigaba owns, there

is still a huge amount owed to the bank in

respect of the bond.”

Is that right?

MS GIGABA: Yes.

ADV MYBURGH SC:

“4

The entire furniture in the house that we live

in belongs to me.”

Is that correct?

20

MS GIGABA: Yes.

ADV MYBURGH SC:

“5.

I am no state or have any intention to fight

with Mr Gigaba as we have two minor

children together whom I had even proposed

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to leave with Mr Gigaba to avoid any further

confrontation and dispute related to our

divorce and so as to expedite it.”

Is that correct?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: And:

“6.

As confirmed in a letter from my attorneys to

the

Commission

there

are

no

ongoing

settlement discussions between the parties.

It is therefore not clear what I stand to gain

10

by assisting the Commission.”

Do you confirm all of that?

MS GIGABA: Yes, it is true.

ADV MYBURGH SC: Then you go on to say:

“I ought to highlight that the proposal I was making

to Mr Gigaba was that we should agree on the issue

so that we can both move on with our respective

lives. Indeed the settlement discussions which

were even escalated to our respective attorneys

yielded no fruits and were accordingly abandoned.”

20

Is that right?

MS GIGABA: Yes, it is correct.

ADV MYBURGH SC: And then you go on to deal with the

High Court proceedings in respect of your arrest. You say:

“On 11 February 2021 the High Court in the matter

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pertaining to my unlawful arrest by the Hawks,

handed down judgment in my favour.”

Is that correct?

MS GIGABA: Yes.

ADV MYBURGH SC: And then at 11:

“On 6 March 2021 I failed an affidavit with the

Commission

which

forms

the

basis

of

this

supplementary affidavit.”

That is your main affidavit, is that correct?

MS GIGABA: Yes.

10

ADV MYBURGH SC:

“And on the 26 March the NPA withdrew criminal

charges against me which were related to my

unlawful and malicious arrest at the instance of Mr

Gigaba and is friend.”

Is that right?

MS GIGABA: Yes.

ADV MYBURGH SC: And at paragraph 10 you say:

“I lay out the above chronology to demonstrate to

this Commission that the suggestion that I was a

20

bitter spouse attempting to get to Mr Gigaba

through this Commission is not only malicious in the

very least but is misleading on the real issues

before this Commission.”

Do you confirm that?

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MS GIGABA: Yes.

ADV MYBURGH SC: Paragraph 11:

“The suggestion by Mr Gigaba that his application

was made so that he can shield our children from

our squabbles before court flies on the face of

truth. After all, it is not Mr Gigaba who was the

complainant

in

the

criminal

case

against

me.

Where, one would ask, was the consideration at the

time to shield our minor children from the numerous

appearances

I

was

forced

to

make

in

the

10

Magistrate’s Court before the withdrawal of the

charge which appearances were solely occasioned

by him.”

So there you are talking about, as I understand it, your

unlawful arrest.

MS GIGABA: Yes.

ADV MYBURGH SC: And what you had to go through in

the process.

MS GIGABA: Yes.

ADV MYBURGH SC: At 12:

20

“I need to clarify that when I originally sought

divorce

from

Mr

Gigaba

it

was

never

out

of

bitterness hence my agreement to not proceed with

same at the time after he had requested me not to.

To suggest this now, conveniently so, is in my

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respectful view quite absurd in the very least.”

And then you conclude:

“As repeatedly explained in the media and in my

testimony,

my

sole

reason

for

assisting

the

Commission is the performance of my civic duties

as a citizen of South Africa who is willing to provide

any information to which I may be privy and which

can rid our society of the cancer of corruption,

would like my children to grow up in a corrupt-free

society. I bear no grudges against anyone and I

10

have long forgiven those who wronged me. They

will be judged not by me but by God.”

Do you confirm that?

MS GIGABA: Yes.

ADV MYBURGH SC: Do you have anything you wish to

add to this affidavit?

MS GIGABA: I am fine.

ADV MYBURGH SC: Alright. Now, Ms Gigaba, I am going

to come back at the end of your evidence this evening to

some of the things that you say at the beginning of the

20

affidavit in relation to the Commission. I will also in the

process take you through an affidavit that has been filed

and deposed to Sakhile Masuku, who you find right at the

end of your exhibit but for now what I want to do is to take

you through Mr Gigaba’s evidence and put it to you and

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ask for your comment.

Chairperson, what we have done, perhaps in a

slightly unorthodox way, we have got two affidavits. I have

asked my secretary to cut and paste them into a schedule.

So what you will find on the left hand side is Ms Gigaba’s

affidavit, and I will hand it up now, and on the right hand

side Mr Gigaba’s affidavit. It is a much easier way of

finding

what

is

in

dispute

and

getting

Ms

Gigaba’s

comment.

CHAIRPERSON: Ja, not that is fine.

10

ADV MYBURGH SC: But I do not know if it has to be

given any particular number, it is just an aid to presenting

evidence.

CHAIRPERSON: No.

ADV MYBURGH SC: When I refer to paragraph numbers it

is of course to the numbers as you see there in the

respective affidavits.

CHAIRPERSON: Well, I do not know – as far as I am

concerned it does not have to be admitted, as such.

ADV MYBURGH SC: Yes.

20

CHAIRPERSON: But it is fine as a matter of convenience.

ADV MYBURGH SC: Yes. So Chairperson, if I could just

then confirm for the record that on the left hand side there

is a reproduction of Ms Gigaba’s main affidavit, that is the

one that that you find commencing at page 999.

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CHAIRPERSON: Okay.

ADV MYBURGH SC: On the right hand side is a

reproduction of Mr Gigaba’s affidavit and that is the

affidavit that he filed in support of his application.

CHAIRPERSON: Yes.

ADV MYBURGH SC: Which was indexed as SEQ18.

CHAIRPERSON: Yes.

ADV MYBURGH SC: Of 2021. Ms Gigaba, you have a

copy of this schedule, do you?

MS GIGABA: Yes I do.

10

ADV MYBURGH SC: Alright. I want to start off by taking

you please to paragraph 13 of your affidavit and that you

see at page 4 of the schedule. Are you there?

MS GIGABA: Yes.

ADV MYBURGH SC: And what you say at paragraph 13 is

that about a month or two before Mr Gigaba took up the

position of Minister of DPE he told you that he had been

told of that move by Ajay Gupta. Do you recall giving that

evidence?

MS GIGABA: Yes.

20

ADV MYBURGH SC: Now what Mr …[intervenes]

CHAIRPERSON: I note, Mr Myburgh, that in the document

it says about two to three months rather than one or two.

ADV MYBURGH SC: Sorry, I beg your pardon, two to

three months before. Thank you, Chairperson. So you

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recall giving that evidence?

MS GIGABA: Yes.

ADV MYBURGH SC: At paragraph 35, this is then on the

right hand side, Mr Gigaba says:

“The

contents

of

this

paragraph

are

pure

unsubstantiated speculation and are inserted to

embarrass and prejudice me.”

And then he goes on to set out his version where he says

that he was told on the 31 October by the President that he

was going to be appointed as the Minister DPE and sworn

10

in the next day. In short what he says is I got no advance

notice, I did not know of this before and what you are

saying is unsubstantiated speculation. Do you want to

comment on that?

MS GIGABA: So it is not true that he did not know, he

only heard on the day. He told me two to three months

before and also – because he was very excited about the

position. I asked him what does it mean to be a Minister of

DPE because that kind of portfolio I was not familiar with.

So then he explained to me that DPE means Public

20

Enterprises and then he explained to me that he is going to

be overseeing all the SOEs. He explained with so much of

excitement. So I think to - three and half to three months

before he got his appointment, so it is not true what he is

saying that he knew only on that day.

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ADV MYBURGH SC: Could I take you to paragraph 14 of

your affidavit? You say there that:

“Mr Gigaba’s visits to his advisers became more

regular when he came the Minister of the DPE,

often more than once a week. When I quested him

as to whether these were his official advisers he

then told me that the Guptas were his unofficial

advisers who would advise him in respect of

decisions to be made at work and in return he

assisted them with certain things.”

10

Mr Gigaba’s response says:

“The

contents

here

are

again

a

deliberate

fabrication not based on fact. At this point in time I

had known Nomachule for approximately a year.

We were not even living together and she would

only on occasion come and visit me at my home and

we would go out socially. It is absurd to think in

these

circumstances

I

would

have

treated

Nomachule almost as an adviser of mine keeping

her abreast of my movements as a Minister.”

20

And then he goes on to say at 42:

“As a Minister DPE I was entitled to two advisers. I

also had top management of the department to

advise me on matters. In these circumstances why

on earth would I have required the Guptas to be my

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special advisers?”

Do you want to comment on that?

MS GIGABA: It was not true that I was not staying in

Pretoria at that time, I moved to Pretoria when I was

pregnant and when Malusi became the Minister of Public

Enterprises we were already staying together and when it

comes to this thing of special advisers, it was him who told

me that the Guptas were his special advisers and I

remember in the beginning I used to get confused when he

talks

about

special

advisers,

who

are

the

advisers,

10

because sometimes he will say I am seeing my advisers

and then I see Thami Msomi, something he was saying I

am seeing my advisers, I am going to Jo’burg and I knew

that Thami was staying in Pretoria, then I would like who

are the advisers that you are talking about? So every

time when he will talk I will always want him to make it

clear who is he talking about. So it is not true that he

never had one.

ADV MYBURGH SC: Then at paragraph 15 you say in

your affidavit:

20

“In 2011 during his tenure as Minister of the DPE I

became unhappy with the little that Mr Gigaba was

spending with our children because of his frequent

evening visits to his advisers. Mr Gigaba told me

that it was important for him to meet his advisers,

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he told me that he would need to take work

decisions on the day after his visits to them, he told

me that they are responsible for the decisions at

work. He explained to me that as things were

happening at work he needed to report to his

advisers.”

Now again Mr Gigaba denies this and I just want to draw

your attention please to paragraph 45 of his affidavit where

he says:

“To suggest that Nomachule became unhappy with

10

the little that Mr Gigaba was spending with our

children because of his frequent evening visits to

his advisers when we only had one child who was a

newborn demonstrates the lengths she is prepared

to go to mislead.”

Do you want to comment on that?

MS GIGABA: It is irrelevant that he is arguing about the

children, it is mistake that I said our children, I said our

child because Malusi was hardly at home, most of the time

when he arrived from Cape Town he will just go – he will

20

say now I am rushing to the [indistinct] all the time and

then he knew that our son was very sick at the time, I

needed him to be at home. So this is not true.

ADV MYBURGH SC: Alright. Do you accept that should

have read child and not children?

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MS GIGABA: Yes, we had one child in 2011.

ADV MYBURGH SC: And then I would like your comment

on the last sentence of his paragraph 45:

“I also posed the question how would she have

knowledge of these alleged visits?”

How did you have knowledge of the alleged visits?

MS GIGABA: Because he told me. So he is the one who

used to tell me that where is he going and he will explain

when I asked him where are you going, who are you

meeting then he used to explain it to me.

10

ADV MYBURGH SC: Right. And then your paragraph 16,

this is where you deal with the frequency with which Mr

Gigaba visited the Guptas and you explain the frequency

when parliament was sitting and then the frequency when

in recess. Mr Gigaba at paragraph 48 says:

“This is a total fabrication, it is not based on any

personal knowledge on the part of Nomachule. It

beggars belief that every time I went to parliament I

would first rush off to meet the Guptas and then on

my return report back to them.”

20

How did you know, on your version, how often Mr Gigaba

was going to the Guptas?

MS GIGABA: In my knowledge he used to go there a lot.

It is not true that he went there maybe one time.

ADV MYBURGH SC: My question is how did you know?

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MS GIGABA: He told me.

ADV MYBURGH SC: I see. What would he typically tell

you.

MS GIGABA: He will tell me that he is going to see his

advisors or he will say he is going to see AJ and there

were times where he will go there with his bodyguards

without me and there were times he will ask me to go with

him. So we were forever – most of the time we were

forever there.

ADV MYBURGH SC: When we deal with... [intervenes]

10

CHAIRPERSON: I am sorry. Are you able to give an

indication of about how many times he may have gone

there with you over the period, leaving out occasions when

he told you that he had been there but you were to rely on

his word, you were not there to see whether he was indeed

there. So but the times when you were there with him at

the Gupta residence, are you able to say – given an

indication?

MS GIGABA: I can say an estimation because I do not

know exactly the number, but I know it is more than 20

20

times. It is a lie that it was four or three times, because

we used to go there when Malusi had meetings, then I

would

sit

and

wait

for

him

to

finish

meetings

and

sometimes we will go there for lunch where we would just

sit with AJ with their son and also with the wife.

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There will be times where we will just go, because

Diwali – only on one Diwali. So when Malusi is saying we

used to go there for events we only attended to events in

the 10 years that I am with him. So most of the time it was

– it is either lunch or his meetings, but we used to go there

very often together.

CHAIRPERSON: So and that would span from when to

when in terms of years when you say about 20 times? That

is from 20 what, 2011, 2013, 2014 up to when?

MS GIGABA: So from 2011 I did not go there a lot myself

10

because I had a little baby as well as 2012 I did not go that

much, so but he used to go. Then sometimes we will go

with the child when they want to see the child.

CHAIRPERSON: Your first time that you went there would

have been which year?

MS GIGABA: I mean, this was 2011 when AJ wanted to

see my son.

CHAIRPERSON: Okay, alright. And the last time when

you went there would be?

MS GIGABA: I do not remember when was it, but it was

20

when Malusi was taken back to Home Affairs. By that time

they were not that close anymore.

CHAIRPERSON: But you cannot remember which year,

but whatever year it was, it was the year when he was

[indistinct] back to Home Affairs.

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MS GIGABA: Yes.

CHAIRPERSON: Okay, alright. And when you say 20

times, about 20 times, I accept that you are estimating.

MS GIGABA: Ja, I am not saying exactly it was 20. I

think it was more than that.

CHAIRPERSON: But if somebody said no, maybe 10

times would that... [intervenes]

MS GIGABA: No, 10 times it is not.

CHAIRPERSON: 10 times it is not.

MS GIGABA: It is 10 times less, ja.

10

CHAIRPERSON: It is more than that.

MS GIGABA: It is more than that.

CHAIRPERSON: So even if you are mistaken about 20

times, it cannot be 10 times or less.

MS GIGABA: It cannot be 10 times. It is either from 20

upwards.

CHAIRPERSON: Yes.

MS GIGABA: Because we were frequently there.

CHAIRPERSON: Yes. Okay, alright. Mr Myburgh.

ADV MYBURGH SC: Thank you. Now let us deal with

20

paragraphs 17 and 18 of your affidavit. Chairperson, the

reason for the grey shading here is you will see that

Mr Gigaba responds to a series of paragraphs and so when

the grey shading is repeated it is the same answer, but it is

in relation to a different one of those paragraphs.

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CHAIRPERSON: No, that is fine.

ADV MYBURGH SC: So to summarise your paragraphs 17

and 18, you say that I first met his advisors and learnt of

the identity during 2011. I think you have just said that to

the Chairperson. When Mr Gigaba still held the position of

DPE and you go on to mention that during late 2011

Mr Gigaba told you that his advisors wanted to meet you

and your eldest son who had been born in June that year

and you go on to explain that you then attended upon the

Gupta residence, that you met with AJ Gupta, his wife and

10

their son and that AJ Gupta gifted your son a gold

jewellery necklace.

And then at 17.2 by way of summary you say in

2012 you visited the Gupta residence on several occasions

and at sub 3:

“After I met the Guptas Mr Gigaba would tell me

that he is either going to meet my advisors or AJ.”

And then at 18 you say:

“A few months after my second son was born, that

being in December 2012, I visited the Guptas in

20

their

residence

upon

invitation

of

Mr Gigaba,

informing that the Guptas would like to meet our

second child.”

Do you confirm that?

MS GIGABA: Yes, it is correct.

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ADV MYBURGH SC: Now, Mr Gigaba says:

“This is a total untruth. Why would the Guptas

insist on meeting a new born child? I do however

recall that our eldest son after his birth received a

gold necklace as a gift from AJ Gupta.”

Do you want to respond to the denial that you and

Mr Gigaba took your eldest son to meet AJ Gupta?

MS GIGABA: I do not understand why he is denying that,

because when we got there AJ was so excited to see him.

The minute he held our son he gave him the gift. It was in

10

a box, then he took it out, he put it into my son and then

Malusi took it out, then he put it back on the box and he

carried it. So if they are not that close, why would AJ want

to gift our son with a necklace, because he does not even

know it is a boy or girl if he does not know.

So I think this is a lie. So I do not even understand

why he would, because they gave him the necklace and

they wanted to see him when he was still small and I was

asking why they want to see our children – our child. But

that he was denying it, but it is true, so it happened.

20

ADV

MYBURGH

SC:

I

would

ask

you

to

go

to

paragraph 51 of Mr Gigaba’s response or affidavit. He

says:

“I do not believe...

And this goes to the Chairperson’s questioning of you a

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little earlier.

“I do not believe that Nomachule met the Guptas on

more than four occasions when we attended social

functions such as the Sun City wedding, Diwali

celebrations

and

a

cultural

luncheon

at

their

invitation. Any other suggestion on her part are

total untruths.”

So he is putting it at you having met them four times.

These were social occasions or functions. One, Sun City

wedding, two, Diwali and he also lists a luncheon. Do you

10

want to comment on that?

MS GIGABA: I remember in my statement what is not true

we never attended so many events there. Most of when we

went there it was meetings and also I only attended one

Diwali at the Guptas’ house and I only attended one event.

So it was not like we will go there because of events.

There were less events in my knowledge. So most

of the time when we were there it was meetings between

Malusi and AJ and sometimes it will be his advisors will be

there and Malusi will be taken in a room. That is what

20

used to happen and I still remain by my statement.

ADV MYBURGH SC: Then at paragraph 54 he says:

“I deny frequent visits with the Guptas or indeed

discussing such visits with Nomachule.”

Do you have anything to add to that?

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MS GIGABA: Also I still remain by my statement. I do not

understand why Malusi is saying we did not frequent visit

there because we used to go. But not only he used to go

there by me alone, there were times where he will go with

his protectors. There was even time when he would not go

with the whole protection cars, because he had two cars.

Sometimes he will ask one of the bodyguards

because he was close to one of them, he will ask him,

Chief, can you please take me there. And I remember most

of the time when that bodyguard used to come he will say,

10

okay, I want to sign first at the gate and Malusi will call

him, rush him not to sign because he says you need to

rush, there is something they need to fix with AJ. So they

will just go.

So when they come back, then the bodyguard will

want to go – there is a house, a small house that was

closer to our house where there is Police and then he will

like – I want to go there, because when I arrive I did not

sign. Then Malusi is like, no Chief, go, we will sort that

out and then the bodyguard will leave.

20

So it was if I can count his with the bodyguard,

because sometimes he will go one bodyguard or he will go

with a whole entourage and we will go all of us, that is so

many times. So it is not true that Malusi was there two or

three times.

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ADV MYBURGH SC: No, that is not what he is saying, Ms

Gigaba. He is saying you met the Guptas four times.

MS GIGABA: That is not true.

ADV MYBURGH SC: You have told DCJ that you went

there more than 20 times.

MS GIGABA: Yes.

ADV MYBURGH SC: You have also – we know you went

to the Sun City wedding. You have said you went to a

Diwali celebration. Did you also attend a cultural luncheon

at the Guptas?

10

MS GIGABA: I do not know what is cultural luncheon.

ADV MYBURGH SC: Lunch. Did you go to a lunch at the

Guptas?

MS GIGABA: But not like a cultural thing. We will have

lunch as us, AJ and his wife and my son and their son, but

it was not like a cultural thing.

ADV MYBURGH SC: Right. So if you can go to

paragraph 19 then of your affidavit. This is where you deal

with your visit to the Waterkloof Air force Base. Now at

paragraphs 19 and 20 we know that you have corrected.

20

You make the point that you went there a day or two before

the wedding and then on the day of the wedding you went

to Sun City. But in relation to your attendance at

Waterkloof

at

paragraph 55

on

the

right

hand

side,

Mr Gigaba says:

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“The contents hereof are denied. Nomachule is

deliberately trying to link me to the infamous

Waterkloof Base landing. Not a single person or

report

has

linked

me

to

the

Waterkloof

Base

landing. I had nothing to do with the landing at the

Waterkloof Base. I had no knowledge of these

visitors from India who were attending the wedding.

I also had no authority over the Waterkloof Air force

Base. The suggestion is simply outrageous and

demonstrates the lengths to which Nomachule is

10

prepared to go.”

What is your comment on that?

MS GIGABA: This one I still remain by my statement

which Malusi is not telling the truth. Myself and our son

that evening when their – what is it – their aircraft landed,

so Malusi said to me at home let us go there, he has been

asked. So I did not ask who asked him to go receive the

people. So he will ask can you please go with me and we

went there.

So what happened, myself and our son, the older

20

one, we sat in the room and then Malusi went out to

receive the Gupta people coming in for the wedding. So it

was not only us, because outside there were a lot of Metro

Police cars who were coming to receive them as well, but

they were outside. So me and my son remain inside.

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Malusi went out. I did not know what he did on them. So

they landed and they were taken by cars.

So when they were leaving, then Malusi we went to

our car going home and there were a lot of Metro Police

like escorting the Gupta cars leaving and then we went

home. So for me it does not even make sense why he want

to protect the Guptas because we were there. I do not

even know why he wants to protect that, why he say it was

a lie, because we did it. We were there. We received

them.

10

ADV MYBURGH SC: Now, paragraph 56 on the right hand

side, Mr Gigaba responds to your version of the wedding

and the removal of the henna pattern, etcetera. He says

this

is

nonsense

and

in

the

last

sentence

of

that

paragraph 56 he says:

“I refused the invitation to stay over at Sun City.”

Do you want to comment on that?

MS GIGABA: He did not refuse. He forced us to leave,

because they booked us the house. So on the following

day I did not know that we are going to go to the wedding.

20

I did not know that also we were invited on the wedding.

So on the wedding day I was at work. Malusi called me

that I had to accompany him to go to Sun City.

So then I said to him, no, he must leave me, I

cannot go because I have not done my hair, everything. I

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just cannot go to the wedding. I do not even have an

outfit. Then he was like no, we need to go, let us go. So

please come back home.

So then I left work. I think it was around 13:00,

then I went home. Then I packed whatever I had. Then he

said we are going to sleep over. We will come back the

following day. So when we arrived in Sun City there were

a lot of people who were there for the wedding and the

other people were coming from India. Then AJ was busy

introducing us to those people, but it was like everyone

10

was mingling.

And then I saw people doing like a henna, because

I have never done that before. So I joined. I said to him I

am coming back. So I did the drawing of the henna and

then by 21:00, 22:00 we went to a room. Malusi said he is

tired. Then we wanted to go rest in the room because we

were supposed to sleep there going back.

I think by 12:00 midnight Malusi said we need to

leave and also he said he received a call, he was shouting

at me like why I posted the henna on Facebook. I said I

20

did not know that I should not have posted it and then he

said I must go on my Facebook and delete the henna,

because now there is a lot of noise about us attending the

wedding.

So I went on my Facebook, I deleted the henna.

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Then after that Malusi said let us take our bags, we need

to go back home, we are not sleeping. So it is not true

that he refused to stay in Sun City. He was forced by that,

then we had to leave. So we drove back at night with the

bodyguards, came back to Pretoria.

ADV MYBURGH SC: Just to pick up on that, at

paragraph 58 of his affidavit Mr Gigaba said:

“I deny that I asked her to remove the photo of the

henna pattern on her hand off Facebook. Why

would I have asked her to remove it when our

10

attendance at the wedding was all over television

and social media. The fact that I attended there

would have been documented.”

Do you want to comment on that?

MS GIGABA: Malusi was not aware that our attendance

was going to be on the news and there will be noise about

it. He did not know. So when that happened he panicked,

then he said I must delete it and then also he said let us

go home.

So if the way he is saying like he knew that

20

everything will be documented, so why we packed our

clothes and why the room was booked, then all of a sudden

why we have to drive in the middle of the night going back

home. So he was not aware that such a thing will happen.

ADV MYBURGH SC: Alright. If we go to your

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paragraph 22, that is where you described what happened,

the procedure that was followed when you visited the

Gupta residence. You talked about turning in your cell

phone. You talked about a briefing by Mr Gupta and then

meetings being held in an adjacent room. I just want to

ask you to comment on paragraph 60. Mr Gigaba says:

“I deny that we were requested to hand over cell

phones. It is absurd to suggest that one would be

requested to hand over cell phones when attending

a

private

event

and

even

more

absurd

that

10

Nomachule’s cell phone was simply returned to her

when she got bored.”

Do you want to comment on that?

MS GIGABA: So also that is not true and I even asked

him so many times why we had to leave our cell phones,

because there is a – when you come in there was a table, I

think two tables before you go proceed to a big living room

where they used to leave me and AJ where he used to

come and brief Malusi there before they go to another room

that was opposite where he used to leave me.

20

So before when we go in they used to ask us to

leave our phones. And then the other day I asked him why

they always take my phone because the whole hour –

because those meetings used to last like an hour and half

and then I am sitting there by myself and Malusi is there in

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the meeting and I am bored. So I asked him why our

phones. So he said there was confidential information

which we are not allowed to have our phones with us.

But most of the time I used to go, maybe five

minutes later I used to go take my phone and sit down with

it and Malusi never liked those things. So it is a lie when

he said our cell phones were not taken. It is him who

knows what was confidential, but I did not know what was

confidential. But that is not true. And also I do not even

understand why he keep on protecting or covering the

10

Guptas,

because

that

was

the

procedure

that

was

happening there.

ADV MYBURGH SC: At paragraph 61, the second

sentence he says:

“It is a total fabrication to suggest that I was then

ushered into a private meeting room after being

briefed by Mr AJ Gupta.”

What do you say to that? So he denies that he was

ushered into a private meeting room after being briefed by

Mr AJ Gupta.

20

MS GIGABA: So also this is not true. So every time we

used to arrive and it happens most of the time we go there.

So when we go there is someone who will take us outside

and then they will ask us to leave our phones, then they

will take us in a room. So maybe like five minutes or so

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then AJ used to come and greet us, maybe just like make a

few little jokes or sometimes we will wait for tea or

something and then AJ will sit next to Malusi while I am

there and then he will brief him about something about

what that meeting.

So there are times where Tami [?] would be there,

which

works

in

his

office

or

sometimes

Siyabonga

Mahlangu will be there also and they will be waiting with

him and they will go with Malusi into a room. So I do not

understand why he is saying that never happened, because

10

we never been received by AJ from the door. We were

always received by other people and AJ will always come

while we are sitting and AJ will brief Malusi so that he

know what the meeting is about and they were taken in.

So that was the normal procedure, unless it is not a

meeting, it is a lunch, we go, we are chilling, we are sitting

there, then they would not take him to a meeting. So that

was the normal procedure in that home.

ADV MYBURGH SC: He says at paragraph 62:

“I deny that on these occasions Mr Mahlangu and

20

Mr Msomi were present and would attend meetings

with me.”

What do you say to that?

MS GIGABA: They were there.

ADV MYBURGH SC: Alright. Then if I can take you to

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paragraph 25 and this again deals with the briefing by

Mr AJ Gupta of Mr Gigaba and you set out in paragraph 25

the

various

things

that

you

overheard

during

those

briefings.

What

Mr Gigaba

says

in

response

at

paragraph 63 is that:

“The contents hereof are emphatically denied. Her

version that on the one hand there were these

clandestine meetings where cell phones had to be

handed over and yet on the other prior to the

meeting commencing Nomachule was privy to an

10

entire briefing session where the purpose of the

meeting was disclosed in her presence is so

improbable as to warrant outright rejection.”

What do you say to that? So he rejects outright your

version that there were these briefing sessions in your

presence.

MS GIGABA: AJ used to brief Malusi in front of me and

then they will go there. So the entire meeting never

happened in front of me because AJ used to take him

inside that room where they used to have meetings.

20

ADV MYBURGH SC: He says at paragraph 65 that:

“A lot of what is described here are matters that

have been in the media for a number of years and

would account for Nomachule’s knowledge thereof.

I deny that during my 10 years as Minister of DPE I

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ever

intended

or

indeed

travelled

to

India...”

etcetera.

What do you say about the contention that what you say he

was briefed about were things that had been in the media

for many years? You are drawing on the media to make

this up.

MS GIGABA: I do not even understand why he will talk

about the media, because at our home Malusi did not even

allow us to watch the news most of the time or also maybe

read the newspapers as well. So everything that I said it

10

is something that I have seen or that is something that he

told me. So I would never go to the media and go collect

information about him. What I have given here it is

something that I have seen and something that I heard

from him that he told me.

When it comes to the India trip, India trip happened

when Malusi was taken back to Home Affairs, but I know a

couple of times when AJ will tell Malusi when he was still

with DPE he will say you need to go meet those people and

also I want to know what the feedback between the SAA

20

and sometimes they will argue.

Malusi say – I remember Malusi saying to him I

cannot go with a State visit to go meet those people

because AJ wanted them to cancel the airline, the SAA

airline and put the Mumbai airline. And Malusi said he

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cannot go on his own. He need to justify the trip. And

then AJ will be like no, you can go with the SAA. Then

Malusi was like, he cannot do that because he need to

justify the trip.

So they used to have like a back and forth how

Malusi will go to Mumbai doing that airline and sometimes

they will have a back and forth with him, it is him and also

with Dudu Myeni. So there were discussions most of the

time where they will talk about that before the trip and then

Malusi was taken back to Home Affairs before he travelled

10

to India. But the trip happened when he was at Home

Affairs he went to India.

CHAIRPERSON: Did you say he did not want you to watch

the news on television or read the newspapers at home?

MS GIGABA: Ja, most of the time beside his work

purpose, our marriage were more exposed to a lot of

scandals which sometimes if I come I tell him that, Malusi,

I saw this maybe in the paper, what is happening. Because

most of the time when something would be on the paper

Malusi would never tell me. So I will hear maybe when

20

people are sending me messages oh, sorry about what

happened.

Because Malusi will do the whole statement in

public without even telling me what is happening. So I will

see things when it is already trending, because he never

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told me what was happening. So because of that he

wanted us not to read papers so that we avoid of seeing

things that are being said about us. Because since we got

married in 2014 like our family has been in papers for his

scandals most of the time. So then he did not want us to

read newspapers. So it is just so untrue for him that I got

that from outside.

CHAIRPERSON: So what would happen? Because he

would need to watch news or read newspapers. Did he not

watch news as far as you knew in the house?

10

MS GIGABA: Most of the time I will watch news when

Malusi is in Cape Town, because it was not most of the

time Malusi was at home. Because from Tuesday to

Thursday he was in Cape Town, then I will be alone, ja.

CHAIRPERSON: Okay. Alright. Mr Myburgh.

ADV MYBURGH SC: Thank you. At paragraph 26 of your

affidavit you said that at some stage Mr Gigaba told me

that AJ Gupta wanted to get rid of Mr Dames and you say

that you asked Mr Gigaba why and he said that the Guptas

did not like him because there are things that he was

20

supposed to do but did not do. Mr Gigaba responds at

paragraph 70 by saying:

“This is again a total fabrication. I deny the

discussion which Nomachule alleges that I had with

her concerning Dames’ employment. I emphasise

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that I did not discuss government business with her.

Furthermore her version cannot be accepted as

true. I never had any discussion with AJ Gupta

concerning Mr Dames who at a point in time was the

CEO of Eskom. I have made a submission in this

regard to the Commission.”

What do you have to say to that?

MS GIGABA: Also this is not true on his side, because I

remember AJ saying to Malusi he need to put pressure on

Brian Dames so that Brian Dames must resign – can resign

10

and Malusi what I remember, Malusi was very fond of Brian

Dames, even myself. We like him at home because he was

such a nice guy, very chilled, although I do not know his

work that much because I was not following his work.

But the Guptas did not like Brian and Malusi liked

Brian and every time when they used to talk Malusi and AJ,

then Malusi were like why they do not want, then AJ will

tell Malusi that no, there are certain things that he is not

doing. And also I asked him why they do not like him,

because to me he appears as a nice guy, as much I did not

20

know his job.

Malusi said that there were things that he was not

doing and AJ they wanted him to do and AJ was asking

Malusi to put pressure on Brian so that Brian can resign

and leave Eskom. And in a couple of months it happened,

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because I remember Malusi told me that Brian was leaving

and it was sad. And I knew he did not like it, but they put

pressure on him.

ADV MYBURGH SC: Could I take you to paragraph 28

dealing with meetings at our home. You said that during

2013 Mr AJ Gupta met with Mr Gigaba at our then official

residence. You saw him there at most twice. Meetings

took place in an underground room or bunker. And this is

emphatically denied. Do you want to comment on that?

MS GIGABA: So this one is – he can call it whatever he

10

calls that room, but it is the only room that you take the

stairs then you go downstairs, because all our rooms in the

State house they are on top which is on the top surface

and that room it goes down and it hold Malusi’s safety and

also has where Malusi usually holds his meeting.

So when AJ he came at our home two times and I

remember because when Malusi say I must come and say

hi to him, then I wanted to offer him something to eat and

he refused. Then I said to Malusi on the second time,

because also he refused to eat, I was like I just do not like

20

this thing of AJ he does not eat here, but when we go to

their house they always even when you say we do not like

it, because most of the time they like vegetarian food and I

do not like vegetarian food, so they will say no, try this, try

this and Malusi was like no, you can even when you do not

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like it just try. But when he came to our house he did not

even want to try.

So I remember having that conversation with him

why AJ does not want to eat when he comes to our house,

but when we go to their house then we have to eat their

food. So it is a lie when Malusi said AJ never came to our

house. He came twice.

ADV MYBURGH SC: At 29 you then go on to narrate what

Mr Gigaba told you they were meeting about, Transnet

tenders and an Eskom project that was giving him a

10

headache. Mr Gigaba responds at paragraph 73 by saying:

“The

contents

hereof

are

again

a

total

fabrication.

I have

stated

above

that

I

had

absolutely nothing to do with tenders and SOEs are

removed

from

procurement

and

supply

chain

processes and their departments let alone in the

SOE’s. I therefore deny any discussion about a

headache

concerning

an

Eskom

project

with

Nomachule.”

Do you want to comment at all, or stand by what you have

20

said?

MS GIGABA: I stand by what I said, especially when I say

it gives me a headache. There was this project called

Kusile, it was at Eskom, and I remember most of the time

that project at Kusile used to give Malusi a lot of time, then

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he will go discuss things with Ajay, and I will be there as

well when they were talking but he was saying like I do not

know what was so - he was given a lot of time about Kusile

Project.

And I even remember when Malusi left, that project

was not completed, but I even remember Malusi went and

visit that project with his team at Eskom. So I knew

because I was there when they were talking. So when he

is answering this, his just like giving, like a general that

Ministers are not allowed, but him he was involved.

10

CHAIRPERSON: Well, can I take you back to what you

say in paragraph 28, you say that the meetings between Mr

Gigaba and Mr Ajay Gupta took place in an underground

room of bunker at our home. I see that in paragraph 72 of

his affidavit. He says:

“I denied that there was any bank or underground

room at my official residence, this is indicative

speculation.”

How can there be this dispute between the two of you

about whether or not there is a room underground?

20

MS GIGABA: Maybe he can call it with his own way, but

that house is still there because it was a State house, it is

still there. So he can call it the way he want to call it. I

call it underground because all of our rooms, they are on

top.

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CHAIRPERSON: Yes.

MS GIGABA: But there is one room that if you take the

stairs you go down and when you go out, you go the pool,

that was only that room and that was the room that Malusi

use to hold meetings. So if someone comes at home,

upstairs you will not see Malusi who is he meeting with

because that house is just – and that house is still there.

CHAIRPERSON: That room is the only one that is at that

level?

MS GIGABA: Yes.

10

CHAIRPERSON: The others are on top?

MS GIGABA: The others are on top, all of them.

CHAIRPERSON: Ja.

MS GIGABA: Then it is the only one just takes the stairs,

you go down and then there is a balcony, then when you

stand at the balcony, then you see the pool.

CHAIRPERSON: Ja.

MS GIGABA: Yes.

CHAIRPERSON: So - but is it on the same level as the

ground level if you are outside of the house, or is it below

20

the ground level if you are outside the house.

MS GIGABA: Also how the house is built, so when you

come in, if you walk in, you will not know that you can still

go down. So you will think you are just here and when you

go further in the house, you can take the stairs on the

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other side of the house. Then there’s other…[intervene]

CHAIRPERSON: Other rooms.

MS GIGABA: Other rooms, but there are upstairs but

there's on other wing of the house.

CHAIRPERSON: Yes.

MS GIGABA: So when you come in at home, you will not

know that you can go down.

CHAIRPERSON: The steps go down.

MS GIGABA: Yes, but it was the only house, this is the

way the house was built.

10

CHAIRPERSON: Okay, alright Mr Myburgh.

ADV MYBURGH SC: Thank you, then at paragraph 30

where you saying that Mr Gigaba invited staff from his

office at the Department of Home Affairs to our residents

prior to a trip to Mumbai and New Delhi, India and he

denies that, have you got anything to add to that or do you

stand by what you said?

MS GIGABA: So he did invite his staff and what

happened – and what I said to him, because when he has

these meetings with his staff, because when he has staff

20

meeting, he will have people from the Ministerial which is

people that are close working with him and maybe he will

have maybe one person or two people from the department

because

the

Ministerial

team

are

different

from

the

department people.

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So then what I said to him, I was like when you

have these people, we do not run out because sometimes I

do not know Malusi is going to host these people and then

people they just come in the evenings. Then now I have to

make sure that I had to accommodate them.

Then where Malusi started, so his PA used to come

early and prepare for that. Then he will order takeaways

and on that room that I am taking about then because there

was an eight seater table. So then he will come an order

and prepare so that everyone when they come they have

10

water, they have snacks and everything. So they use to

order takeaways because he never tells me prior to the

meeting.

ADV MYBURGH SC: I would like now to turn to your

paragraph 30.2 and this is not something as I remember

that we dealt with thoroughly in your initial evidence. It is

the India trip and that is because of the error in the date.

Your, correcting affidavit, correct paragraph 30.2 by saying

instead of during or about 2010 it is 2015.

MS GIGABA: Yes.

20

ADV MYBURGH SC:

“I accompanied Mr Gigaba, I will take you through

this, and other government officials on a trip to

Mumbai and New Delhi, India. Before the trip I

overheard Mr Gigaba complaining to Mr Ajay Gupta

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that he could not go on a trip to India because he

was still at the Department of Home Affairs.”

In 2015, Mr Gigaba was at the Department of Home Affairs.

Is that correct?

MS GIGABA: Yes.

ADV MYBURGH SC: So I think we have discussed in

consultations that the word still need not be there.

MS GIGABA: Yes.

ADV MYBURGH SC:

“I overheard Mr Gigaba complaining, this is your

10

version, to Mr Ajay Gupta that he could not go on a

trip to India because he was at the Department of

Home Affairs.”

Is that right?

MS GIGABA: Yes.

ADV MYBURGH SC:

“Therefore he could not justify a trip to discuss a

new flight route between South Africa and India,

which was a matter that fell under the DPE.”

That was his previous portfolio.

20

MS GIGABA: Yes.

ADV MYBURGH SC:

“At a later stage, Mr Gigaba mentioned that he

would create an official State visit to India whilst at

the Department of Home Affairs so that he could

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meet the Indian nationals that Mr Ajay Gupta

wanted him to meet in relation to the South

Africa/Mumbai route.”

Then you say at 30.3:

“In India, Mr Gigaba and Mr Matsumi attended

various meetings. I did not see with whom they met

as I was out shopping, when they attended the

meetings.”

Then at 30.4:

“Mr Gigaba later told me in 2010, that the Gupta’s

10

wanted to introduce their own airline to service the

Johannesburg Mumbai flight route and that the

Gupta’s were demanding that he compel SAA to

cancel their Johannesburg Mumbai route, Mr Gigaba

did not support it.”

Now when you say he later told me we dealing with 2015 in

paragraph 30.2, when did he tell you this?

MS GIGABA: So the first time I heard about the Mumbai

airline and the SAA airline, Malusi was at DPE at the time.

So he used to talk about that, that they need to cancel SAA

20

airline and then they need to bring Mumbai airline and that

is where most of Malusi’s arguments if I can put it that way

with Ms Dudu Myeni it was more of that because they used

to argue about it.

ADV MYBURGH SC: Sorry, Ms Gigaba but I want us to

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deal with the correction that needs to be made to 30.4.

MS GIGABA: Yes.

ADV MYBURGH SC: So it is not later, do I understand

you to be saying that he told you this during his tenure as

the Minister of DPE?

MS GIGABA: So when it comes to dates, I explained in

our consultation about the year…[intervene]

ADV MYBURGH SC: Just bear with me about trying to get

rid of the dates, he told you whilst he was the Minister of

the DPE, is that correct?

10

MS GIGABA: Yes.

ADV MYBURGH SC: Now, let us go to his version, of

course, he deals with the error in the date the 2010 he

makes the point that there was a trip in 2015. Then he

says at 77:

“During

that

trip

I

officially

opened

the

Visa

Facilitation

Centre

in

New

Delhi,

reached

an

agreement with the Minister to open more Visa

Facilitation

Centres

in

order

to

expedite

visa

applications.”

20

He visited an E passport factory, met with the Minister of

Home Affairs etcetera. He says:

“I had no discussion with Ajay Gupta about this trip.

I also did not complain to Nomachule about any

demands concerning the trip.”

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He says at 78;

“The suggestion that Nomachule overheard me

complaining to Ajay Gupta that I could not go on a

trip to India, because I was still at the Department

of Home Affairs is nonsensical. As stated above, I

did go on my second trip to India whilst I was the

Minister

of

Home

Affairs,

this

had

absolutely

nothing to do with the South African Mumbai route.

It is ridiculous to suggest that I could not justify a

trip to discuss a new flight route between South

10

Africa and India, which was a matter that fell

outside my jurisdiction as Minister of Home Affairs

but was under the DPE.”

So the long and the short of it is he says that this trip had

nothing to do with the South Africa Mumbai route, he went

there and he performed the work of Minister of Home

Affairs by visiting Visa Facilitation Centres, visiting an E

passport factory, etcetera.

MS GIGABA: He did that, but he knew that he had to

come up with something so that he can justify why he went

20

there and I remember, he went there with the team

because we stayed maybe two or three days in New Delhi.

Then a few days later, we moved to Mumbai, where we

stayed at the hotel. So when we were in Mumbai, then

Malusi that is where he did his own meetings, because

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when we were in the room, he will say, eish, because he

was tired, because when we were in New Delhi it was

raining so hard, it was flooding and then Malusi was going

with his team and then some of the meetings, I do not

know, he did it alone, so I cannot say that.

But when we were in Mumbai, then Malusi was tired

and he was like, I need to go do this meetings Ajay

arranged this, so he would leave the hotel, our room and

go downstairs to meet the people that Ajay arranged for

him to meet when we were in Mumbai.

10

So maybe he will not declare all the trips, but they

were trips, there were meetings that he did that Ajay

arranged for him, but he could not leave South Africa, only

for those meetings. So he had to take the whole

department with him so that he can justify that.

CHAIRPERSON: So which year are we talking about when

that trip happened was in 2010?

ADV MYBURGH SC: 2015.

MS GIGABA: 2015.

CHAIRPERSON: 2015, okay so he had stopped being

20

Minister of Public Enterprises in 201 when the elections

happened, and after that, he became the Minister of Home

Affairs.

MS GIGABA: Yeah, he was taken back.

CHAIRPERSON: Ja, okay.

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ADV MYBURGH SC: Alright, so let us go to paragraph 31,

here you deal with prior knowledge of appointments and

what you say is that:

“After a new age breakfast session, Mr Gigaba told

me that Mr Molefe was going to move from Transnet

to Eskom. I was told this before Mr Molefe was

officially appointed to Eskom, etcetera.”

And then, at 31.2 you said that:

“Mr Gigaba told me that Mr Gama would be

appointed

as

the

chief

executive

officer

of

10

Transnet.”

In your evidence you corrected that to say that he would be

taken back as the CEO of Transnet Freight Rail, do you

remember that?

MS GIGABA: Yes.

ADV MYBURGH SC: And then at 31.3, you say or said

that

“Mr Gigaba also told me that he intended to speak

to Mr Gama to appoint his sister, Ms Gugu Gigaba

to Transnet.”

20

You say:

“To the best of my knowledge Ms Gugu Gigaba was

appointed and remains in the employ of Transnet.”

And then 31.4 you said:

“On many occasions, Mr Gigaba informed me that

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the Gupta’s knew and had told him about who would

be moved from an appointed to SOE’s.”

Now Mr Gigaba says at paragraph 81:

“That this is a total fabrication, at the time when Mr

Molefe became CEO of Eskom, and Mr Gama

became the CEO of Transnet he had left the DPE.”

You want to comment on that?

MS GIGABA: But he knew before he became the CEO of

Eskom, Malusi told me so he knew before.

ADV MYBURGH SC: Then he says, at paragraph 83:

10

“I

must

immediately

deny

that

I

have

told

Nomachule that is a word I am missing there,

intended to speak to Mr Gama to appoint my sister

Ms Gugu Gigaba to Transnet. My sister was

appointed at Transnet long after I had left DPE after

following due process and remains in their employ.”

You want to comment on that?

MS GIGABA: Yes, when Gugu was given a - Malusi said

no you can take it then I will talk to Gama to - he will find

something for you. I did not say Malusi was DPE when she

20

started but what I know of Malusi spoke to Mr Gama to find

work and also what I remember Gugu came to stay with us

in Joburg before she even found a job. So she came, I

think he stayed with us for a month or two months or so, at

our home before she even got a job at Transnet. So when

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she left, KZN the job was not there yet, but Malusi said he

must take - he must move her stuff, then he moved her

things she came to stay with us at home before she started

the job.

CHAIRPERSON: Well, you just said that what you know,

is that Mr Gigaba spoke to Mr Gama.

MS GIGABA: Yes, that is what he said.

CHAIRPERSON: But that is actually not true, because

you were not there when he spoke to him. It is what he

told you, is that right?

10

ADV MYBURGH SC: Yes, it is - he told me that.

CHAIRPERSON: Ja, okay.

ADV MYBURGH SC: Then under the heading tensions

arising at paragraph 32. You said that:

“As Mr Gigaba’s tenure as Minister at the DPE

progressed, he often told me that the Gupta’s were

putting pressure on him to take certain decisions

with which he did not agree.”

And

you

mentioned

a

number

including

Mr

Gama’s,

etcetera, and then he says at paragraph 85 in response:

20

“This is once again a total fabrication; I deny ever

discussing being put under pressure by anyone

concerning appointments. As Minister of DPE it

was my duty to defend the appointments that

cabinet had made. There was no one that could tell

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me who to appoint and who to dismiss. I again

deny the allegation that the Gupta’s were my

advisors and accordingly, Nomachule is lying when

she says that she raised this issue with me.”

Do you want to comment on that?

MS GIGABA: So what he is saying that it is not true

because Malusi told me these things, and I will never come

up and give the word advisors to the Gupta’s. So it is him

who told me the Gupta’s are his advisors, I think the other

day I even asked him why you call them advisors, and why

10

you always rush to go there and you go to work, you have

to go to Cape Town.

And I remember there was a time when Malusi was

at DPE then Ajay will call Malusi and Malusi will ignore his

calls and I asked him like what is wrong, why now you are

ignoring

-

because

in

the

beginning,

when

he

was

appointed he loved taking their calls, he loved us going

there but later before he leave he did not have like a good

relationship with them.

Then I asked him what is wrong, then he said, they

20

putting pressure on him and there was a time where Ajay

reminded

Malusi,

he

said

remember

why

you

were

appointed because Malusi will argue. I remember the other

time Ms Dudu Myeni did not like Kalawa he used to call

Malusi and he will complain about him and Malusi loved

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Kalawa as a CEO during that time and Ajay also they did

not like Kalawa and there was a lot of things between

Eskom, Transnet where Ajay they would want Malusi to do

certain things, and Malusi did not want to and then Ajay

one day, he told him that Malusi, he must remember why he

was appointed to those post.

So it is a lie when he says he never - he had a

headache - later, before he left he was taken back, the

relationship was not like it was in the beginning. So what

happened in the beginning he was excited, after a year

10

when he was at DPE Malusi wanted to run the department

the way he wanted and Ajay they wanted him to run things

the way they wanted and they had the conflicts most of the

time.

CHAIRPERSON: So did you get the impression that the

conflicts between them that you are talking about was

because Mr Gigaba was resisting Ajay Gupta’s attempts to

get him to run the department the way he wanted, and not

the way Mr Gigaba wanted?

MS GIGABA: Yes, because I remember there was a time

20

when Malusi will be like, in the evening, he will come

home, then he is tired and then he will say the reason he

does not like the Gupta’s being involved in his job. So he

has a PA keeping his diary. So according to him and his

PA, he knows how his diary work and his Ministerial team,

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and he has some meetings with his Deputy and other

people. But now when Ajay calls, so Ajay will demand

Malusi to just leave everything and then it puts Malusi

under pressure because Malusi was complaining that it

makes him look unprofessional because now he will ask his

PA to cancel the meeting and maybe people they were

coming somewhere to see him.

So now it was just disorganising everything that is

the other thing that he did not like and also what I have

noticed, it was – Malusi like certain people like Brian

10

Dames, Monalusi Kalawa also he had a good relationship

with Brian, we have become family all of us and even with

Gama we attended their wedding.

So certain people when they were moved during like

sometimes restructuring Malusi did not like it because he

always have a team - how he works with them and then

now those people are being removed, so he did not like

that.

ADV MYBURGH SC: So in paragraph 33 you continued

really

with that theme, where you talked about the

20

relationship becoming strained. Getting around Mr Dames,

Mr Gigaba starting to avoid telephone calls, being called to

the Gupta residents and the fact that Mr Gigaba told you

that Ajay told him that if he wanted to run the DPE as he

wished he would be moved back to the Department of

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Home Affairs and you conclude by saying:

“I understand that Mr Ajay Gupta would often tell Mr

Gigaba that he should remember why he was

appointed at the DPE.”

And response to that is:

“This is once again a fabrication.”

I think it is something that you have already addressed, is

that correct? You have addressed this issue.

MS GIGABA: I have addressed this and I remember in my

statement.

10

ADV MYBURGH SC: Do you have anything to add?

MS GIGABA: Sorry?

ADV MYBURGH SC: Do you have anything to add in

relation to that?

MS GIGABA: I do not understand why he is denying this

whole thing because it was very stressful on him and also

the stress - because I remember at that time, where he was

so stressed when Ajay will want Malusi to do this and this

he will – then there was a time when Malusi would go to

Rosebank Hospital because he started having migraines

20

and lots of them where he would just go there and he

needs to take injections for his migraines.

So his work became like - he could not control - he

did not have control of his work. He wanted to work to do

his work but he could not disagree with them because I

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remember the other time when he had a migraine then I

even asked him, why do you not tell them that you do not

want to do it? Then he said he cannot. So it came - he

will go to the to the Saxonwold, the Gupta’s even when

sometimes he did not want to, sometimes he will avoid his

call.

And there were times where Tami[?] will come at

home we will tell him that Ajay says you are not answering

the calls. No, you must try, he needs to go and then he

will do it but their relationship was not like when he was

10

appointed in the beginning. So it changed a little bit

because Malusi felt like they were interfering in his job.

ADV MYBURGH SC: Right, if you can go to paragraph 34.

You talk about Ms Myeni having facilitated your honeymoon

trip and you say he would often meet with her at the

Sheraton Hotel for lunch and thereafter would go to the

Gupta residence. He says at paragraph 89, that:

“I only had one meeting with Ms Myeni at the

Sheraton Hotel.”

How do you know that he would often meet her at the

20

Sheraton Hotel for lunch?

MS GIGABA: Because I will go with him, so what happens

Ms Myeni used to book a room at Sheraton Hotel, and

myself and Malusi will go there then they will have a

meeting, then I will sit there and sometimes we will have

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like - sometimes then he will ask me, how are the boys, are

they growing, and then after then ii will sit and then they

will talk in their own meeting. So they will to book a room

but Dudu use to book a room then Malusi will come in, then

they will have a meeting.

ADV MYBURGH SC: Then at the end of 89, the remainder

of the allegations are denied. So what that means is that

Mr Gigaba is denying that Ms Myeni facilitated your

honeymoon.

Do you stand by your evidence in that regard?

10

MS GIGABA: Yes, I stand by my evidence.

CHAIRPERSON: The Sheraton Hotel is that the one in

Pretoria?

MS GIGABA: The one in Pretoria.

CHAIRPERSON: Okay.

ADV MYBURGH SC: Then at 35, you said:

“At a later stage, Mr Gigaba informed that there was

some disagreement between him and Ms Myeni

about certain decisions pertaining to the direction

of SAA which resulted in tensions between them.”

20

He says:

“This is a total fabrication.”

MS GIGABA: Even as we stand right now, they do not

get along, if they can do that they will be just pretending

because I remember when Malusi was taken back at Home

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Affairs he was very angry, he felt like the President was

influenced more by Dudu Myeni because Dudu Myeni also

repeated the words that were said by Ajay, that if Malusi

does not want to take instructions, he will be taken back

and Malusi was like, he will never touch me, because in his

head, he has that impression that he comes first to the

President, all the other Ministers were just - so every time

when maybe a reshuffle will happen Malusi was - he always

thought he will never be you know, tasks or he will only -

he will be like the first preference to be given.

10

So when Dudu Myeni and Ajay Gupta said Malusi

will be taken back, so he said something like that will

never happen. So when it happened, he was very angry

and he said he knows it was the influence from Dudu

Myeni, she had the influence on the President to take him

back.

CHAIRPERSON: This is now back to Home Affairs?

MS GIGABA: Yes, because on the day, I remember when

he came back at home, so he was called in the evening

and he was told that his going to be taken back to Home

20

Affairs. So you are going to be no longer a Minister of

DPE. When he came back home, he was so angry, and he

just went back to the bedroom.

And then I said what happened, what did he say? I

thought he was fired the way he was so devastated. Then

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he said, no, they taking me back to Home Affairs. So - and

I knew it just because of Dudu Myeni and the Gupta’s and

then I said why you did not tell them, why you did not tell

the President? He said I could not raise those things,

because there were top six around there so I did not want

to say those things. Then I asked him what did the

President say to you when he was taking you back, what

was the reason? Then he said, the President said Malusi

need to tighten the borders.

ADV MYBURGH SC: At paragraph 37 you said that:

10

“On Sundays Mr Gigaba and I would regularly have

lunch in Sandton when driving to return home I

would overhear Mr Gigaba’s telephone discussions

with Ms Myeni. He would sometimes share the

detail with me and included in that was he did not

understand why Ms Myeni had been appointed as

the Chair of SAA because he did not believe she

was competent.”

And then you go on to say various other things but at

paragraph 92, he says:

20

“This is once again a total fabrication. I did not

have any such discussions with Nomachule as

stated in paragraph 37.1. In any event, why would I

question

Ms

Myeni’s

appointment

as

the

Chairperson of the Board of SAA when it was in my

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capacity as the Minister of DPE who recommended

her appointment to cabinet.”

Do you want to comment on that?

MS GIGABA: Also, what his…[intervene]

ADV MYBURGH SC: He is he saying I would not call her

incompetent because I recommended her appointment.

MS GIGABA: So he used to say that a lot. He used to

say he does not understand why the President made Dudu

Myeni the Chairperson of SAA because Malusi felt like

Dudu Myeni did not understand the job and also he was

10

interfering in the SAA Board. He even mentioned that

sometimes he will go attend the meetings, the Board and

he will take some of the information and give it to uBaba[?]

before it was given by people who need to give uBaba[?]

the information.

And also there was a lot of – they did not get along

most of the time, Malusi and Dudu and Malusi used to

question, he was like I do not like the way she works she

does not understand the job. I do not understand why the

President appointed her. So that is him, he use to say that

20

to me.

CHAIRPERSON: You just used the word uBaba[?], who

are you referring to?

MS GIGABA: That is him, he use to call the President like

that.

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CHAIRPERSON: Okay, alright.

ADV MYBURGH SC: Paragraph 38, you say that:

“Ms Myeni told Mr Gigaba that if he do not do as he

was told he would go back to the Department of

Home Affairs.”

He says at paragraph 95:

“There was a rumour to this effect and this is

presumably Nomachule’s source of information, I

deny having discussed any of this with her.”

What do you say to that?

10

MS GIGABA: I do not know the rumour and I do not know

anyone in this house knows that kind of rumour, I only

know this thing from him.

ADV MYBURGH SC: And how did you know this?

MS GIGABA: Because he told me.

ADV MYBURGH SC: Right. Paragraph 40 dealing with Mr

Gigaba’s return to the Department of Home Affairs you said:

“Mr Gigaba did not believe that the former

President would transfer him back to the

Department of Home Affairs because he

20

believed that they shared a very close

relationship.”

I think this is something you have already expanded

upon. At paragraph 97 Mr Gigaba says:

“I do not even know how to respond to this it

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is simply ludicrous.”

Got anything to add to that?

MS GIGABA: Because he does not know how to respond of

what he should do.

ADV MYBURGH SC: Then at paragraph 41 you say it:

“That Mr Gigaba therefore appeared very

shocked and hurt when his transfer was

announced after the 2014 elections.”

And you explain that the former President told Mr

Gigaba in front of the ANC Top 6 leaders the reason he was

10

being moved back and Mr Gigaba did not believe it etcetera.

And at paragraph 98 Mr Gigaba’s response was:

“This is again a total fabrication and pure

unfounded speculation. I do not know when

it is that I appeared shocked. Furthermore,

one is never appointed in front of the ANC

Top 6 this never happened. This goes to

show the extent to which she is prepared to

sink in order to perpetuate a false narrative.”

Do you wish to comment on that?

20

MS GIGABA: That is what he told me because I asked him

why did he not ask the President why he was removing him

from – into Home Affairs that is what he said.

ADV MYBURGH SC: Then we get the Gupta’s application

for South African citizenship. Now again I do not think this

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is something from what I can remember that you dealt with in

your evidence. I just want to in any detail I just want to take

you through these paragraphs. During – at 42.

“During

Mr

Gigaba’s

term

of

office

as

Minister of the Department of Home Affairs

he informed me that he was assisting some

of the Gupta family members to obtain

citizenship in South Africa. He said that the

Gupta’s were conducting business in South

Africa and they needed their – and that they

10

needed their family then living in India to be

in South Africa.”

Is that correct?

MS GIGABA: Yes it is correct.

ADV MYBURGH SC: You confirm that?

MS GIGABA: Yes he told me that.

ADV MYBURGH SC: At 43.

“One day in 2015 Mr Gigaba came home with

a

blank

official

documents

in

a

brown

envelope which he informed me the Gupta’s

20

needed to sign. I went with him to the Gupta

residence and on arrival Mr Ajay Gupta

greeted us. Mr Gigaba went with Mr Ajay

Gupta into a separate room carrying the

brown – same brown envelope. When we left

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the Gupta residence to go home Mr Gigaba

carried the same brown envelope with him.

The next morning Mr Gigaba called me to ask

about

the

whereabouts

of

the

brown

envelope. He asked me to look for the brown

envelope at home. Later that same day he

called again to inform that he had found the

brown envelope in the boot of the car.”

So what Mr Gigaba says is at 99.

“This is once again a total fabrication. This

10

like all the other contents of the affidavit

seemed to have been stitched together by

Nomachule from various media reports over

the years concerning myself.”

What do you say to that?

MS GIGABA: I am not sure why he keep on protecting them

because everything you said something like he told me is

something that I have seen. So that incident it happened at

home when he came back at the Gupta’s house with that

envelope.

20

And also I remember when the media used to have

like – they used to comment about the Gupta’s in the country

why they only build – and Malusi used to be on their side

even like the way he is on their side right now. He used to

say he does not understand why people are always asking

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the presence of the Gupta’s in South Africa because they are

bringing the business in South Africa.

So he used to name which I do not recall which are

those businesses that they used to bring but he used to say

the Gupta’s are bringing business in the country. He does

not

understand

how

South

African’s

think.

So

that

happened. So I even asked him on the day then I was like

what is that? He said no they are documents because they

need to bring some of their family members so he was

helping them.

10

So when he came back the documents were in the

boot and he forgot even myself I forgot. So in the morning

he was looking for them in his office asking everywhere then

I said I do not remember where is it. But he was like I can

leave it at home but I do not remember.

Then later he called when he was in the office he

said no I found the document in the boot. So that was – he

was doing that. So he said he was helping them because

they were bringing business in South Africa.

ADV MYBURGH SC: At paragraph 100 he emphatically

20

denied the contents and he says a suggestion of the brown

envelope is a figment of your imagination. You have

addressed that correct?

MS GIGABA: Yes.

ADV MYBURGH SC: Could we then go to paragraph 46.

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Now this deals with Mr Gigaba’s appointment as the Minister

of Finance. You said at 46:

“This

change

in

Mr

Gigaba’s

portfolio

appeared to upset him very much. He

informed me that the former President told

him that he initially wanted to appointed Mr

Molefe as the Minister of Finance finally

decided to appoint him; Mr Gigaba at the

request of other NEC members.”

At paragraph 103.

10

“Mr

Gigaba

said

this

is

again

a

total

fabrication. Why would one be upset on – on

being appointed a Minister of Finance?”

Etcetera. What do you have to say to that?

MS GIGABA: So he was not upset that he was a Minister of

Finance he was upset the fact that the President when he

told him that he is going to become a Minister of Finance.

So he said the President was acting like it is coming from his

heart and Malusi deep down he said he knows that the

President did not want him to become a Minister of Finance.

20

He wanted Brian Molefe to become a Minister of Finance.

So – so he was like I just do not even understand why he

acts like he is giving me that portfolio because he did not

want me. So I do not know who suggested that Malusi must

become the Minister of Finance. And I remember the time

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Brian was already in Cape Town. He was staying in the –

there was a residence for Parliamentarians yes at that time.

So Malusi was like I know why Brian was in the Parliament it

is because he was preparing for his appointment as the

Minister of Finance. So when the President appointed him he

was like he thinks I do not know that I was not his first

preference.

ADV MYBURGH SC: Mr Gigaba says in that paragraph 103

that he never mentioned Mr Molefe’s name to you.

MS GIGABA: Do you want me to say something on that?

10

ADV MYBURGH SC: Yes can you address that?

MS GIGABA: Oh okay. Like…

ADV MYBURGH SC: Are you sure that he mentioned Mr

Molefe’s name to you?

MS GIGABA: Yes he said that. He said the President

wanted Brian to be the Minister of Finance not him.

ADV MYBURGH SC: And that is in fact as I understand your

evidence please correct me if I am wrong that is what upset

him that he was effectively the second choice or the fall back

choice.

20

MS GIGABA: Yes.

ADV MYBURGH SC: Is that correct?

MS GIGABA: Yes.

ADV MYBURGH SC: Then can I please take you to

paragraph 49 under the heading Gifts. Paragraph 49 you

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deal with the fact that Mr Ajay Gupta gave Mr Gigaba a

BMW.

MS GIGABA: Ye.

ADV MYBURGH SC: And the simple or short response to

that is the contents hereof are denied. Do you confirm the

contents of your paragraph 49?

MS GIGABA: Yes I know because I drove that car almost a

year and – but what I remember when that car we need to

get the – the renewal of the disc – I think it was a year

almost like two years when I was driving that car.

10

So I remember when that car needs to go to service

or maybe wanted to get a disc and even the time when I was

I delivered that car so his friend Malusi Matosi 00:08:58

friends who used to do that for him especially there is this

one friend was focussed on this car. So who used to call me

then we call each other Malungu because he was dark like

Malusi so it was me way of teasing him. So he will call me

Malungu where are you? Then I am like no I will tell him

where I am and like when are you coming to Sandton or can I

meet you I want to give you the disc.

20

Or sometimes he would like no I want to check the

car when is it due for service. So Joe used to do that for

him. So that was his friend. Even the day I took the car to

drop it off when he did not come back so I was in a road

block and the Metro Police officer said to me – do you are

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you aware that your lights is not working at the front? Then I

said I did not know. Then he said come out and look. Then I

looked at the car because this was a bit in the evening.

So when I got home I told Malusi that I am going to

take the car to fix the lights in the morning because the

police said that. So in the morning Malusi was no do not

take the car I already called my friend, take the car and drop

it off with him so then the protectors will fetch you come

back.

Then I was like no but there is so many BMW’s

10

around where we stay in Pretoria why must I take the car all

the way to Sandton then he was like no I want Joe to do it.

So that was his friend. So he wanted his friend to do it

because most of everything that happens at our house in

terms of the car – because Malusi does – never had a car in

his name. So his friends do this – those things for him. So

we do not take cars to service. So I only do that when I

have got my own car.

ADV MYBURGH SC: How long did you drive this BMW for?

MS GIGABA: I drove it I think a year and a half or almost

20

two years.

ADV MYBURGH SC: My colleague points out to me if I

could take you back to paragraphs 42 and 43 that – I think I

mentioned to you that I do not think that you dealt with this

in your initial evidence. What has been pointed out to me

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that

these

paragraphs

under

the

heading

Gupta’s

Applications for South African Citizenship that was one of

the things that you said needed to be re-crafted.

MS GIGABA: Yes.

ADV MYBURGH SC: I see it is not something that you have

addressed in your correcting affidavit.

MS GIGABA: Yes.

ADV MYBURGH SC: Do you – do you then…

CHAIRPERSON: I am sorry Mr Myburgh have you moved

away from the BMW?

10

ADV MYBURGH SC: Yes I have – sorry I have gone

backwards.

CHAIRPERSON: Oh you go back.

ADV MYBURGH SC: Yes I have gone backward. Do you

want to ask something about the BMW?

CHAIRPERSON: Okay. Ja. On the BMW unless you are

still going to go back there ja.

ADV MYBURGH SC: No, no – please.

CHAIRPERSON: Ja. Yes You say you kept that car – you

drove that car for about a year and a half?

20

MS GIGABA: Yes. And then when I drop it off I drop it off at

his friend’s place. But I do not know why I took pictures of it

when I was standing there at his place in Sandton and then

when the Hawks took my gadgets so those are the kind of

the pictures also that were deleted. All the pictures of that

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car are deleted on my phone

CHAIRPERSON: And would there be – I guess there would

be friends and other people who knew the car when you were

driving it.

MS GIGABA: Ja there were people who know that I was

driving the car.

CHAIRPERSON: Yes. And did you say it was registered in

your name or was it not last time?

MS GIGABA: It was in my name but very short it was

changed out of my name then it was registered on his

10

friend’s name. So when I was looking for it now I contacted

the licence department so they told me that the soon the

change of ownership of the car moves from the – this owner

to another owner then everything just changed automatically

to go another person. So – because it was his friend. I do

not know why Malusi changed the car from me to his friend.

CHAIRPERSON: When did you get to know that – that part?

MS GIGABA: Sorry.

CHAIRPERSON: When did you get to know that the car was

registered in his friend’s name at some stage?

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MS GIGABA: Oh no he did not – I think a few months I was

driving the car Malusi told me that he wants the car to be

registered under his friend.

CHAIRPERSON: Oh so he – that was done while you were

still using it.

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MS GIGABA: Yes and I asked him why so he said because

the time – because his divorce dragged for too long. So he

said he does not want that car to be there because he was

married in community of property so he wants – he does not

want the car to be taken away from him so let us put it on his

friend. So then he did it.

CHAIRPERSON: Yes okay Mr Myburgh.

ADV MYBURGH SC: Yes I just wanted to take you back to

paragraphs 42 and 43. When you initially gave evidence you

indicated that these paragraphs would have to be re-crafted.

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But I have noted from your correcting affidavit that you do

not deal with them. Do you confirm then the accuracy of

paragraphs 42 and 43? This is your version.

MS GIGABA: Yes this is my version. The only part that I

was correcting on the old affidavit it was the word saying

Malusi approved the neutralisation of the Gupta’s.

MS GIGABA: Yes.

MS GIGABA: Only that.

ADV MYBURGH SC: That is paragraph 44.

MS GIGABA: Yes.

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ADV MYBURGH SC: But you happy with 42 and 43.

MS GIGABA: Yes.

ADV MYBURGH SC: Right. Then could I take you please to

paragraph 50. I just wanted to ask you this. You say at

paragraph 50 that:

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“That we invited both the former President

and the Gupta’s.”

Who – who required them to be invited? Was that

your decision or?

MS GIGABA: No Malusi was inviting his own people – I was

inviting my own people.

ADV MYBURGH SC: So who invited the President and the

Gupta’s?

MS GIGABA: It is him because those are his people not me.

ADV MYBURGH SC: Ja. And he says at paragraph 107:

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“I furnished names of certain people I wish to

invite including cabinet ministers and the

like. I do not recall all the people invited nor

those that chose not to attend.”

I think what is inferred here is he is saying he cannot

recall whether the President and the Gupta’s were invited.

MS GIGABA: I know that the President was invited. The

reason I remember that it is because when we were in

Durban two days

before my

wedding

we

were doing

rehearsals and then they told us that the security people

20

they need to come and do sweeping so we need to move

away from the venue and then they did that – even the

following day they did that. So when he did not come so I

asked Malusi why the President did not come to the wedding

because there were a lot of preparations for him to come.

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ADV MYBURGH SC: Then at your paragraph 51 you deal

with the costs of the wedding and the gift by the Gupta’s,

payment for the honeymoon in Dubai. Mr Gigaba says at

paragraph 101:

“I deny that there was any wedding gift of

cash from the Gupta’s or payment towards a

honeymoon in Dubai.”

Do you have comment on that?

MS GIGABA: On that one the reason I know that they gave

him money I asked him like – because you were so close –

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because during – in 2014 Malusi and the Gupta’s were very

close. So it was very shocking to me that people that are so

close that they have like a very close relationship they are

not attending your wedding. So I asked him why they did

not attend the wedding then he said they said they are going

to give him a gift – cash money as the compensation of them

not attending the wedding. So I knew that the Gupta’s were

not coming to the wedding and they were going to give him

cash. The only person I did not know that he was not

coming until the wedding day it was the President.

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ADV MYBURGH SC: Alright. Then if I could take you please

to paragraph 54. Now this is the paragraph where you

explain that at the Gupta residence – this is the handover of

money. You say that Mr Gigaba would call one of his CPO’s

to bring his leather bag – it was in the boot – it would be put

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at the front door – he would collect it. Mr Gigaba would

carry it to a private meeting room. A short while later he

would emerge with the bag – carry it out to the residence for

the CPO to place in the boot. I recall that Mr Gigaba had

two of these leather bags. You attach similar examples in

photographs. And then in 55 you go on to say that you

subsequently came to learn that these bags had bundles of

cash in.

Now what Mr Gigaba says at paragraph 110 is that

this is a blatant untruth and he says:

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“I refer to a transcript of an ENCA interview

given by Nomachule on 17 December copy of

which is attached is KMG3 112. As appears

there from she stated that she had never

seen me receive any cash physically and

further that she had no evidence of me

having received such cash. However she

now claims she saw me with a sports bag or

some leather bag the evidence of which is

drawn from internet sources.”

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Now perhaps I could just take you to another file of

documents. I assume you have it in front of you. It is

SEQ18. In other words that is – that is Mr Gigaba’s

application. SEQ18. Alright we do not seem to have that

Chairperson. That is of course where Mr Gigaba’s affidavit

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is bundled.

CHAIRPERSON: It should have been here. But anyway if

you are able to (talking over one another)

ADV MYBURGH SC: It is not a – it is not a particular

problem. Perhaps what I could do and of course I will raise

this with Mr Gigaba as well and I will make sure that we have

his affidavit here.

CHAIRPERSON: Ja.

ADV MYBURGH SC: But I just want to – to read to you a

portion of the transcript. This is KMG3 it is the transcript of

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the ENCA interview. And this is at the foot of page 70 of

SEQ8 of 2021. You will recall Ms Gigaba this was worked

through in consultation with you.

MS GIGABA: Yes.

ADV MYBURGH SC: It records you as having said this:

“Even for our wedding – our honeymoon so

there was always there to help financially

like all the time.”

And then you said this the last five lines:

“Although I was not there when they give the

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money but I will see when we leave because

every time when we go there he used to

carry a bag and they will give him money.

And we get home he will take the money and

put it in a safe and pack it. So yes it was

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there.”

So what do you say to Mr Gigaba’s contention at

paragraph 112 that:

“She stated that she never saw me receive

any cash physically and further that she had

no evidence of having received such cash

however she now claims.”

What do you say to that?

MS GIGABA: So I will explain as the way I explained in the

beginning. So …

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ADV MYBURGH SC: Sorry – this is about what you said.

MS GIGABA: Yes.

ADV MYBURGH SC: During the ENCA interview.

MS GIGABA: Yes.

ADV MYBURGH SC: What you said is:

“Although I was not there when they give the

money but I will see him when we leave.

Because every time we go there he used to

carry a bag and they will give him money.”

What do you say to Mr Gigaba’s version that you

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effectively did not say that?

MS GIGABA: He did not say that? You saying that.

ADV MYBURGH SC: Mr Gigaba says that you said during

the ENCA interview that you had never seen him receive any

cash.

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MS GIGABA: Because I said on the interview that I saw

Malusi taking money at home and it was the same bag that

he came with it at the Gupta house.

ADV MYBURGH SC: Alright.

CHAIRPERSON: Did you – did you ever see him receive

cash from the Gupta’s?

MS GIGABA: I have never seen them giving him money and

that is what I said it in the interview.

CHAIRPERSON: Yes.

MS GIGABA: But what you – used to happen when we –

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when we arrive Malusi will not take his bag with him inside.

So then we will leave our phones. Then some – when you

were about to leave Malusi will come – go take his phone

and call one of his protectors – protectors he will say Chief

please bring my bag. So the protector will bring the bag.

Malusi will go in with the bag and when we leave Malusi will

take the bag with him.

So that time I did not know what was inside – what

was happening but one – there was this one day we were at

home and we came from the Gupta’ house and then quickly

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when I get home Malusi went to his study. Then I quickly

went to check the child. When I got there the nanny was

telling me that the child is sick.

So I checked the temperature. Then I felt the

temperature was too high. Then I rushed to him. When I

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was there I saw him packing the money and then I was like –

so I was shocked when I saw a lot of money. Malusi was

packing it because his safe was open. Then I asked him I

was like where do you get a lot of money – why so much

money?

Then – then he shouted at me. He was like why I did

not knock. I did not understand why I have to knock at home

at our own home. Then he kept on shouting like why you did

not knock when you come in – in the house. Then I was like

the child is sick. Where do you get this money? Why this

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money then he was like I got it from the Gupta’s. Because it

was the same bag.

Then I was like why the Gupta’s are giving you so

much money? He said it was for the elections. So he is

going to take it and he give it to – to the Treasury of the

ANC. Then I was like what is it for?

Then he said there are things that they need to do.

Sometimes they buy t-shirts. So he explained like that. But

I did not know how – I even – I remember when I asked it

was like so why are have to raise this money yourself? Then

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he said like this is the nature of the ANC as the head of

elections you used to raise money. So the money for the

elections. And then after that he said he is coming. He

could – need to pack the money then I left. Then after that

we take the child to the hospital.

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ADV MYBURGH SC: Sorry Ms Gigaba.

MS GIGABA: Yes.

ADV MYBURGH SC: Just so that we understand.

MS GIGABA: Okay.

ADV MYBURGH SC: You did not see Mr Gigaba.

MS GIGABA: Yes.

ADV MYBURGH SC: Get money physically get money/

MS GIGABA: From the Gupta compound.

ADV MYBURGH SC: From the Gupta’s. As I understand it

you describe what happened.

10

MS GIGABA: Yes.

ADV MYBURGH SC: And then you describe at paragraph 55

you say:

“I

subsequently

learnt

that

the

bags

contained bundled of cash.”

MS GIGABA: Yes.

ADV MYBURGH SC: And there you explain the shopping in

Sandton City alright.

MS GIGABA: Yes.

ADV MYBURGH SC: And you at – on another occasion

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speak about the unpacking of the money into a safe, is that

correct?

MS GIGABA: That is correct.

ADV MYBURGH SC: Right.

MS GIGABA: Also when this incident happened in Sandton

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it was not only me alone. His body guards also were there.

ADV MYBURGH SC: Sorry I just want you to confirm.

MS GIGABA: Yes I confirm.

ADV MYBURGH SC: That you did not see him.

MS GIGABA: Yes.

ADV MYBURGH SC: Receive money. You did not see

money being put into the bag.

MS GIGABA: Yes.

ADV MYBURGH SC: At the Gupta residence.

MS GIGABA: Yes.

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ADV MYBURGH SC: How did you come to learn that he

received money from the Gupta’s?

MS GIGABA: The one that I saw him packing at home from

the bag that he came out with from the Gupta house.

ADV MYBURGH SC: Yes.

MS GIGABA: He said to me he was – he got that money

from the Gupta’s.

ADV MYBURGH SC: Yes.

MS GIGABA: And I asked him what was it for. He said it

was for elections.

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ADV MYBURGH SC: Yes you have explained that.

MS GIGABA: Yes.

ADV MYBURGH SC: And how else? Where there other

occasions that you came to learn.

MS GIGABA: We were in Sandton.

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ADV MYBURGH SC: Yes. In Sandton.

MS GIGABA: Yes.

ADV MYBURGH SC: And what happened in Sandton?

MS GIGABA: So we were coming from the Gupta’s house.

It was me, him and his protectors so then the money – there

was a bag in the boot. So when Malusi came at the front

because they used to open both of us – Malusi was on the

outside – I was on the other side. Then Malusi went in the

boot and then he opened the big bag.

ADV MYBURGH SC: Yes.

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MS GIGABA: That is the – the bag was coming from the

Gupta’s house and then he took the money he put it – and

his body guards were there also. It was not only me. And it

was this stash of cash.

ADV MYBURGH SC: At 55.1 you say:

“There were several occasions when Mr

Gigaba and I would go to Sandton City

immediately

after

visiting

the

Gupta

residence.”

Is that right?

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MS GIGABA: Yes.

ADV MYBURGH SC:

“At Sandton City and in my full view Mr

Gigaba would take bundles of cash out of the

same leather bag that he had brought from

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the Gupta residence.”

Is that right?

MS GIGABA: No.

ADV MYBURGH SC: Right.

MS GIGABA: So what used to happen. It will be a big bag.

ADV MYBURGH SC: Yes.

MS GIGABA: Okay Chairperson. So it used to be a big bag

that it will come out of the Gupta house then it will go in the

boot. So the two instances I remember at home Malusi was

packing the money from that big bag that was coming from

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the Gupta house and he confirmed to me that he was given

that money by Ajay for the elections. The second time it was

in Sandton. So he took the money from the big bag to a

small bag. So wherever he goes Malusi used to have like a

sling bag that is small. So he did not take that whole entire

big bag. He took the money – he put it on the small bag and

then he took some of it he gave to his protector. He said he

must go and pay for his suits. And sometimes when we are

in Sandton we will go have lunch and then he will ask his

body guard please go pay for my suits. So used to go pay

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for the suits. So most of the time the money will already on

his name bag which means he will put at home before he

comes. Not like all the time he would do the transfer from

this bag.

ADV MYBURGH SC: Let me put the question another way.

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MS GIGABA: Okay.

ADV MYBURGH SC: How many times were you together

with Mr Gigaba in Sandton City after a visit to the Gupta

residence? How many times?

MS GIGABA: That I saw the money from the big bag

transferred.

ADV MYBURGH SC: Yes.

MS GIGABA: It was once.

ADV MYBURGH SC: And how many times were you with Mr

Gigaba when he bought suits?

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MS GIGABA: It was a couple of times.

ADV MYBURGH SC: And where did the money come from

for the suits?

MS GIGABA: From his small bag.

ADV MYBURGH SC: Yes.

MS GIGABA: The sling bag that he used to carry.

ADV MYBURGH SC: Yes. And where did the money come

from in that bag?

MS GIGABA: He only – the bag that he used to carry.

ADV MYBURGH SC: Yes but where did he get the money

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from?

MS GIGABA: That is what I am saying. It was not all time

he would transfer the money from the big bag because

sometimes we will leave from Pretoria to Sandton. It was

not all the time we will leave from the Gupta compound.

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Because sometimes we will just leave from home going to

Sandton. Malusi will say let us go have lunch in Sandton or

sometimes we will go do our facials in Sandton. So when we

do that he would already have the money in the bag.

I do not understand – do you understand me?

CHAIRPERSON: No I understand. So – so you say

ADV MYBURGH SC: DCJ I am told that we have to adjourn

very urgently.

CHAIRPERSON: Oh.

ADV MYBURGH SC: It is apparently a protector related

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issue.

CHAIRPERSON: Okay I am told five minutes break. Let me

– let us adjourn and let me hear what it is about. Let us

adjourn for five minutes and then I will come back. We

adjourn.

HEARING RESUMES

CHAIRPERSON: With – with Ms Gigaba about an hour.

Okay. I have been informed that there are security reasons

for us to adjourn. So I know that we were going to hear her

evidence and then Mr Pita’s evidence. So we are going to

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adjourn. I am sorry about that it is a situation beyond

everyone’s control. And then we will just have to arrange –

if we are left with an hour with her I wonder whether we

could do that hour tomorrow if she is available in the

morning before we start with Mr Pita.

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ADV MYBURGH SC: And perhaps we could do that remotely

DCJ if that would be better.

CHAIRPERSON: Well I – I think that we should be able to –

we should still be able to come here.

ADV MYBURGH SC: Yes.

CHAIRPERSON: Unless we are advised differently. I think

we should still be able to. Ms Gigaba would you be available

tomorrow morning? How is your situation? I am sorry your –

your mic. Just switch on your mic.

MS GIGABA: It depends if my …

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CHAIRPERSON: Your legal attorney.

MS GIGABA: Yes is available – she is available. If she is

available I will come.

CHAIRPERSON: Ja. What is your situation like?

ADV QOFA SC: Chairperson depending on the allocations of

time I think maybe if we and I would understand for the hour

that we would be able to finish.

CHAIRPERSON: Sorry.

ADV QOFA SC: The suggestion Chairperson was that we

will finish – we need another hour.

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CHAIRPERSON: Yes.

ADV QOFA SC: So I was trying to understand whether the

time we need for tomorrow will be the hour that (talking over

one another)

ADV MYBURGH SC: Yes.

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CHAIRPERSON: Ja it would be an hour.

ADV QOFA SC: And maybe if I may ask Chairperson what

time in the morning are we looking at so that I would have to

reshuffle immediately.

CHAIRPERSON: I think with regard to Mr Gigaba we wanted

to start at nine.

ADV MYBURGH SC: We wanted to start at nine tomorrow.

CHAIRPERSON: Ja

ADV MYBURGH SC: With Mr Gigaba. I think we probably

need to get an early – as early a start as possible DCJ.

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CHAIRPERSON: Yes.

ADV MYBURGH SC: Tomorrow morning.

CHAIRPERSON: Yes.

ADV MYBURGH SC: Whatever you have – you consider

appropriate.

CHAIRPERSON: Yes. With us sitting until as late as I

thought we would this evening I was tempted to think well

maybe ten o’clock instead of nine.

ADV MYBURGH SC: Yes.

CHAIRPERSON: But maybe we should stick to nine and use

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that nine to ten for her evidence and then we can take it

from there and hear Mr Gigaba.

ADV MYBURGH SC: Yes.

CHAIRPERSON: Gigaba’s evidence after that.

ADV MYBURGH SC: And then I will – I will rearrange things

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with Mr Pita.

CHAIRPERSON: With Mr Pita ja.

ADV MYBURGH SC: Thank you.

CHAIRPERSON: Ja. Okay so is that fine you would be

here? She says she is available if it is just an hour.

Yeah I (inaudible). I will come.

CHAIRPERSON: You will come. Okay thank you very much.

Thank you Chairperson.

ADV MYBURGH SC: DCJ sorry could I just ask you one

thing? Tomorrow you – we have to stop as you will recall

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with Mr Gigaba at four o’clock because his counsel has got

for religious reasons. If I – if Mr Pita is available tomorrow

at four.

CHAIRPERSON: Ja.

ADV MYBURGH SC: Could we try and fit him in then?

CHAIRPERSON: Ja. Ja that is – that is fine. We will try.

How long do you think he would be?

ADV MYBURGH SC: No well I suppose that is not going to

work. Perhaps I could discuss that with you in chambers.

CHAIRPERSON: Ja we can discuss that ja.

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ADV MYBURGH SC: Thank you.

CHAIRPERSON: Ja. Okay alright thank you to everybody

for making it possible for us to continue up now at least. We

are going to adjourn then and we will continue tomorrow.

We adjourn.

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REGISTRAR: All rise.

INQUIRY ADJOURNS TO 21 MAY 2021