

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**BRAAMFONTEIN, JOHANNESBURG**

10

**07 NOVEMBER 2019**

**DAY 188**

**FINAL**

20

**PROCEEDINGS RESUME ON 7 NOVEMBER 2019**

**CHAIRPERSON:** Good morning Ms Hofmeyr, good morning everybody, good morning Mr Manyi.

**ADV HOFMEYR:** Moring Chair.

**CHAIRPERSON:** Are you ready?

**ADV HOFMEYR:** Yes indeed we are.

**CHAIRPERSON:** Thank you.

**ADV HOFMEYR:** Thank you. Mr Manyi I would like to pick up on one other aspect of your previous testimony before the Commission and  
10 that relates to the meeting that you had with Minister Chabane about the transfer to GCIS. Do you recall giving evidence on that?

**MR MANYI:** Yes I do.

**ADV HOFMEYR:** And you also clarified in your answers to the Commission some further details about that meeting and I would just like to probe some of those a bit further. As I understood your testimony of last time was you said you had met a few days prior to the transfer that – well the Cabinet meeting on the 2<sup>nd</sup> of February, is that right?

**MR MANYI:** *Ja* I said within five days I was not sure.

20 **ADV HOFMEYR:** Indeed.

**MR MANYI:** Exactly when.

**ADV HOFMEYR:** And your answers to the Commission clarified that it might have been the preceding the Friday or it might have been the preceding Monday. Is that correct?

**MR MANYI:** *Ja* that is just to try and – because I think you were

pinning me to a date and I was trying to cooperate with you. But all I just remember it was within that space.

**ADV HOFMEYR:** Certainly. We do not want to pin you to anything Mr Manyi so if you cannot recall please indicate that to us. Was – do you have any certainty as to whether it occurred on a weekend or a week day?

**MR MANYI:** No, no it was definitely – Chair it was definitely a week day.

**ADV HOFMEYR:** And are you comfortable with saying it was either the  
10 Friday preceding the 2<sup>nd</sup> of February or the Monday preceding the 2<sup>nd</sup>  
of February?

**MR MANYI:** If it was not that Friday it will definitely be – if it was not that Friday it could even be a Thursday for that matter.

**ADV HOFMEYR:** Thank you.

**MR MANYI:** But it was within that space.

**ADV HOFMEYR:** Within that sort of space?

**MR MANYI:** Five/seven days give or take.

**ADV HOFMEYR:** Understood.

**MR MANYI:** Yes.

20 **ADV HOFMEYR:** And do you have any recollection of whether the meeting took place in the morning or the evening or what time of the day?

**MR MANYI:** No I think it was Chairperson it was around – it was around elevenish I think *ja*.

**ADV HOFMEYR:** In the morning?

**MR MANYI:** Yes.

**ADV HOFMEYR:** Thank you. And as I understand your testimony last time Minister Chabane offered you a choice of positions, is that correct?

**MR MANYI:** That is correct Chair.

**ADV HOFMEYR:** And just to be clear your evidence last time was the option was to be transferred to GCIS as DG which would have put you on the same level. Alternatively to be COO in the office of the Presidency. Is that correct?

10 **MR MANYI:** That is correct Chair.

**ADV HOFMEYR:** Now can I just enquire when you met with him did you have any discussions with him about the charges against you while you were at the Department of Labour?

**MR MANYI:** No Chair that did not come up.

**ADV HOFMEYR:** And did you discuss with him the fact that you had been dismissed from the Department of Labour?

**MR MANYI:** I would have been lying to him if I had said so Chair. Because at the time – like I said here I am not going to change my testimony. I have said here repeatedly that I was never dismissed and  
20 I note Chair a lot of use of this word in this correspondence everywhere, this dismissal. But – and in many instances I think it is used colloquially.

And I have said here yesterday by the way that when Ms Hofmeyr was probing the issue of December for instance because supposedly my last day of payment was meant to be end of November

and then therefore December should have been a dry month for me because I am dismissed.

So as evidence that there was no such I did say that I got paid in December. In fact not only got paid Chair I have got my statement here it looks like I even got a 13<sup>th</sup> cheque for that matter in December. I have got two transactions here in December. So the issue of meeting Minister Chabane in January having just come back from two payments how can I consider myself dismissed? It is just irrational.

**CHAIRPERSON:** In regard to whatever documentation you might have  
10 that might support what you say if there is anything you want to hand  
up to give to the Commission feel free to do so.

**MR MANYI:** Okay.

**CHAIRPERSON:** But if maybe there may be confidential things in the  
same document and you would prefer not to it is fine. I just wanted you  
to know that you may give us a view wish to give us something.

**MR MANYI:** Thank you Chair I will actually leave this document here.

**CHAIRPERSON:** Yes.

**MR MANYI:** Whatever is confidential here was confidential in 2012 so  
it is fine.

20 **CHAIRPERSON:** Yes.

**MR MANYI:** And also Chair.

**CHAIRPERSON:** *Ja.*

**MR MANYI:** It is just that honestly here Advocate Hofmeyr is just not  
operating in good faith. If she did Chair on the – I would like to Chair  
without disrupting your flow of thought Ms Hofmeyr? If you go to

bundle NN5. If you go to bundle NN5 you will find on page 134. On page 134, Chair you will find page 2 of the affidavit of the DG of Labour. If you go to – have you got it Chair?

**CHAIRPERSON:** Yes I have got it.

**MR MANYI:** *Ja* if you go to page 10.

**CHAIRPERSON:** *Ja.*

**MR MANYI:** That read for the record what the DG of Labour in his affidavit and this is the thing Chair I was saying about not getting given documents. This is something I discovered last night because I was  
10 given this document's date because we are operating here with people that are trying to put booby traps all over. This is how she is operating. Trying to booby traps and all of this. This is just not operating in good faith. But if you look at paragraph 10 Chair it says:

“By the DG of Labour Mr Thobile Lamati he says here.

From the information brought to my attention personal assistant Bass indicates that salary payments were made to Mr Mzwanele Manyi for November 2010, December 2010 and January 2011.”

He goes further Chair – he actually puts an annexure.

20 **CHAIRPERSON:** H'mm.

**MR MANYI:** On page 135 – 136 I beg your pardon. On page 136 I do not even need – have to give you this bank statement because here on page 136 he gives you a printout.

**CHAIRPERSON:** H'mm.

**MR MANYI:** It must have been from the Finance system.

**CHAIRPERSON:** Hm;

**MR MANYI:** It shows here the 2010 on the 13<sup>th</sup> there was a salary – if even says salary.

**CHAIRPERSON:** H'mm.

**MR MANYI:** So if – even the DG is saying so.

**CHAIRPERSON:** H'mm.

**MR MANYI:** But Ms Hofmeyr wants to keep pushing her own narrative of dismissal. It is just a bit upset.

**CHAIRPERSON:** Well Mr Manyi you may be unfair to Ms Hofmeyr in  
10 regard to what you have said because you remember he – she said  
yesterday that some of the documents had not even arrived yesterday.  
They only – they had not arrived before yesterday they only arrived  
yesterday.

And as I understand the position she took the earliest  
opportunity to make sure that you got copies of whatever she had just  
received herself. So we need to just bear that in mind as well. But  
also you need to remember that she was the one who even before I  
said anything who said if there are any documents when – that you  
would like more time before you could answer questions on please you  
20 should say so.

So as I understand it she never intended that you should be  
pushed to give answers to – on documents in regard to which you might  
need more time. That is my understanding of what she said yesterday.

**MR MANYI:** But Chair.

**CHAIRPERSON:** H'mm.

**MR MANYI**: Another example. For instance yesterday I make a point to her about the issue of a dismissal hearing or rather a disciplinary hearing where I said that 30 minutes into it it was abruptly stopped and all that.

**CHAIRPERSON**: H'mm.

**MR MANYI**: I say here, sitting here I say I have mentioned it somewhere and then she interjects or rather responds and she says, no it is not anywhere in the testimony and everything that you have given us. But Chair when I went last night and checked my things.

10 **CHAIRPERSON**: H'mm.

**MR MANYI**: Actually if you go to NN2.

**CHAIRPERSON**: H'mm.

**MR MANYI**: NN2 page 38.

**CHAIRPERSON**: H'mm.

**MR MANYI**: Just go to that. Page 38 on NN2.

**CHAIRPERSON**: H'mm.

**MR MANYI**: Paragraph 7.4. Have you got it Chair? It says here.

**CHAIRPERSON**: I am not actually, not looking I am hoping to just ...(intervenes).

20 **MR MANYI**: Okay alright.

**CHAIRPERSON**: That you would read it *ja*.

**MR MANYI**: It says here:

“Apart from lawyers meeting for discovery issues etcetera remember attending only one real DC meeting which was abandoned hardly 30 minutes after it had



started.”

This is what I said I had said. And she said it does not exist anywhere. And this is the document that was given to her last week as part of my written replies. Now this is why I just say here Chair that she is not operating in good faith. So I ...(intervenes).

**CHAIRPERSON:** Yes.

**MR MANYI:** I maintain my point.

**CHAIRPERSON:** Yes. She will if she chooses to she will say something in response. But let me point out to you that I myself  
10 yesterday operated on the basis that for example Mr Maseko’s evidence previously was to the effect that when – on his version the former President phoned Mr Chabane about moving Mr Maseko that he was furious. But it turned out that Mr Maseko had not said that. At least from what we said maybe it might have been somebody else or he might have said that about somebody else or so. So there is a lot of documentation. We are human we can make errors and so on. So – but I say Ms Hofmeyr will elect whether she wants to say something in response. Ms Hofmeyr you will make your election otherwise we can proceed.

20 **ADV HOFMEYR:** Thank you Chair. It is my hope that we can just move to the facts today and get Mr Manyi’s evidence. But he has made some serious accusations and I would like to address them. I will pick up on the last one first. Chair it is false that what I said in the Commission yesterday was that Mr Manyi had never made the point that there was a disciplinary hearing convened and that it adjourned shortly thereafter.

I am asking my learned friend to try and get an urgent transcript of yesterday's proceedings. But I can with great clarity remind everyone in this room precisely what I said.

We were in the course of discussing Mr Manyi's previous testimony and whether in the course of that testimony he had led this Commission to understand that he was on a period of leave persistently from the moment he was put on suspension to the time that he was transferred to GCIS.

He was asked about his previous testimony that he was not  
10 ever charged. And it was in that context that Mr Manyi gave evidence yesterday that he had said somewhere in the previous evidence that there had been a disciplinary hearing convened that had ended abruptly thereafter. My response to Mr Manyi was twofold. He did not say so in his previous testimony before this Commission that occurred in November of last year.

I then went on and said that he had done so – he had made reference to that in what he had placed before the Commission and that is precisely the affidavit to which he has referred us. Chair if the transcript can be obtained it will bear me out. But my response to Mr  
20 Manyi is that the suggestion that there is bad faith on my part insofar as I put to him what are clearly and obvious and patent facts that the previous testimony did not refer to the disciplinary hearing being convened and adjourned but that he had made such a disclosure to the Commission recently as between he and I is now common cause.

The second aspect of the bad faith related to the salary

payments. Now in that regard given your invitation to Mr Manyi I wanted to follow up and say we would very much like to see those bank records. So if he can please make them available to us as soon as possible we will take the tea break as the legal team to have a look at them.

Mr Manyi has highlighted the affidavit of the DG Mr Lamati. It was my intention to deal with the salary issue with Mr Manyi in due course and draw your – Chair’s attention to a second affidavit from a representative of the Department of Labour which gives greater clarity  
10 to the affidavit of the DG.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** So if we could be permitted simply to go to the evidence Chair?

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** We can deal with those aspects.

**CHAIRPERSON:** H’mmm. Yes.

**ADV HOFMEYR:** Mr Manyi in your testimony yesterday I want to put it to you that you made four statements that are untrue. And I would like your comment on them. They relate to a common theme. So I am  
20 going to list the four of them for you so you have an understanding of the four false statements that you made to the Commission yesterday and then we can take each of them in turn for your comment.

The first statement which is false is that you never received the termination letter from Minister Mdladlana. That is the letter dated the 29<sup>th</sup> of October 2010. The second statement that is false is that the

first time you saw it was on the 18<sup>th</sup> of October this year when the Commission gave it to you.

The third statement that is false if that you were never dismissed from the Department of Labour. And the fourth is that you remained employed but on leave from the period of your suspension to the time that you were transferred to GCIS. I would like your comment on each of those.

**CHAIRPERSON:** One second. One second. Mr Manyi you may be needing to record the statements or that you are supposed to comment  
10 on and I am wondering whether you have got an exam pad and whatever you – that you may need to write on.

**MR MANYI:** No, no I am ...(intervenes).

**CHAIRPERSON:** And you have got your – you are fine?

**MR MANYI:** I am fine Chair.

**CHAIRPERSON:** Okay alright.

**MR MANYI:** Yes.

**CHAIRPERSON:** Thank you.

**MR MANYI:** Okay. Firstly just as an opening statement. There is nothing false that I have said and I want to talk to these issues just  
20 now. That I never received the letter. I never received the letter. That is not false. In the letter yesterday that Ms Hoffman – Ms Hofmeyr I beg your pardon in that letter where I was writing to Minister Baloyi reference to the letter which I say I never received is made in that letter.

Now I then last night when I looked at this thing and tried to

remember what really happened you will see Chair if you look at that letter you will see the formulation of that letter that that letter was done under the legal advice. That letter.

So a lot of information was coming between myself and my lawyers who were writing this and all that. And that is how I suspect that reference came in but whether me Mzwanele Manyi saw the letter it is factually incorrect. I never saw the letter. So the fact that reference is made on it does not mean I saw the letter. So that statement stands. And the fact that I saw it for the first time stands. I really saw it for the  
10 first time and all that.

When you discuss with the lawyers they make references to various documents and all of that to say okay they even sometimes quote case law and I would never say to them, let me read that case law and see for myself and so on. So when you work with lawyers you work with people that you really trust. If you cannot trust your lawyer then I do not know what you must say – you must do – what you must do.

Now the – then the statement of never dismiss. I think it is – I am happy that Ms Hofmeyr has raised this matter. I think Chairperson  
20 just understand how Public Service works. Perhaps her disadvantage is that she does not understand perhaps how Public Service works and does not understand the issue of Section 12 of Public Service Act.

But I can do a quick workshop here. How this works Chair is that a Minister for all intents and purposes is actually a caretaker for a DG. A Minister is not the employer of a DG at any time, never ever.

Even as we speak. A Minister is not the employer. A Minister does not have the power to dismiss a DG. So you can write that I am dismissing you. You can do all kinds of things and purport to have dismissed.

The only time the word dismissal, termination really takes effect is really real it is when you have got the consent of the President or when you have got the delegated authority. Former Minister Mdladlana she – he will go into his grave without having fired a DG in his life because even when he was at the Department of Labour he did all his antics of dismissing me thinking he is dismissing me and all of  
10 that.

When in fact I think it has been pointed out to him left right and centre that excuse me Minister Mdladlana you do not have the authority to do this. So Chairperson for people to do unlawful things we cannot come to this Commission and give credit to an unlawful conduct.

What Minister Mdladlana did was unlawful. It was totally unlawful. He was actually undermining the Public Service Act. He was also undermining the powers of the President. He cannot purport to dismiss somebody who is not his employee. A DG is – can only be  
20 dismissed with the consent and collaboration of the President or the delegated authority from the President. So that was the situation.

So the issue of last point of remaining an employee throughout. I said here yesterday I have no evidence of having been dismissed and the reason I said so I said it is because I was getting paid and this is where the December thing came in to say here is my

evidence for December that I got paid. So what is this notion that I got dismissed?

The January one came late. So from where I sit I see this paperwork here that is part of this file I saw last night. A lot of shenanigans unlawful activities were happening in the Department. But Chairperson let us be very clear here that it can never be factually correct to say a Minister dismissed you. It does not exist. It is almost like saying oil has mixed with water. It does not happen. It is impossible. You may like it, you may put oil in the water in the same  
10 bottle and shake it up it is not going to happen Chair. That is what it is.

So Advocate Hoffman – Hofmeyr must disabuse herself really of this notion that a Minister can dismiss. There is no such a thing. In this discussion here – in these documents the term is used I suspect at a colloquial level. That is where the term is used. It is at a colloquial level that is what – just so that you do not have a lot of discussion about all other legalities and so on. It is a quick term to get to fire a DG.

But strictly speaking and she should know this being a lawyer  
20 but strictly speaking when you talk a redetermination of the conditions of a DG. When you talk about termination of a DG a President must be involved. In all these processes of former Minister Mdladlana there was no involvement of the President in terms of supporting his ill intentions.

So the dismissal never happened. There were all kinds of

shenanigans around it and things that look like it could be it but this is why at the end a decision was taken to clean up all the mess that was happening under the guise of a dismissal which was something that was unlawful and we cannot sit here now and say, something that was unlawful and say, it is factually correct that it happened and so on when it was an unlawful shenanigan as it were.

So Chair I maintain my point and I think Advocate Hofmeyr is just wrong.

**ADV HOFMEYR:** Chair.

10 **CHAIRPERSON:** Yes you may continue Ms Hofmeyr.

**ADV HOFMEYR:** Thank you so much. Mr Manyi is it your evidence that your lawyers received the letter from Minister Mdladlana but you did not?

**MR MANYI:** *Ja* Chair I said I have not seen the letter but if I look at my letter which I did under the advice of the – of my lawyers most definitely they would have received it. But I have never seen the letter.

**ADV HOFMEYR:** So you would not know what the content of that letter was?

20 **MR MANYI:** The – you see – okay – I would – the content of that letter was about Chair the purported termination of probation. That letter Chair if you look at it? In fact we should go to it. Excuse me that letter. We should go to that letter and look at the heading of that letter.

The word, dismissal does not appear in that letter. The word, dismissal does not appear. Surely if – and by the way when Ms Hofmeyr refers to this letter she loosely refers to it as a dismissal or



termination letter and so on. But the fact of the matter that letter was discussing Ministers – former Ministers view that this probation she is not going to confirm it and all that.

But that is just one part of the puzzle Chairperson. It is not the complete story because he has got no final say and all that. He has got no final say on the matter. And even the thing that raises in that letter he raises issues of conduct and this and that. He makes his issues because probation issues generally are performance related issues.

10 She always just makes issues up and all of that. This is why I think maybe my lawyers never showed it to me or saw – of whatever. They just dealt with the substance of it as they were giving me advice and as I was writing to Minister Baloyi. Because Minister Baloyi had said that if I deal with him he does not like to deal with lawyers. You know so I would deal with him *ja* like that. But I would get advice behind the scenes but just deal with him as opposed to him receiving letters with letterheads from the lawyers and so on and that strong language.

So he just was a very person – very friendly person generally.  
20 So he did not like fights. So *ja* so that is my position.

**ADV HOFMEYR:** Chair that was a long answer. It was not an answer to my question. My question is Mr Manyi did you see the content of the letter?

**MR MANYI:** No.

**ADV HOFMEYR:** Thank you. Let us go to what you wrote about the

letter to Minister Baloyi on the 15<sup>th</sup> of November 2010. Chair you will find that at NN5 at page 290.

**MR MANYI:** Can I interject Chair?

**CHAIRPERSON:** Sorry?

**MR MANYI:** Can I interject?

**CHAIRPERSON:** Yes.

**MR MANYI:** I interject because I think we talking cross purposes. I make reference to the fact that I did that letter under advice. And I said earlier that most probably my lawyers got the letter because they  
10 even have the date and because we doing this thing under advice and some of the input came from them. So there would have been – I have signed the letter. I am not running away from that. I have signed the letter and I take full responsibility for signing the letter. But the content of the letter even if she wants to quote paragraphs where I would have quoted that letter. But I am saying I did this under legal advice so some of the input it is almost like if he was to go to that letter and find the case law which I would have said I have never read that case and so on. But if I am working under advice and they say quote case law so and so I would quote that case law in that letter and  
20 sign that letter. But it does not mean that I read the letter. It does not mean that I read that case law as it were. So I think the exercise she is doing now is exercise in futility Chairperson. Because she is just going to mention something that is in the letter and say you see – and I keep saying I did this under this the advice of the lawyers. So ... (intervenes).

**CHAIRPERSON:** Yes no – that is fine Mr Manyi let us wait for her further questions and then you can respond. What is the page again?

**ADV HOFMEYR:** It is in Exhibit NN5 page 290.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** Thank you Chair. Mr Manyi before we go to this letter there are a number of letters that your lawyers wrote. Did you give them instructions on those letters?

**CHAIRPERSON:** Well maybe you might wish to use another word rather than instruction because that is very legal. So ...(intervenes).

10 **ADV HOFMEYR:** Yes it is very legal it is just Mr Manyi has been educating us about the law for a large portion of this morning.

**CHAIRPERSON:** *Ja.*

**ADV HOFMEYR:** So I thought his familiarity with the law might include an understanding of instructions. But let me be clear. When your lawyers write letters on your behalf are you telling them the facts that are relevant to put in those letters?

**MR MANYI:** Chair in the – in there is a yes and something else for that answer.

**CHAIRPERSON:** A yes and a no?

20 **MR MANYI:** Yes.

**CHAIRPERSON:** Or qualified yes?

**MR MANYI:** *Ja.*

**CHAIRPERSON:** Huh-uh.

**MR MANYI:** A qualified yes. Yes, because I think those that have briefed lawyers will know that is always a discussion point that no, no,

no. I hear what you mean, but if you say that these are the implications. Do not say it this way. Say it this way. So that kind of a thing happens when you brief lawyers.

So they get the sense of what you want to say, but they assist you to arrive at what you want to say. Sometimes they use their own formulation which you must still approve and all of that. They use their own formulation and so on, but so therefore the fact that you instruct lawyers cannot be interpreted to mean that they are just a conveyor belt.

10 **CHAIRPERSON**: So basically I think your answer is generally speaking they would get the facts from the client?

**MR MANYI**: Yes.

**CHAIRPERSON**: But how they formulate the letter – a letter on behalf of a client might be their own choice of words and formulation, but in the end the client needs to be happy?

**MR MANYI**: They sometimes help you even with the facts ...(intervenes).

**CHAIRPERSON**: Yes.

**MR MANYI**: To support what you are saying.

20 **CHAIRPERSON**: Okay.

**MR MANYI**: To say okay if you say this you have to add this fact.

**CHAIRPERSON**: Yes.

**MR MANYI**: If you say this you must add this fact ...(intervenes).

**CHAIRPERSON**: H'mm.

**MR MANYI**: And all of that. You still sign off ...(intervenes).

**CHAIRPERSON:** Yes.

**MR MANYI:** But it is a teamwork ...(intervenes).

**CHAIRPERSON:** Huh-uh.

**MR MANYI:** To arrive at a particular position.

**CHAIRPERSON:** Okay. Alright. Ms Hofmeyr.

**ADV HOFMEYR:** I will pick up on that point when we go to the lawyer's letters. Let us go to the letter at NN5 290. Mr Manyi you confirm this is a letter you wrote to Minister Baloyi on the 15<sup>th</sup> of November 2010?

**MR MANYI:** Yes Chair. Correct.

10 **ADV HOFMEYR:** I would like to pick up a few aspects of it that bear relevance to the testimony you have given. At paragraph 1.4 on page 290 you say in that letter:

“On the 13<sup>th</sup> of July 2010 more than five weeks after my precautionary suspension he ...”

That is reference to Minister Mdladlana.

“...then presented me with 12 charges.”

Do you see that?

**MR MANYI:** Yes Chair.

20 **ADV HOFMEYR:** In November 2010 you had no difficulty understanding that what you had been presented with were 12 charges. Is that correct?

**MR MANYI:** I beg your pardon.

**ADV HOFMEYR:** When you wrote this letter in November 2010 you had no difficulty understanding that what you had been presented with by Mr Mdladlana were 12 charges. Correct?

**MR MANYI:** Not correct. I put 12 charges here Chair, but the understanding – I put 12 charges here. Yes, but the understanding that I articulated yesterday carries. I probably was generous in saying 12 charges. I probably should have 12 allegations and so on, but *ja*.

**ADV HOFMEYR:** If you go over the page to page 291. At the bottom of that page is paragraph 1.11. In that paragraph you state the following:

“A couple of days later on the 30<sup>th</sup> of October 2010...”

Chair just to orientate us in the letter. There has been a reference previously to the hearing that was convened on the 28<sup>th</sup> of October. You will recall that Minister Mdladlana’s letter is dated the 29<sup>th</sup> of October and here Mr Manyi and I quote:

“...is talking about what happened on the 30<sup>th</sup> of October.”

He writes as follows:

“A couple of days later on the 30<sup>th</sup> of October 2010 my attorneys received a letter dated 29<sup>th</sup> of October 2010 from the former Minister of Labour wherein he added brand new allegations of administrative nature and more importantly he alleged that there was mistrust and that he is now terminating the probation with effect from the 30<sup>th</sup> of November 2010.”

So indeed the termination announcement by the former Minister’s lawyers was being formally confirmed by the former Minister’s letter and thus again abandonment of charges was formally confirmed. Mr Manyi in this paragraph you talk about what was

contained in the letter. Do you still maintain that you never saw that letter?

**MR MANYI**: Yes. I confirm that I never saw that letter.

**ADV HOFMEYR**: So when your attorneys gave your response to the letter when they wrote to the new Minister of Labour on the 3<sup>rd</sup> of November did they make up that response?

**MR MANYI**: I do not understand why you are saying that.

**ADV HOFMEYR**: Well because you are telling this Commission that you never saw a letter and there is a letter from your attorneys dated  
10 the 3<sup>rd</sup> of November 2010 in which they communicate to the new Minister of Labour Minister Oliphant your response to the letter of Minister Mdladlana. Is your evidence before this Commission that they made up that response?

**MR MANYI**: *Ja*. You see Chairperson. This is the kind of thing that happens here. I did say here that this letter that I wrote to Minister Oliphant – to Minister Baloyi. I read that – I wrote that letter under advice. I said this here and I did give the – I did say something to the effect that the lawyers would have received this letter and they were referring to that content and I did make an example.

20 One second. I must repeat this. That if – even if they were to quote case law and so on I would write that case law. Even though I have not read the case law itself and if there is any content or any part of that they would have given me from particular case law. I would write that paragraph and all that.

You see if I was writing – if this is just a letter. If it was an

affidavit Chairperson there is some wording that is usually put there. That – to cover these kinds of things. That we will do it under legal thing. There is a ...(intervenes).

**CHAIRPERSON**: Legal advice.

**MR MANYI**: Yes. That is legal advice. You – normally done, but this is a letter. So there was not that kind of wording.

**CHAIRPERSON**: H'mm.

**MR MANYI**: I should have – I would have put it ...(intervenes).

**CHAIRPERSON**: H'mm.

10 **MR MANYI**: If this was an affidavit.

**CHAIRPERSON**: H'mm.

**MR MANYI**: Now she then takes the input which the lawyers make to Minister Oliphant ...(intervenes).

**CHAIRPERSON**: H'mm.

**MR MANYI**: Or to Ms Oliphant and they quote I suspect. I have not read ...(intervenes).

**CHAIRPERSON**: I am sorry Mr Manyi. I am going to interrupt you. I think it will be better if we go to that letter ...(intervenes).

**MR MANYI**: *Ja*.

20 **CHAIRPERSON**: On which Ms Hofmeyr's question is based before you can answer.

**MR MANYI**: Okay. Where is that letter?

**CHAIRPERSON**: Let us have a look at that letter.

**ADV HOFMEYR**: Certainly Chair. The letter commences in the same bundle NN5 at page 297.



**CHAIRPERSON:** And then Ms Hofmeyr there is a particular part ... (intervenes).

**ADV HOFMEYR:** Yes.

**CHAIRPERSON:** Of the letter that is important for your question.

**ADV HOFMEYR:** Indeed.

**CHAIRPERSON:** Then maybe you can draw attention to that part and then ... (intervenes).

**ADV HOFMEYR:** Of course. I will go there in a moment if I may Chair.

**CHAIRPERSON:** Yes.

10 **ADV HOFMEYR:** It is a letter of five pages. It is dated the 3<sup>rd</sup> of November 2010. You see that on its first page. Addressed to first Minister Oliphant and then Minister Baloyi and the paragraph ... (intervenes).

**CHAIRPERSON:** By the attorneys for – representing Mr Manyi.

**ADV HOFMEYR:** Indeed.

**CHAIRPERSON:** Langa Attorneys.

**ADV HOFMEYR:** Langa Attorneys ... (intervenes).

**CHAIRPERSON:** Okay.

20 **ADV HOFMEYR:** And the paragraph I am particularly interested in that gives Mr Manyi's response to the letter of the 29<sup>th</sup> of October is at page 300 ...

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** And it is at paragraph 6.1 in that paragraph and it is the last sentence of that paragraph, but just to read in there what the lawyers are recording is a legal point initially. Legally it is not

competent for the former Minister in terms of the Public Service Amendment Act to purport – to alter the term and – to alter or terminate the DG's employment on the basis of an alleged breakdown of trust.

As the DG's employment contract regulates termination or alteration of the conditions of service and needless to say that the allegation of breakdown of trust is not recognised as a ground that is competent for unilateral termination of the DG's three-year contract with the Department. That is the lead into the sentence that places on record Mr Manyi's response to the letter. The lawyers go and write and

10 I quote:

“We further place it on record that Mr Manyi is presently surprised at the former Minister's allegation of the alleged breakdown of trust as Mr Manyi remains indebted and respectful to the former Minister. With respect these allegations have since become academic.”

Chair, I rely on that statement in this letter for putting the question to Mr Manyi as to whether when this response of his to the letter of Mr Mdladlana if placed in a letter by his lawyers. It is his evidence that they made up this response.

20 **MR MANYI:** I think that question is irrational Chair, because the lawyers would have read that letter from former Minister Mdladlana which talks about that mistrust. So when they quote it here. They quote from what they have read themselves.

They do not say here that I said I said I read the letter. They do not say I said I read the letter and all of that and I think in the

issues of mistrust and whatever. It is probably – I think it – it will also – I suspect it will be somewhere in the list of allegations that the Minister would have put on me and all of that.

So it was something that was common. This is why I have always said that the issue that we had when I first responded to the Chair about what happened at the Department of Labour the first time I was answering this question. I said we had a fallout. That is exactly what happened. We had a fallout.

That is what this is here. So for - so for Advocate Hofmeyr to  
10 import her own understanding that this means I read the letter is totally incorrect.

**CHAIRPERSON:** Let me just ask this. You certainly have said you never saw the letter ...(intervenes).

**MR MANYI:** Yes.

**CHAIRPERSON:** Until October this year. That is one point. Secondly, you did concede that your attorneys did receive it or would have received it I think. They were important.

**MR MANYI:** Yes Chair.

**CHAIRPERSON:** So I think we can work on the basis that they  
20 received it.

**MR MANYI:** *Ja.*

**CHAIRPERSON:** I do not know if they responded to it. Can we take it that they – even though you might not have received the letter yourself at the time that your attorneys informed you what the contents of the letter were?

**MR MANYI:** H'mm.

**CHAIRPERSON:** Either by reading it to you maybe over the phone or by not reading it to you, but just telling you this is what the letter says. Is that what happened or what is the position?

**MR MANYI:** I do not remember Chair as to at which point – in fact I do not remember a point where we discussed the letter ...(intervenes).

**CHAIRPERSON:** The letter.

**MR MANYI:** Specifically.

**CHAIRPERSON:** Yes.

10 **MR MANYI:** Except when I was writing a letter to Minister Baloyi.

**CHAIRPERSON:** Yes.

**MR MANYI:** That when we were making inputs ...(intervenes).

**CHAIRPERSON:** Yes.

**MR MANYI:** Because there has been – lawyers correspond with each other regularly ...(intervenes).

**CHAIRPERSON:** H'mm.

**MR MANYI:** And so on. So sometimes it is not even possible to keep track.

**CHAIRPERSON:** H'mm.

20 **MR MANYI:** So when they made reference to that letter and so on. It was amongst many correspondence that they make reference to generally. I mean I see that it is almost like a lawyer's approach to say. On your letter dated this is – they do this all the time. So you never know which letter even they refer to. So I never ...(intervenes).

**CHAIRPERSON:** So ...(intervenes).

**MR MANYI:** Made the connection.

**CHAIRPERSON:** So your answer is you have no recollection that you and your lawyers had a specific discussion of the contents of the contents of the letter, but it may have been or some points of it may have been discussed in the midst of ...(intervenes).

**MR MANYI:** That is correct Chair. That is a proper formulation Chair.

**CHAIRPERSON:** Okay. Alright. Ms Hofmeyr.

**ADV HOFMEYR:** So when your attorneys recorded that you were pleasantly surprised by the content of the letter. Were they accurately  
10 conveying your reaction to it?

**MR MANYI:** Yes.

**ADV HOFMEYR:** I would then like to go back to the letter you wrote Mr Manyi, because you have told us a bit about this letter. It is the one Chair at NN5 page 290. You have said that this is a letter that the lawyers had involvement in. Is that correct?

**CHAIRPERSON:** That is the one to Minister Baloyi?

**ADV HOFMEYR:** Baloyi.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** Indeed Chair.

20 **CHAIRPERSON:** *Ja.*

**ADV HOFMEYR:** Dated the 15<sup>th</sup> of November.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** You said your lawyers made input on this letter. Is that correct?

**MR MANYI:** That is correct Chair.

**ADV HOFMEYR:** You also ...(intervenes).

**CHAIRPERSON:** Can you repeat the page?

**ADV HOFMEYR:** Apologies Chair. It is 290.

**CHAIRPERSON:** Thank you.

**ADV HOFMEYR:** You have also made reference to the fact that when your lawyers would discuss case law with you. You would sometimes put that into letters without yourself going to verify it. Is that correct?

**MR MANYI:** Yes Chair.

**ADV HOFMEYR:** I do not read any case law references in this letter of  
10 the 15<sup>th</sup> of November 2010. Am I right in that reading?

**MR MANYI:** No. You are right Chair, but I was making an example. That if they were to quote case law and whatever they would reference in that case law. I would take their word for it. That was just an example. You see this is the thing about not operating in good faith. Now Ms Hoffman – Ms Hofmeyr is really hell-bent on trying to weaponize everything that she could find.

I honestly – Chair do not feel that this discussion is in good faith. She is now – it is almost a win and lose situation here. She is here to just try and just win this battle and all who are here in this  
20 Commission is to give the truth and we are sitting here now wasting time on an unlawful letter. This letter is unlawful.

We are busy splitting hairs, but this letter is unlawful bottom-line. Why are we splitting hairs on something that is unlawful? Why we are wasting time on this?

**CHAIRPERSON:** Yes. Yes Mr Manyi you have made your point. I have

heard your point, but let us may – let us have some progress.  
Ms Hofmeyr.

**ADV HOFMEYR:** Thank you. I understand you would not rely on your attorney's advice for facts in a letter. Is that correct?

**MR MANYI:** You see she is spinning again. Spinning again. When did I say that? Why do you not just make your point Ms Hoffman – Hofmeyr?

**CHAIRPERSON:** Mr Manyi it will help if you just respond. So she can – you know when counsel is asking questions. She knows what she is  
10 probing and sometimes that might not be apparent to the witness, but she knows what she is probing. Let us give her a chance to ... (intervenes).

**MR MANYI:** But she must not ask a wrong leading question Chair.

**CHAIRPERSON:** H'mm.

**MR MANYI:** This is a loaded question, because she wants to make a particular nefarious point.

**CHAIRPERSON:** Well wait for it. Wait for the nefarious point and deal with it when she makes it. Thank you.

**ADV HOFMEYR:** The point of the letter that I would next like to go to  
20 is at page 293. Chair and just for the record I do not have it that Mr Manyi has answered my question about whether he relied on his lawyers for facts, but I am happy to move on and come back to it if necessary.

**CHAIRPERSON:** Okay. Alright.

**ADV HOFMEYR:** Thank you Chair. At page 293 paragraph 3.4.

Mr Manyi you write there:

“I contend that there is no prescript that allows the former Minister to fire me the way he did.”

Do you see that?

**MR MANYI:** Yes. I do.

**ADV HOFMEYR:** You accept it then when you wrote this letter did you not that you had been fired?

**MR MANYI:** No. It is because – I did not accept that I had – I was fired, because the word fire/dismissed cannot be executed in  
10 completion without the involvement of the President. The only time a Minister can purport to have succeeded in this mission Chair is if the President is involved. So without the involvement of the President this is just somebody ...(intervenes).

**CHAIRPERSON:** Well the – as I read that paragraph in your letter. The point you are making there is that the Minister had no authority to fire you.

**MR MANYI:** Yes Chair.

**CHAIRPERSON:** Had no power to fire you.

**MR MANYI:** Exactly Chair.

20 **CHAIRPERSON:** Okay.

**ADV HOFMEYR:** Chair ...(intervenes).

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** I am going to move on to the questions with Mr Manyi and I am really seeking your guidance on this. Mr Manyi has made a number of legal submissions about how can fire and who cannot fire.



**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** It is not my intention to engage in a legal debate  
...(intervenes).

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** With a witness who does not hold himself out  
...(intervenes).

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** To be a person with legal training.

**CHAIRPERSON:** H'mm.

10 **ADV HOFMEYR:** Can I just clarify Mr Manyi, because I got into a little  
bit of trouble on this yesterday.

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** Do you have legal training?

**CHAIRPERSON:** H'mm.

**MR MANYI:** No Chair.

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** Thank you. So it is not my intention to debate the  
law ...(intervenes).

**CHAIRPERSON:** H'mm.

20 **ADV HOFMEYR:** But Chair it is fairly important ...(intervenes).

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** If I could just take one or two moments in relation to  
the applicable legislative regime, because not only has Mr Manyi today  
made numerous submissions about the legal position. He also in his  
affidavit to this Commission put up a judgment. The judgment in the

Apleni case which dealt with a decision to suspend the DG of the Department of Home Affairs.

So he has sought to make reference to law and it is quite important at this point that I make submissions to you Chair about our understanding of the legal regime. Simply so that we can have that as a backdrop to the further questions. I am in your hands if I may be permitted to do so.

**CHAIRPERSON**: Yes. You can make these – those points.

**ADV HOFMEYR**: Thank you so much. For that purpose we need to go  
10 to the Public Service Act and you will find that in the legislation bundle. It commences at page 28 and Chair the relevant section commences at page 41 and that is Section 12 of the Public Service Act.

**CHAIRPERSON**: You said we should go to page 28.

**ADV HOFMEYR**: Apologies. For the commencement and then I am interested in page 41 which is the – contains Section 12.

**CHAIRPERSON**: Yes.

**ADV HOFMEYR**: Chair there are a few points to make about Section 12  
and then I need to make some points about Section 13. In broad terms  
Chair Section 12.1 is the section that deals with the appointment of  
20 Heads of Department amongst others and 12.1 makes it clear that:

“Notwithstanding anything contrary contained in this Act,  
but subject to certain sections that are not pertinent  
now. The appointment and other career incidents of the  
Heads of Department and Government components shall  
be dealt with in the case of a) a Head of a National

Department or National Government Component by the President.”

Chair that is the section that the Apleni case was concerned with.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** It is also the section that I understand Mr Manyi to have been made – been making reference to ...(intervenes).

**CHAIRPERSON:** *Ja.*

**ADV HOFMEYR:** In his previous testimony. So what is clear in that  
10 section is the appointment and other career incidents of Heads of Department and that is a term that is used to denote a Directors-General must be done by the President. The section that actually was used to affect the transfer of Mr Maseko and Mr Manyi is 12.3. I just referenced that now. 12.3 indicates that:

“The President may transfer the head of a National Department or National Government Component before or at the expiry of his term or extended term.”

And it goes on to talk about they must perform similar functions on an equal, higher or lower grading. Chair you will recall we looked at  
20 that yesterday with Mr Maseko ...(intervenes).

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** And then we looked at the requirements for it. One of which is consent and the other of which is public or alternative is public interest, but what the judgment in Apleni held was that because the appointment and career incidents is a power given to the President.

The decision to place on suspension is a career incident.

It is not a power that had been delegated by the President and so when the Minister acted in the Apleni case without the President she was found to have acted unlawfully. Section 13 of the Act though Chair deals with appointment on probation. Mr Manyi was originally appointed to the Department of Labour on probation.

There is a letter to that effect. I do not expect Mr Manyi will dispute that, but we can have his answer in a moment. I would just like to finish the law point. You will see Section 13 of the Act says:

10            “If so required by regulation an Executive Authority shall  
                 appoint an employee on probation for such period as  
                 maybe prescribed for the relevant category of  
                 employees.”

**CHAIRPERSON:** I am sorry.

**ADV HOFMEYR:** Apology. We are at page ...(intervenes).

**CHAIRPERSON:** Oh. Okay.

**ADV HOFMEYR:** 42 Chair.

**CHAIRPERSON:** Okay. No.

**ADV HOFMEYR:** Apologies.

20    **CHAIRPERSON:** You see I – because of where Section 12 is  
                 ...(intervenes).

**ADV HOFMEYR:** Yes.

**CHAIRPERSON:** On the page – on which it starts. I expected 13 to be  
                 at the top of the next page ...(intervenes).

**ADV HOFMEYR:** Apologies.

**CHAIRPERSON:** But it is not there.

**ADV HOFMEYR:** No. It is a lengthy 12 ...(intervenes).

**CHAIRPERSON:** So there is 12A.

**ADV HOFMEYR:** And then it is interspersed with the 12A  
...(intervenes).

**CHAIRPERSON:** Yes. Okay. Now I ...(intervenes).

**ADV HOFMEYR:** And now we are down at the bottom of page 42.

**CHAIRPERSON:** Ja. Okay. Thank you.

**ADV HOFMEYR:** Apologies.

10 **CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** So what that section deals with is now appointment  
on probation. It says:

“If so required by regulation an Executive Authority shall  
appoint an employee on probation for such period as  
maybe prescribed or the relevant category of  
employees.”

And at two:

20 “After the completion of a probationary period  
contemplated in subsection 1 an Executive Authority  
shall confirm the probationary period if the employee  
concerned has ...”

And then there are two requirements.

“...perform satisfactorily and complied with all the  
conditions to which his or her appointment was subject.”

Chair, the Executive Authority referred to in that section is the

Minister. Not the President. That is also confirmed in the Apleni judgment. Albeit not referencing 13 but referencing the reference to Executive Authority in the Act. That means Chair the sum total of my legal submissions is that the decision to place Mr Manyi on probation to determine whether to confirm the probation and keep him in the employment of the Department of Labour or not is a decision that is given under the Public Service Act to the Minister and not the President.

In that respect it is different to the powers exercised under  
10 Section 12. It is distinguishable from the Apleni judgment and I make those submissions simply so that we do not need to continue with an asserted legal debate by Mr Manyi about the patent unlawfulness of a decision by Minister Mdladlana not to confirm his probation which is what he did in the letter of the 29<sup>th</sup> of October 2010.

There is no use in my view subject to your direction Chair having a legal debate with Mr Manyi ...(intervenes).

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** But the course of the evidence I submit should not take course ...(intervenes).

20 **CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** On the assumed common course basis ...(intervenes).

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** That there was something unlawful in what ...(intervenes).

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** Minister Mdladlana did.

**CHAIRPERSON:** Well you did not refer to subsection 3 of Section 13.

**ADV HOFMEYR:** Yes.

**CHAIRPERSON:** It seems to me that you should also have referred to it. Do you want to ...(intervenes)?

**ADV HOFMEYR:** Oh. Indeed. Apologies Chair. I did omit it.

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** Three says:

10            "If the probationary appointment is not confirmed in two -  
in terms of subsection 2 – the Executive Authority may  
extend the period of the probation or dismiss the  
employee in accordance with the Labour Relations Act."

Yes Chair. I was about to complete my submissions probably  
without referring to the most important subsection.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** So ...(intervenes).

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** I do apologise for that.

**CHAIRPERSON:** Okay.

20    **ADV HOFMEYR:** The nub of the point though Chair is that the legal  
terrain as identified in this Act and as we read it does not make it the  
case that a decision on probation whether to confirm, extend it or are  
not extending it dismiss an employee is a decision that lies only with  
the President, but then if we can just – return to the facts to which  
Mr Manyi can ...(intervenes).

**MR MANYI:** Can I respond to this quickly Chair?

**CHAIRPERSON:** Yes. If you wish to.

**MR MANYI:** *Ja.* First point I want to make is that Advocate Hofmeyr has just – has just misguided herself on her articulations. Both her and former Minister Mdladlana are both incorrect. In the same Public Service Act that she has given us Chair this is why it is important to read this thing properly. This is the – talking about appointment on probation and it is said:

“If so required ... upon ...”

10           We are talking about of an employee. Now what she should have then done is go to page 30 of the same bundle – same everything. On page 30 and look at the definition of an employee and know who was it that we are talking about. When you say an employee and I am going to read it here Chair for the record.

“An employee means a person contemplated in Section 8 but excludes a person appointed in terms of Section 12A.”

20           Now 12A is Heads of Departments which is what the Apleni thing is about which is what we are about. I was a Head of Department and this is – this thing here talks to employees not Head of Departments. This is very clear. So both Minister Mdladlana and Advocate Hoffman have just not understood Public Service Act.

**CHAIRPERSON:** H'mm.

**MR MANYI:** Her interpretation is totally wrong.

**CHAIRPERSON:** H'mm.



**MR MANYI**: Totally wrong.

**CHAIRPERSON**: Ms Hofmeyr. Of course this is a debate that can happen later, but ...(intervenes).

**ADV HOFMEYR**: Indeed Chair.

**CHAIRPERSON**: You want to say anything?

**ADV HOFMEYR**: Mr Manyi refers to 12A. That is not Section 12 ...(intervenes).

**CHAIRPERSON**: H'mm.

**ADV HOFMEYR**: In terms of which the appointment of Heads of  
10 Department take place.

**CHAIRPERSON**: H'mm.

**ADV HOFMEYR**: It is the appointment of persons and grounds of policy considerations. Insofar as Executive Authorities as Cabinet may determine to appoint one or more persons under a contract whether fulltime or part-time capacity. It is on that basis that we submit it is not excluded by the definition that appointments under Section 12 would include employees but Chair it's not – I agree a useful place for Mr Manyi and I do debate the law. Our submission is that the employees under Section 13 is broad enough to include those appointed under  
20 Section 12 albeit that the reference is to Section 8 employees, it doesn't exclude as it does under Section 12A other employees and so an interpretation consistent with the Act must be given but Chairperson my proposal at this point is not to detain us with the law further we can make those submissions in due course and no doubt Mr Manyi will have an opportunity to do so. The factual point of the matter is the

following, I understand Mr Manyi's answers to be ...(intervenes).

**CHAIRPERSON:** Before that when I say, Mr Manyi that the legal issues can be dealt with later, I don't mean you may not, when you give your answers refer to what you understood to be the legal position of what you understand to be the legal position which informed your – which informs whatever you say or which may have informed whatever decisions you may have taken so I'm not preventing you from articulating those, okay thank you.

**ADV HOFMEYR:** Thank you Chair, if we then return to the factual  
10 position Mr Manyi, we were dealing with the reference you made at page 293 of Exhibit NN5 to the fact that the Minister had fired you and I understood your answer to be an unlawful firing is no firing at all, is that a fair summary?

**MR MANYI:** Yes that's correct.

**ADV HOFMEYR:** As a matter of fact do you accept that you were fired irrespective of whether that was a legally valid or invalid decision?

**MR MANYI:** That's your importation.

**ADV HOFMEYR:** I beg your pardon?

**MR MANYI:** That is your understanding and it's your opinion, I note  
20 your opinion.

**ADV HOFMEYR:** No I was asking for your understanding, I want to separate the question of whether the decision was lawful or unlawful, again Chair I don't want to get into a legal debate but decisions taken pursuant to exercises of public power particularly under legislation exist, in fact and may indeed be valid and binding until set aside by a

Court. So it's not my intention to get into that debate with Mr Manyi I want to understand what Mr Manyi understood the factual position to be and the questions is ...(intervenes).

**CHAIRPERSON:** Maybe let's put the question a little differently. Do you accept that Minister Mdladlana made a decision, I think I'm going to use what you – your wording, made a decision to fire you. Irrespective of what you think of that from his side do you accept that he made such a decision or do you say, no he made no such decision? And I leave room for the fact that you might say, I don't recognise that  
10 decision as valid legally but as far as he's concerned – it's your understanding that as far as he's concerned he made a decision to fire you.

**MR MANYI:** Yes, yes Chair I think I can even back that up because even the recommendation that he makes because he thought that he's got a final say on the matter. On his letter he says, if I'm not happy with his decision I must take the matter up with Public Service Bargaining Council which is an outside body. So in his mind, incorrectly so, he thought he had me fired.

**CHAIRPERSON:** Okay.

20 **ADV HOFMEYR:** And Mr Manyi you knew then at the end of October 2010 that he had taken a decision to fire you?

**MR MANYI:** Not – look not to confirm the probation that is what I know.

**ADV HOFMEYR:** Despite your evidence previously that you did not have any knowledge?

**MR MANYI:** I never said I never had any knowledge, I said I never saw the letter.

**ADV HOFMEYR:** Mr Manyi if we can then go – Chair at this point I'd like to go to the question of Mr Manyi's salary and its payment. For that purpose, we'd like to see the documents that Mr Manyi has brought. We're just before the tea break, may I suggest that we take a slightly earlier adjournment so that we can look at those documents?

**CHAIRPERSON:** We can do that but I just need to say, certainly from my point it's important that as we deal with the question of Mr Manyi's  
10 non-confirmation of – or the non-confirmation of his probation or the dismissal and the transfer it's important that we deal with it in a manner that links it to what is relevant for purposes of seeing whether it throws light on why Mr Maseko was transferred.

Certainly for me that's what I'm looking for whether anything connected with his – the withdrawal of his dismissal and the – his transfer whether there's anything that can help me understand the reasons of Mr Maseko's transfer from GCIS to DPSA and maybe even who made the decision – who initiated Mr Maseko's transfer. I know that part of what he has been asked to deal with in an affidavit also  
20 relates to Mr Phumla Williams' evidence. I'm not saying that, that's irrelevant that may probably would be relevant, I'm just saying insofar as it relates to Mr Maseko for me that's what I'm looking for and it may well be that, however I'm fair or however I'm lawful the dismissal may have been, or the failure to confirm the probation may have been or however lawful or fair it was or valid it was that might not throw light on

what I'm looking for.

So in other words as far as I'm concerned the only reason leaving out the issues relating to Ms Williams' evidence, the only other basis that I'm interested in Mr Manyi's transfer and dismissal and withdrawal of dismissal is to see whether it might help me understand how or who initiated the transfer of Mr Maseko. Otherwise it's not something that I'm particularly interested in his dismissal and transfer if it doesn't help me on that issue.

**ADV HOFMEYR:** Chair we're indebted for the direction, if I may just  
10 make one or two submissions.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** It was certainly not my intention in the course of the evidence to place significance on the lawfulness or otherwise of that decision. Mr Manyi, however, repeatedly in his evidence has sought to distance himself from accepting that a decision to fire him was taken with reference to its legal validity or not and it was against that backdrop that I thought it important to traverse, to some extent, the legislative provisions but Chairperson we are well aware of your particular interest and if I may then just clarify.

20 The reason why we have spent any time on the dismissal at all, the non-confirmation of the probation is because it's very important for this Commission, in my submission to understand Mr Manyi's state of mind when he started to interact with people like Minister Baloyi and Minister Oliphant in the lead up to the decision to withdraw that termination and that has been the basis for the questions this morning.

It's taken some time to get clarity from Mr Manyi as to what his understanding of his position in the Department of Labour was when he was meeting with Mr Chabane for example a few days before he was moved because what I'd like ask Mr Manyi, in due course, is how can you have a conversation with Minister Chabane about being transferred to GCIS at a point in time where you understand a decision has been taken to fire you and it's in that context that we probe those aspects because then Chair, our hope is that through this process we will get greater clarity about what happened in those seven days.

10 **CHAIRPERSON:** Yes, no, no that's fine I just wanted to highlight where my thinking is but also - so as long as I think the focus remains in terms of what we are trying to do where it is supposed to throw light, whether it throws light or not because the intention is not to go into a lot of other details but I understand where you are. Mr Manyi you wanted to say something.

**MR MANYI:** *Ja*, no Chair I just want to close by saying on this matter I maintain my point that even this section here the employee referred to here is people other than heads of departments as it were. Even the termination of a head of department, even the probation of the head of  
20 department if we are not going to do it which has the effect of dismissal, if you're not doing it, must get the confirmation of the President.

Even at that point the Minister does not have authority on his own so that's the point and in conclusion I've been consistent that from where I was sitting, I mean, yesterday she made me look into the other

page here where I had said I was put on precautionary suspension once precautionary suspension twice and special leave. She read that page, because that information was in a letter which was not in an affidavit and she wanted me to state it here on record under oath and I stated it on record under oath that that is my position and that position does not change and this morning, again I read the DG's letter where I know that in here there's a CFO who is saying something contrary to what the DG's saying but here's a DG, the head of department who did not just say this because he's a DG he even submitted the financial  
10 ...(indistinct) statement just to show that what he's saying is just not from his head, his information is based on credible information.

So to answer the question that she wants to ask, that she's alluding to ...(intervenes).

**CHAIRPERSON:** Let her ask it later and then you can deal with it.

**MR MANYI:** Okay.

**CHAIRPERSON:** *Ja* she's still going to ask it when she asks that you deal with it.

**MR MANYI:** Okay Chair.

**ADV HOFMEYR:** Chair if we may just discuss logistics for a moment  
20 because I understand from the Secretariat that travel arrangements have been made for Mr Manyi this afternoon and they need to be able to move that flight imminently if it needs to be moved. I understand the arrangements to be that his flight is at 2 o'clock which would mean that he would need to leave here at 12 and I have no confidence that we would finish by 12.

I think that we would go somewhat beyond that, not excessively beyond that ...(intervenes).

**CHAIRPERSON:** Maybe half past twelve?

**ADV HOFMEYR:** Indeed something of that order Chair, it really does depend on the length of the answers and the engagement and of course Chair you must have a full opportunity to ask your questions but I think it would be prudent to seek to move the flight now.

**CHAIRPERSON:** Yes Mr Manyi what's your view on ...(intervenes).

**MR MANYI:** No Chair if we finish half past twelve I'll still get it.

10 **CHAIRPERSON:** You'll still get it?

**MR MANYI:** *Ja* because I've got other arrangements in Cape Town.

**CHAIRPERSON:** Okay so maybe then let's take the short adjournment – let's take the tea adjournment, resume at half past and then let's go from straight after that and see how – if close to half past there's a difficulty let's talk about it then.

**ADV HOFMEYR:** Thank you Chair.

**CHAIRPERSON:** We adjourn.

**REGISTRAR:** All rise.

### **INQUIRY ADJOURNS**

20 **INQUIRY RESUMES**

**CHAIRPERSON:** Yes Ms Hofmeyr.

**ADV HOFMEYR:** Thank you Chair. I would like to move if we may back to the lawyer's letter of the 3<sup>rd</sup> of November 2010 that is at Exhibit NN5 at page 297.

**CHAIRPERSON:** Yes. Yes.



**ADV HOFMEYR:** Mr Manyi this letter was addressed to a Minister – former Minister Oliphant and former Minister Baloyi, is that correct?

**MR MANYI:** I beg your pardon you said page?

**ADV HOFMEYR:** 297.

**CHAIRPERSON:** Please switch on your microphone Mr Manyi.

**MR MANYI:** You can repeat your question please?

**ADV HOFMEYR:** Of course. I was just confirming that this was a letter written by your attorneys to the then Minister Oliphant and Minister Baloyi, is that correct?

10 **MR MANYI:** Yes that is correct Chair.

**ADV HOFMEYR:** And it is dated the 3<sup>rd</sup> of November 2010, is that correct?

**MR MANYI:** That is correct Chair.

**ADV HOFMEYR:** The Minister of Labour is now Ms Oliphant, is that right?

**MR MANYI:** That is correct Chair.

**ADV HOFMEYR:** Do you know when Minister Mdladlana ceased being the Minister of Labour?

20 **MR MANYI:** I – okay in fact I think I do. It can only be on the – I beg your pardon. I think two dates Chair one of the two dates. Either on the 29<sup>th</sup> or on the 30<sup>th</sup>. In fact if you look at Minister Oliphant's affidavit when she talks about the 30<sup>th</sup> she talks about the 30<sup>th</sup> in the morning of the 30<sup>th</sup>. So generally how it works is that you never appoint a person without creating a vacancy. So Mr Mdladlana would have been removed either on the 30<sup>th</sup> earlier in the morning or the 29<sup>th</sup>

as it were. So around that space.

**ADV HOFMEYR:** So a matter of days before this letter was written, correct?

**MR MANYI:** On the – *ja*.

**ADV HOFMEYR:** Sorry you have just been ...(intervenes).

**MR MANYI:** To a day.

**ADV HOFMEYR:** You have just been talking about the 30<sup>th</sup> and without a reference to the month so I understand you to be meaning the 29<sup>th</sup> or the 30<sup>th</sup> of October 2010 which is a few days before this letter, correct?

- 10 **MR MANYI:** In fact Chair. Apologies Ms Hoffman for a long answer. I think it is important this issue of dates just to see the malice actually in the – in this whole thing. On the 28<sup>th</sup> of October there is a DC sitting on the 28<sup>th</sup> of October. In the middle of this thing as I was saying within 30 minutes or so of – on the 28<sup>th</sup> of October then there is this major announcement that gets made in the meeting that, no the Minister has decided to – not to confirm the probation and the lawyers they make a decision that there is no point carrying on any further with this now because the objective is going to be achieved differently. Which just shows that even that DC had a pre-determined outcome.
- 20 But now that the pre-determined outcome has already been – there is a quicker way to achieve it via not termination there is no point in doing this one. Now this is the 28<sup>th</sup> when this comes. I am sure because – because Chairperson maybe something would have leaked to the Minister because this is a decision that to – the Deployment Committee of the ANC is about five or six people that are in that committee. Now

if on the 30<sup>th</sup> Minister Oliphant is on record to having been told on the 30<sup>th</sup> so somewhere between the 28<sup>th</sup> and the 30<sup>th</sup> something would have leaked to the Minister that you are a gonner as it were. And this is why he then hurriedly wrote that letter on the whatever but dated on the 29<sup>th</sup> and so on. So *ja*. So ...(intervenes).

**CHAIRPERSON:** Well I think based on evidence from other witnesses that I have heard my suspicion is that probably Mr Mdladlana was one of a number of Ministers who were dropped from Cabinet at the end of October 2010.

10 **ADV HOFMEYR:** Indeed Chair.

**CHAIRPERSON:** One of whom was Ms Barbara Hogan who gave evidence in this Commission.

**MR MANYI:** The press announcement was done on the 31<sup>st</sup> of October Chair.

**CHAIRPERSON:** Yes.

**MR MANYI:** It is public record.

**CHAIRPERSON:** Yes.

**MR MANYI:** But the decision makers ...(intervenes).

**CHAIRPERSON:** Yes.

20 **MR MANYI:** Would have sort of made up their minds.

**CHAIRPERSON:** Made their decision before.

**MR MANYI:** Before that.

**CHAIRPERSON:** H'mm.

**MR MANYI:** So he would have got wind of what is coming.

**CHAIRPERSON:** H'mm.

**MR MANYI:** So I want to place it here Chair that the letter that we are busy splitting hairs on was actually even done on malice. This is why that he did not follow any process to achieve his ill objectives.

**ADV HOFMEYR:** Mr Manyi what interactions did you have with Minister Oliphant after she took office?

**MR MANYI:** She in Minister Oliphant's affidavit Chair she makes reference to this question. Whatever is in there I confirm it.

**ADV HOFMEYR:** Mr Manyi we would like to be assisted by your evidence if we may as opposed to – are you saying what she says there  
10 you confirm as being accurate?

**MR MANYI:** Yes.

**ADV HOFMEYR:** Okay because your letter – your lawyer's letter seems to say something a bit different. So if we could go there. The lawyer's letter at 297 was written on the 3<sup>rd</sup> of November, right? And at page 301 at paragraph 7.1 they record there that:

“Mr Manyi has advised us that he met with the new Minister of Labour and they had a cordial interaction and Mr Manyi is excited at the prospect of working under the guidance and instructions of Minister Oliphant.”

20 Now I would like your help on that because Minister Oliphant says she met with you the week after she was appointed on the 1<sup>st</sup> of November but this letter seems to record that you met with her prior to the 3<sup>rd</sup> of November, is that correct?

**MR MANYI:** *Ja* – okay Chair let me just get the dates right here. This happened more than 10 years or so ago. About 10 years ago. So does

Minister Oliphant in her affidavit make reference to the actual date that we met?

**ADV HOFMEYR:** Yes she goes through the chronology of the week in which she was appointed. And she talks about the first meeting with you having been after that week and so I am just trying to get clarity now. Again she may have got the dates wrong but I want your evidence. Can you confirm that you met with her before the 3<sup>rd</sup> of November?

**MR MANYI:** I do not know where this – I cannot recall Chair. But I  
10 recall vividly the meeting at Sheraton.

**CHAIRPERSON:** H'mm.

**MR MANYI:** This is where we discussed like she said the Sheraton meeting I really recall.

**CHAIRPERSON:** Yes.

**MR MANYI:** But any other discussion prior to that.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** You do not recall. The Sheraton meeting is the second one that Ms Oliphant refers to. Maybe just help me with one other thing? If you had met prior to the 3<sup>rd</sup> of November it would likely  
20 on Ms Oliphant's version have had to have been on the 1<sup>st</sup> of November itself the day she flew up to be appointed in the position and she flew back down to KZN because her evidence is for the remainder of that week she was in KwaZulu-Natal. Do you have any recollection of meeting her at the airport when she came up on the 1<sup>st</sup>?

**MR MANYI:** Oh yes. Okay. Oh okay alright okay. I remember that.

**CHAIRPERSON:** Does it come back?

**MR MANYI:** *Ja.*

**ADV HOFMEYR:** Super.

**MR MANYI:** I remember that Chair. *Ja* it is that when you say meeting one gets a formal setting. But yes I did go and meet – I met her at the airport *ja.* We bumped – *ja* I went to the airport and *ja.*

**ADV HOFMEYR:** And what was the subject matter of your meeting?

**MR MANYI:** Well look she I think at that point the – it was – we were just walking – it is not like a meeting it is just – she just got off the  
10 plane and all that.

**CHAIRPERSON:** Did you bump into each other or there was ...*(intervenes)*.

**MR MANYI:** I knew that she was going to be around the airport.

**CHAIRPERSON:** Oh.

**MR MANYI:** I knew this.

**CHAIRPERSON:** And you wanted to see her.

**MR MANYI:** I wanted to seize the opportunity.

**CHAIRPERSON:** Okay.

**MR MANYI:** *Ja* I wanted to – I had the agenda.

20 **CHAIRPERSON:** Yes.

**MR MANYI:** I wanted to seize the opportunity.

**CHAIRPERSON:** H'mm.

**MR MANYI:** And then obviously she was non-committal but she was not hostile and so on. So the excitement I would have expressed here would have been the sentiment that I got out of that.

**ADV HOFMEYR:** How did you know when she would be at the airport?

**MR MANYI:** I do not know how I would have known but I knew. I just do not know how.

**ADV HOFMEYR:** So ...(intervenes).

**MR MANYI:** I do not remember how. But clearly on the – *ja* but look I work for Public Services.

**CHAIRPERSON:** Would her flight arrangements not have been made by your department and maybe would you not have ...(intervenes).

**MR MANYI:** No I was at the Department of Labour that – but  
10 ...(intervenes).

**ADV HOFMEYR:** Chair at that point Mr Manyi was not at the Department of Labour.

**MR MANYI:** *Ja* but Chairperson.

**CHAIRPERSON:** Yes but ...(intervenes).

**MR MANYI:** I am part of society. I have got networks. So it got to me. I have got networks.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** Sorry so it was the networks that gave you the details of when her flight was arriving?

20 **MR MANYI:** Yes. Yes the networks. Not the flight was arriving but we knew that on this day that was going to happen and so on. A lot of other Ministers were coming so maybe somebody else had had another agenda says, hey come – I just do not have the details but it was not a big deal which I just knew somehow.

**ADV HOFMEYR:** So did you have to wait long for her to arrive?

**MR MANYI**: I do not remember now how long I waited.

**ADV HOFMEYR**: And what was your purpose in meeting her at the airport when she came up?

**MR MANYI**: H'mm it is just to first of all Chair to create a relationship with her just to show that I really want to get back to work. Because at that time I had been at home for a long time getting paid and so and so it has always been my problem that here is government money being paid to somebody sitting at home. So here is an opportunity let us get a fresh start. So I wanted to start a fresh start.

10 **ADV HOFMEYR**: The lawyer's letter indicates that at the same page 301 that you suggested on the 3<sup>rd</sup> of November through your lawyers that she consider withdrawing the letter of the 29<sup>th</sup> of October 2010 and re-instating you as the Director-General of the Department of Labour with immediate effect. Is that what you discussed with her?

**MR MANYI**: I will be lying to you Chair. Even last night because there were – I got five bundles to go through. I did not read this letter and make some recollection. I honestly do not remember the details I just remember the sentiment of why I met her. But the nitty gritty full stop and commas I do not remember.

20 **ADV HOFMEYR**: Is it fair though on the basis of what is recorded in the letter that you recognise the need for the termination letter to be withdrawn?

**MR MANYI**: No, no. What I knew is that I was on precautionary suspension and you have to get re-instated from suspension. So if I had said that it would be in line with my agenda. So my understanding



of being suspended is that you cannot just now decide for yourself that you are just going to go back. Somebody must authorise you coming back from suspension. So to re-instate from suspension is another re-instatement from precautionary suspension.

**ADV HOFMEYR:** Mr Manyi you have previously confirmed today that you do accept that Mr Mdladlana took a decision to fire you. I suggest that that appreciation is consistent with the understanding that is reflected in the letter which is that that position had to be reversed by someone. Do you accept that?

10 **MR MANYI:** No I do not accept that. What I had said earlier Chair when the Chair gave a good formulation is to accept the formulation of the Chair that that was what Mr Mdladlana's head. Not that I ever accepted the truth of it or the factual basis of it etcetera of it. I never accepted that.

**ADV HOFMEYR:** Mr Manyi I do not want to have to belabour points unnecessarily. Is it not your evidence that you understood that Minister Mdladlana had taken a decision to fire you?

**MR MANYI:** I repeat Chair. Mr Mdladlana has got no authority to fire me. He might have had – it is that formulation – back to your  
20 formulation Chair we are going to go around in circles.

**CHAIRPERSON:** Yes I think your answer based on what you said when I made that formulation. Your answer would be that you accepted that Mr Mdladlana had made a decision to fire you but from your point of view you did not recognise as I understand it.

**MR MANYI:** Yes.

**CHAIRPERSON:** Did not recognise him as having power to fire you.

**MR MANYI:** Yes Chair.

**CHAIRPERSON:** Is that right?

**MR MANYI:** Yes Chair. And we must separate that from saying because I know his agenda and therefor I accept his agenda. I do not accept his agenda. His agenda is to fire me. I accept that. I accept that from where he sits he is firing me. But I do not accept that that if a factual position.

**CHAIRPERSON:** H'mm.

10 **ADV HOFMEYR:** Do you accept that something had to be done to bring you back into the Department of Labour?

**MR MANYI:** I was on precautionary suspension. So to go from precautionary suspension back yes something must happen.

**ADV HOFMEYR:** So when Minister Oliphant withdrew your termination and placed you on special leave did she not do something that was competent?

**MR MANYI:** The – no she regularised something that was irregular.

**CHAIRPERSON:** Well I am sorry. I am not sure Ms Hofmeyr whether you should not try and find another more lay person friendly term than  
20 competent.

**ADV HOFMEYR:** Legal neutral I suspect indeed. Certainly Chair.

**CHAIRPERSON:** Because that might be very legal.

**ADV HOFMEYR:** Certainly.

**CHAIRPERSON:** But – so I just want to make sure that Mr Manyi understands whatever the question is.

**ADV HOFMEYR:** Of course Chair.

**CHAIRPERSON:** That you want to put to her – to him. It may be that you might struggle to find another term I do not know but I just want to make sure that he will understand your question.

**ADV HOFMEYR:** When you were engaging – I will get there in a moment if I May Chair. I will go back a bit in terms of the discussions with Ms Oliphant. So you have confirmed that there was the engagement at the airport on the 1<sup>st</sup> of November. I understand you to also have confirmed the meeting at the Sheraton. Is that correct?

10 **MR MANYI:** Yes correct.

**ADV HOFMEYR:** What was the subject matter of that meeting?

**MR MANYI:** *Ja* at the Sheraton I went there to discuss my situation at the Sheraton which colloquially is described as dismissal and so on that this is unlawful etcetera and all of that. So we discussed that in there to say this is unlawful and can she please – because my biggest problem Chair to be honest – my biggest, biggest problem is that I knew that I would win this case in court. I would win this case in court. And that my biggest problem was that at that time we were very – we were driving transformation very hard. Now can you imagine a Minister  
20 of Labour losing a labour matter in court? What – how else can government govern going forward on labour issues. So that was my predicament Chairperson. So *ja* I continue to insist that that was an unlawful thing.

**ADV HOFMEYR:** Did you discuss appealing the decision with her?

**MR MANYI:** The what sorry?

**ADV HOFMEYR:** Did you discuss appealing Minister Mdladlana's decision with her?

**MR MANYI:** 2010 I do not remember but I – look Chair I cannot pretend that I have not read her affidavit.

**CHAIRPERSON:** Yes, yes.

**MR MANYI:** I would be lying.

**CHAIRPERSON:** Yes.

**MR MANYI:** In her affidavit she says she advised me to appeal. So – to appeal to DPSA. You see I think it is important also Chair to draw  
10 the distinction and we must understand the point of departure. If one Minister says go to DPSA that is an internal process. That Minister understands the law. Understands that this thing is still within us in the government. But if another Minister who is misguided is saying, go to P – to the Bargaining Council which is outside that person is already thinking that his decision is final. So Minister Oliphant knew that the President works through the DPSA Minister and all of that. So re-determination must include the DPSA Minister with the President. So that is why she advised me like that.

**ADV HOFMEYR:** Well Minister Oliphant's version on her affidavit is  
20 that you will find this Mr Manyi in the bundle NN3 in the same file. It is under the same tab. It is under tab 3 in the file at page 4. You can have it in front of you but I am intending to read it so you can also give me your answer in relation to it. When Ms Oliphant indicates the first interaction she had with you she says:

“I then received a call from Minister Manyi who

congratulated me on my appointment and informed me that he was intending to appeal the decision to dismiss him or take the Department of Labour to court over his dismissal.”

She suggests that in that paragraph it was you who informed her not that she advised you to appeal. Do you say that what she has reflected there is wrong?

**MR MANYI**: I was not following you when you were reading.

**ADV HOFMEYR**: Apologies.

10 **MR MANYI**: I have got ...(intervenues).

**ADV HOFMEYR**: Under tab 3 at page 4. Mr Manyi it is at paragraph 11.

**MR MANYI**: Page 4. Yes.

**ADV HOFMEYR**: Yes. Paragraph 11 at that page it is sort of a third of the way down. She is talking about the week after her appointment and then she says a third of the way down:

20 “I then received a call from Minister Manyi who congratulated me on my appointment and informed me that he was intending to appeal the decision to dismiss him or take the Department of Labour to court over his dismissal.”

And I what I wanted to understand from you is in your evidence a moment ago you said in the interaction with her she had proposed appealing. Here she seems to indicate it came from you. Do you dispute what she says there?

**MR MANYI**: No I do not because this – what it means in substance is that I am not going to fold my arms. So you could put a long – a strong legal jargon of what appeal means and so on but strictly speaking the long and the short of this was that I am not going to just accept this and fold my arms. So I will take it up somehow. So this is correct.

**ADV HOFMEYR**: And in those interactions with Minister Oliphant did she indicate to you that she did not want you to return to the Department of Labour?

**MR MANYI**: I do not remember that discussion.

10 **ADV HOFMEYR**: You have seen her affidavit in which she indicates that she did not want you to return to the Department of Labour.

**MR MANYI**: Yes.

**ADV HOFMEYR**: Is that correct? But you do not recall her conveying that to you at all?

**MR MANYI**: No.

**ADV HOFMEYR**: So there were no discussions about how you could be brought back into the Department if it was a situation which she did not want you there as the Director-General.

**MR MANYI**: No. I do not remember any of that.

20 **ADV HOFMEYR**: You also had interactions with Minister Baloyi in this period?

**MR MANYI**: Oh *ja* numerous times.

**ADV HOFMEYR**: Is that correct?

**MR MANYI**: *Ja*. Numerous times.

**ADV HOFMEYR**: Did you have any interactions with former President

Zuma about your position?

**MR MANYI**: I probably would have written to the President highlighting issues and seeking his intervention. *Ja*.

**ADV HOFMEYR**: Mr Manyi that certainly borne out to some extent by one of the documents that we received from DPSA and I would like to just take you to it if I may?

**MR MANYI**: He was my employer after all so I had to talk to my employer.

**ADV HOFMEYR**: Indeed. Of course your contract of employment is not  
10 concluded with the President, is it?

**MR MANYI**: But it is his authority. He – he works with the DPSA it is his authority. They work under his authority.

**ADV HOFMEYR**: Mr Manyi if you go in Exhibit NN5 to page 208.

**MR MANYI**: *Ja*.

**ADV HOFMEYR**: Have you ever seen this document? It is a three page document which unfortunately omits every alternate page. Have you seen this document before?

**MR MANYI**: Have I seen it before? No I saw it last night with part of these things that you gave me last night.

20 **ADV HOFMEYR**: Thank you Mr Manyi. Chair just to explain this situation with these documents. There have been efforts on the part of the Commission since January of this year to obtain the disciplinary file of Mr Manyi. And as matters currently stand it has never been found in any of the Departments who have been approached. What was found by DPSA was a set of documents in a legal file within the Department

and those are the documents that we are working with at the moment. It was important when one first sees these pages to establish whether there is just a photocopying error that there were double sided pages that then were not photocopied. The affidavit of DPSA indicates that this is the file in its totality that was found and has been given to the Commission. I understand from Mr Manyi that he is – does not know of this document. It is a document at page 210 which appears to have been authored or intended to be signed by Mr Baloyi and so it is a matter that we will pick up with Mr Baloyi on. But what I am interested  
10 in is what is recorded in the first paragraph in order to ask Mr Manyi about it. Because at paragraph 1.1 on page 208 Mr Manyi the following is recorded:

“The office of the President of the Republic of South Africa asked me to intervene in the matter involving the former Director-General of the Department of Labour Mr J Manyi, Mr Manyi. The issue in this case is that the former Minister of Labour – the former Minister – decided not to confirm Mr Manyi’s permanent appointment as Director-General following his probation  
20 effectively terminating his services on 30 November 2010.”

Were you aware that the office of the President had made an approach to Minister Baloyi to intervene in this matter?

**MR MANYI:** No.

**ADV HOFMEYR:** No. But you do confirm that you raised the issue with



former President Zuma?

**MR MANYI:** Yes I – there is nobody I did not raise it with. I raised it with everyone.

**ADV HOFMEYR:** Right. And then I would like to take you to a further letter in the same bundle at page 216. Mr Manyi this appears to be a letter between – if you go over the page to 217 Mr Baloyi and back at the first page Ms Oliphant. Have you seen this letter before?

**MR MANYI:** No.

**ADV HOFMEYR:** Thank you. I certainly intend to probe it with Mr  
10 Baloyi when he comes to give evidence Chair. But what I am interested in Mr Manyi is what records at paragraph 3 on page 217. Because it is relevant to us understanding what Minister Oliphant was thinking about and your engagements with her insofar as bringing you back into the Department of Labour is concerned? You will see at paragraph 3 there Mr Baloyi records the following: He say:

“In light of my observations in paragraph 2 above”

And just to – for completeness he concludes in that former paragraph that Minister Mdladalana did not have the requisite authority when he terminated your services. He says to Minister Oliphant.

20 “You are advised to:

- a. Withdraw the former Minister’s letter which terminated the DGs services
- b. Extend the DG’s probation for another four months.
- c. Place him on two weeks special leave to allow us space to find a suitable solution to this matter.

d. During this two week period decide whether or not to pursue the misconduct charges against the DG.”

Do you see that?

**MR MANYI:** Yes.

**ADV HOFMEYR:** Mr Manyi did you ever discuss the misconduct charges against you with Minister Oliphant?

**MR MANYI:** I think on the meeting at Sheraton Chairperson if I remember. Because I wanted her to have information. I would have gone to her with a list of these allegations to say this is what I am  
10 being accused of and this is my response to these accusations. *Ja* so accusations throw charges indeed. I discussed with her.

**ADV HOFMEYR:** Now are you aware that she withdrew the termination of your employment as DG on the 31<sup>st</sup> of January 2011?

**MR MANYI:** *Ja*. I saw that in the affidavit.

**ADV HOFMEYR:** Did you ever receive the letter in terms of which she made that decision?

**MR MANYI:** I have seen the letter here Chair. You know if you look at the addresses of the letters they are all private bags and they have been sent I think to the Department. So I actually never saw these  
20 letters. They are quite – there is another one again and so on, but I have never received any letter from anyone for that matter.

The only letter I received was probably because I was in the Department itself. Was the GCIS, but all these other ones not that I did not know about the contents of them in the fullness of time, but I never received the actual physical copy of the letter.

**ADV HOFMEYR:** When did you know of the contents of this letter?

**MR MANYI:** H'mm.

**CHAIRPERSON:** You mean the letter of withdrawal?

**ADV HOFMEYR:** Of withdrawal. Indeed Chair.

**CHAIRPERSON:** Yes. Maybe we must just indicate – if I recall correctly that letter is addressed to Mr Manyi. Is that right?

**ADV HOFMEYR:** That is right.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** If we can just get it up Chair.

10 **CHAIRPERSON:** *Ja.*

**ADV HOFMEYR:** So we can all be looking at it. You will find it in NN5 at – if you will give a moment. At page 41.

**MR MANYI:** H'mm.

**ADV HOFMEYR:** That is exhibit NN5 page 41.

**MR MANYI:** *Ja.* So I cannot recall exactly. I really cannot recall exactly when I knew about it.

**ADV HOFMEYR:** Okay. So ...(intervenes).

**CHAIRPERSON:** Yes. I just wanted to follow up on the issue of ...(intervenes).

20 **ADV HOFMEYR:** H'mm.

**CHAIRPERSON:** The address.

**ADV HOFMEYR:** H'mm.

**CHAIRPERSON:** So was the point you were making Mr Manyi was that that letter and maybe another one that you have in mind. The address used was a Department of Labour address?

**MR MANYI:** Yes Chair.

**CHAIRPERSON:** And because you were not at the Department of Labour you were on suspension or ...(intervenes).

**MR MANYI:** *Ja.*

**CHAIRPERSON:** You had been dismissed. Whatever the position is. That is not the address that should have been used if the ...(intervenes).

**MR MANYI:** Yes Chair.

**CHAIRPERSON:** Letter was to reach you?

10 **MR MANYI:** Yes Chair.

**CHAIRPERSON:** Oh. Okay.

**ADV HOFMEYR:** Minister Oliphant – former Minister Oliphant, in her affidavit says it was your responsibility to submit this letter to the Human Resources Department. Did she have any interactions with you about that?

**MR MANYI:** Yoh. I do not remember, but I can say this for a fact Chair that I have never had any formal engagement with the HR of the Department of Labour. Since this matter was brewing.

20 **ADV HOFMEYR:** So you said a moment ago that in the fullness of time you came to learn of the contents of the letter.

**MR MANYI:** *Ja.*

**ADV HOFMEYR:** I might have missed your answer to that. When did you come in the fullness of time to learn of the contents of this letter?

**MR MANYI:** I said I did not recall that.

**ADV HOFMEYR:** You did not recall?

**MR MANYI:** *Ja.*

**ADV HOFMEYR:** Could you give us an order of magnitude. I am certainly not asking for a day, but do you think you learnt about it in February 2011? Beyond that.

**MR MANYI:** No. I think - I really do not want to be put under pressure ...*(intervenes)*.

**ADV HOFMEYR:** Sure.

**MR MANYI:** And say the wrong things. I do not recall.

**ADV HOFMEYR:** No. That is absolutely fair. Mr Manyi then when you  
10 were meeting with Minister Chabane either on the preceding Thursday  
or Friday or Monday of the week of the 2<sup>nd</sup> of February. You did not  
know that you had been brought back into the Department of Labour.  
Did you?

**MR MANYI:** Definitely – no I did not know.

**ADV HOFMEYR:** So ...*(intervenes)*.

**MR MANYI:** I just thought I was still on precautionary suspension.

**ADV HOFMEYR:** Mr Manyi your letters in November make it absolutely  
clear you knew that you had been fired.

**MR MANYI:** No, no Chair. We going around in tails. I know that this  
20 was the intention of the Minister, but I knew that it could not be put into  
effect and I said in December I got a salary and I did give the bank  
statement for December salary. So I have got concrete evidence if  
anybody says to me in December you were fired.

I said how is that – why have I got a transaction from payroll  
in December if I was fired as of end of November.

**ADV HOFMEYR:** Mr Manyi your own words in November 2010 were that you had been fired. It is the evidence of Ms Oliphant that you engaged her on the basis that you were appealing the decision to dismiss you.

**MR MANYI:** *Ja but* Chair I did explain that those terms have just been used colloquially.

**CHAIRPERSON:** Yes.

**MR MANYI:** That the issue of being fired ...(intervenes).

**CHAIRPERSON:** Yes.

**MR MANYI:** Does not happen ...(intervenes).

10 **CHAIRPERSON:** H'mm.

**MR MANYI:** Without the involvement of the President. I have been saying repeatedly.

**CHAIRPERSON:** Yes. I think you have – what you certainly have said you knew was that the Minister had taken a decision to fire you.

**MR MANYI:** Yes.

**CHAIRPERSON:** That you said you knew. The other part that you have said we know namely you did not recognise that. You did not think he had that power, but that he had made a decision that you knew you did not think he had that power that much. I think we adhere.

20 **MR MANYI:** Yes and not only that ...(intervenes).

**CHAIRPERSON:** From your side, *ja*.

**MR MANYI:** Not only that Chair.

**CHAIRPERSON:** H'mm.

**MR MANYI:** I continued to get a salary.

**CHAIRPERSON:** *Ja*.

**MR MANYI:** So whatever was purported to have been a dismissal from where I was sitting ...(intervenes).

**CHAIRPERSON:** H'mm.

**MR MANYI:** Did not really happen ...(intervenes).

**CHAIRPERSON:** H'mm.

**MR MANYI:** Because how can it be if I get a salary.

**CHAIRPERSON:** H'mm. Okay. Ms Hofmeyr.

**ADV HOFMEYR:** Chair the matter of the salary. Mr Manyi is indeed correct. He did hand us the – his bank records for the period of the  
10 December payment. It requires further investigation on the part of the Commission and I propose just to highlight why that is so. Mr Manyi indicated that there was an affidavit from the Director-General of the Department of Labour confirming that he had been paid a salary for the months of November, December and January. That is indeed so.

He took us to that affidavit. That affidavit is accompanied by a further affidavit. If I can just give you the reference. Chair it is the affidavit of Mr Maduna. You will find it at page 147 of NN5.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** Mr Maduna's affidavit to the Commission followed the  
20 affidavit of the DG, because the DG said at paragraph 10 that Mr Manyi took us to.

“That from the information brought to my attention from the PERSEL or BAS indicates salary payments were made to Mr Manyi for November 2010, December 2010 and January 2011.”

So there is no dispute that he was paid for those months, but what became relevant is when he was paid for those months and that was sought to be clarified in the affidavit of Mr Maduna, because you will see there at paragraph 5 on that page it is recorded:

“From the information brought to my attention it is indicated that ...”

Oh. Apologies. I must start a paragraph above. Four:

10 “From the information brought to my attention it is indicated that when Mr Manyi’s termination was withdrawn on 31 January 2011 this required him to be back paid for the amounts not paid to him in December 2010 and January 2011. From the information brought to my attention it is indicated that this is the reason why there was an instruction to pay Mr Manyi’s to skip months of salary. From the information brought to my attention it is indicated that thereafter the salaries for December 2010 and January 2011 were paid to Mr Manyi through BAS on 7 February 2011.”

20 And then there are accompanying documents including a document date with a handwritten date 7 February. Chair, I do not want to take this any further at this point. Except to indicate, because it was one of the grounds on which Mr Manyi indicated that I was operating in bad faith. It is important to look at both affidavits.

It is my submission, but I am concerned to have received from Mr Manyi bank statements reflecting a payment. I do not propose to go



further. I would like to investigate it. So that we can get to the bottom of what is stated here as against the bank statements of Mr Manyi, but that was just ...(intervenes).

**CHAIRPERSON**: Okay.

**ADV HOFMEYR**: To complete that aspect.

**CHAIRPERSON**: H'mm.

**ADV HOFMEYR**: I would like to go back if I may to the meeting with Minister Chabane. So at that point you have confirmed for the Chair you ...(intervenes).

10 **CHAIRPERSON**: I ...(intervenes).

**ADV HOFMEYR**: Apologies Chair.

**CHAIRPERSON**: I mention for what is it worth that we are on my watch at about nine and a half minutes past 12. I simply mention that because we were looking at trying to finish at half past 12. So that we are all alive as to how much time is left. Okay.

**ADV HOFMEYR**: Thank you Chair. I am well aware of the time left. My concern is whether we will complete in that time, but should we possibly get to 12:30 and then make a decision about taking matters forward.

20 **CHAIRPERSON**: If you think there is a chance you could finish by 12:00 let us do that, but if you already know it cannot then maybe we should talk now, but I think give it a try.

**ADV HOFMEYR**: I am happy to give it a try. I am almost certain though that we will not finish and the reason for that is.

**CHAIRPERSON**: H'mm.

**ADV HOFMEYR:** I am very mindful of the focus that the Chair wanted to place ...(intervenes).

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** On the remaining evidence.

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** The challenge though is that we need to complete the transfer into GCIS.

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** There is evidence related to that and ...(intervenes).

10 **CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** And what Mr Manyi knew and who he was interacting with.

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** I then do need – I know that there is a full affidavit from Mr Manyi in response to Ms Williams, but there are particular points in that affidavit that are relevant to the issues we have been traversing with Mr Manyi today and let me just highlight what they are.

**CHAIRPERSON:** Yes. Yes.

20 **ADV HOFMEYR:** Mr Manyi made submissions – gave evidence yesterday in relation to the spend of GCIS after Mr Manyi entered GCIS and he made the point that there was never R600 million paid while he was at GCIS to TNA. It is important that we probe precisely what payments were made in the period under Mr Manyi's watch.

Quite frankly in fairness to Mr Manyi, because he says that we must look at that in order for dots to be connected in a particular

way and it would not be appropriate not to traverse that with Mr Manyi. If I am to do those aspects and also – well we want to tie up the salary aspect. It is not – it is certainly not clear to me that we would finish by 12:30.

**CHAIRPERSON**: Well if the reality is that we are not going to finish by 12:30 when Mr Manyi may have to leave, because as I understand it he has got other commitments that he needs to attend to. I think that is what he said.

**ADV HOFMEYR**: H'mm.

10 **CHAIRPERSON**: To say why it is important for him to catch the flight. Then the question that arises is whether if he is going to be asked to come back anyway. There is any point in delaying him another 15 ...(intervenes).

**ADV HOFMEYR**: H'mm.

**CHAIRPERSON**: 15 minutes ...(intervenes).

**ADV HOFMEYR**: H'mm.

**CHAIRPERSON**: Or we should let him go and catch his flight and other arrangements be made for the future. Mr Manyi do you want to say something on this?

20 **MR MANYI**: Chairperson I do not know - I ...(intervenes).

**CHAIRPERSON**: You would like to finish if you can?

**MR MANYI**: I would like to finish if I can Chair. *Ja*.

**CHAIRPERSON**: Yes. I think that is the sense I am getting.

**MR MANYI**: *Ja*.

**CHAIRPERSON**: Well I think ] from our side we are available the whole

day.

**MR MANYI:** It ...(intervenes).

**CHAIRPERSON:** Certainly from my side I was sensitive if you might have commitments that you cannot move. That you needed to honour, but if there is a chance that maybe even if we take a break. You make whatever calls that you might wish to make and make other arrangements and we are able to continue and try and finish.

We are available to do that, but I know that Ms Hofmeyr has said there are things that might need further investigation. So I do not  
10 know whether we could achieve finishing with you completely all together today or whether whatever other issues that maybe investigated might be dealt with by way of affidavit – responses in affidavit without you having to come back and give oral evidence. So all of those things could be looked at. What do you think?

**MR MANYI:** Chair, if the people doing logistics they can move – let us say the flight by one hour. Will that work for Ms Hofmeyr.

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** The challenge is we usually take the lunch adjourn. So my suggestion would be that we push the flight late enough that we  
20 can happily adjourn.

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** Come back at two and complete the evidence. I am anxious with a gap of an hour that we would be able to make three.

**CHAIRPERSON:** Well we ...(intervenes).

**MR MANYI:** Can we not take lunch at two Chair?

**CHAIRPERSON:** We can ...(intervenes).

**MR MANYI:** So that we finish at two.

**CHAIRPERSON:** We can move the lunch to later if that is going to help.

**ADV HOFMEYR:** H'mm.

**CHAIRPERSON:** So ...(intervenes).

**ADV HOFMEYR:** Certainly.

**CHAIRPERSON:** Nobody will die if we do not eat at one. So – okay and if we do it that way namely we work up to two would that give you  
10 enough time to ...(intervenes)?

**ADV HOFMEYR:** That should give enough time.

**CHAIRPERSON:** That should give enough time.

**ADV HOFMEYR:** Subject to the investigations on the salary ...(intervenes).

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** Issue ...(intervenes).

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** But as I stand here now Chair.

**CHAIRPERSON:** Yes.

20 **ADV HOFMEYR:** It does seem to me it might be the appropriate subject matter for an exchange of affidavits, we would have to evaluate the affidavits ...(intervenes).

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** When we receive them as we always do.

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** In order to determine whether it is necessary to probe further through oral evidence ...(intervenes).

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** But as I stand here now it does seem to be the type of matter that could be addressed on affidavit.

**CHAIRPERSON:** Yes. Okay. Okay. I think let us work on the basis therefore – I think is there somebody who will talk to those who do logistics to try and move Mr Manyi's flight.

**MR MANYI:** To 4 o' clock.

10 **CHAIRPERSON:** To 4 o' clock.

**ADV HOFMEYR:** We will make arrangements Chair.

**CHAIRPERSON:** If he does not get a 4 o' clock one the earliest after that. Is that fine?

**MR MANYI:** *Ja.* That is fine Chair.

**CHAIRPERSON:** *Ja.* Okay. Alright.

**ADV HOFMEYR:** Thank you Chair.

**CHAIRPERSON:** Thank you for your cooperation Mr Manyi.

**MR MANYI:** Thank you Chair.

**CHAIRPERSON:** Thank you. Yes. Let us proceed then.

20 **ADV HOFMEYR:** Thank you Chair. So I was – we were dealing with your interaction with Minister Chabane when he made the proposal to you of options and I was probing with you whether you raised at all the question of you not at that point being within the Department of Labour. Did I understand your evidence to be you had no discussion about that?

**MR MANYI:** Not at all Chair.

**ADV HOFMEYR:** So you did not query with him how you could be transferred to another department despite the fact that you – there had been a previous decision by Minister Mdladlana to dismiss you?

**MR MANYI:** No. I had never recognised that decision. I understood myself to be on precautionary suspension and I repeat, because I was getting my salary. So I understood to be on precautionary suspension. So if and I knew that on the 28<sup>th</sup> the charges that or allegations that were preferred against me were abandoned basically, because Minister Mdladlana now thought she has got a short cut to deal with  
10 this matter.

So I knew that the only most logical thing is to re-instate me as it were, because there was nothing really standing in my way. There were – the 28<sup>th</sup> was the day to sit and deal with this matter and on that day this thing was abandoned. So there was nothing really in – standing. The probation termination that she was doing it was doing – he did not even follow process.

He broke all the rules of the Labour Relations. So it was not going to stand. So the only logical thing – I was the DG of Labour and I understood these things. So the only thing that was left was just to  
20 be put back. As to the details of when and how and all of that I knew that somehow they would be taken care of.

**ADV HOFMEYR:** You indicated earlier in your testimony that you raised the issue of the charges against you with Minister Oliphant. Is that correct?

**CHAIRPERSON:** Just one second Ms Hofmeyr. Do we know whether

someone is talking to those who must move Mr Manyi's flight? Is there somebody attending to that?

**ADV HOFMEYR:** Yes. They are indeed Chair.

**CHAIRPERSON:** Okay. Alright.

**ADV HOFMEYR:** Thank you. Mr Manyi I understood your evidence to be you did not – you did raise the issue of the charges facing you when you interacted with Minister Oliphant. Is that correct?

**MR MANYI:** *Ja.* Charges/allegations. Yes.

**ADV HOFMEYR:** But you have just said in your evidence that your  
10 understanding was that they had been abandoned. Why were you raising abandoned charges with the Minister then?

**MR MANYI:** No. No. No. No. I had to give the Minister the full picture of what was happening. I probably would – *ja.* I had to give her the full picture of what was happening and that included that part. It was part of the story. There is no way that you could go and you brief the Minister and then you bring dribs and drabs of information. You must give the full picture. So I would have said that in the – in that discussion.

**ADV HOFMEYR:** Thank you and we saw the letter between  
20 Minister Baloyi and Minister Oliphant indicating that if she were to bring you back and withdraw the termination she would then need to make a decision as to whether to continue with the misconduct charges against you. Did you have any discussions with her about that?

**MR MANYI:** Not at all Chair.

**ADV HOFMEYR:** Were you surprised to learn that they were not



proceeded with?

**MR MANYI:** I beg your pardon.

**ADV HOFMEYR:** Were you surprised that they were not proceeded with?

**MR MANYI:** No. I was not surprised, because as I said I knew they were abandoned on the 28<sup>th</sup>. That was my understanding. That the lawyers that were tasked to deal with this matter came to a conclusion that no point in carrying this further. Part of the things that I was given last night is the recordal of that meeting. It is here. That – it was  
10 decided that let us just stop this thing, because there is a shortcut that we can take.

**ADV HOFMEYR:** Just for the record Chair. I absolutely accept that the transcript of that meeting indicates that the proceedings were adjourned. It is a separate matter whether the charges were abandoned at that proceeding or not, but I will not debate that further with Mr Manyi.

If we can then Mr Manyi go just to one or two follow up questions on your interactions with the former President in relation to your position after the decision of Minister Mdladlana to terminate you.  
20 You indicated that you did have an interaction with him. Can you place that in time at all?

**MR MANYI:** I cannot place that in time, but it would be in the middle of that precautionary suspension. I really cannot place the time.

**ADV HOFMEYR:** And this I assume would have occurred after the end of October 2010?

**MR MANYI:** I do not recall.

**ADV HOFMEYR:** Okay. Thank you. How would you describe your relationship with former President Zuma?

**MR MANYI:** *Ja.* President Zuma Chairperson is a very friendly person. He gets along with a lot of people and so on. So I had – like he – I let me put it this way. President Zuma had a lot of good relationships with a lot of people and I was one of them.

**ADV HOFMEYR:** Thank you and how would you describe your relationship with the Gupta family prior to your move into GCIS in  
10 February 2011?

**MR MANYI:** There was no relationship.

**ADV HOFMEYR:** Not at all?

**MR MANYI:** *Ja.* Look relationship is – relationship Chair is a strong term.

**ADV HOFMEYR:** H'mm.

**MR MANYI:** Whether I knew about them and the relationship with them are two different matters. I knew about them, but relationship with them at that point. No.

**ADV HOFMEYR:** Had you had personal interactions with them prior to  
20 that point?

**MR MANYI:** No. I do not recall Chair.

**ADV HOFMEYR:** Do you recall being invited to a New Age friendship celebration in January 2011?

**MR MANYI:** I saw that in the pack Chair. That was South Africa – that was a cricket game or something. South Africa and India and all of

that. I saw that. *Ja*. I remember that and I was invited there in my capacity as the President of the BMF.

**ADV HOFMEYR**: And did you attend?

**MR MANYI**: *Ja*. Definitely I attended Chair.

**ADV HOFMEYR**: And why do you say it was in your capacity as President of BMF?

**MR MANYI**: Because in the document it actually even shows that in the – I just do not know where to find it. If Ms Hoffman can just help us.

**ADV HOFMEYR**: Yes. Certainly.

10 **MR MANYI**: Hofmeyr. I beg your pardon. Sorry. On?

**ADV HOFMEYR**: It is at page 115 of Exhibit NN5.

**MR MANYI**: 115. *Ja*. So what is your question again?

**ADV HOFMEYR**: You indicated that you were invited in your capacity as President of BMF ...(intervenes).

**MR MANYI**: Yes. If you ...(intervenes).

**ADV HOFMEYR**: And I queried how you came to that conclusion.

**MR MANYI**: If you go to page 122.

**ADV HOFMEYR**: Thank you.

**MR MANYI**: There is my name there and there is President BMF.

20 **ADV HOFMEYR**: This guest list is this something you had seen prior to receiving the file last night?

**MR MANYI**: Yes. This is what I got in the file last night.

**ADV HOFMEYR**: So you had not seen this guest list prior to last night?

**MR MANYI**: This guest list?

**ADV HOFMEYR**: Yes.

**MR MANYI**: Unless – I think this is part of those – no, no Chair. I have not seen it. I think – but it is part of those famously known Gupta leaks e-mails and so on and I did deal with this matter even initially with Advocate Maleka. So that is why I would remember more or less.

**ADV HOFMEYR**: I understand. The invite to you is at page 115. The reason why I queried your understanding that you had been invited in that capacity is the invite does not seem to denote that. So I was just wondering at the time that you were invited did you understand that you were being invited in that capacity or did you not understand the  
10 capacity in which you ...(intervenes).

**MR MANYI**: No.

**ADV HOFMEYR**: Were being invited?

**MR MANYI**: No. I knew – BMF Presidents get invited by all these corporates Chair. So this was just one of those things ...(intervenes).

**ADV HOFMEYR**: Thank you.

**MR MANYI**: But what in fact when I was looking at this last night Chair. Just to deal with the inference in this whole discussion. It is quite important to note that there are VVIP tables where the Gupta people were and who was in those tables – on those reserved high tables. So  
20 I am not in those tables Chairperson.

There is a whole list of very important people that are in these tables. I was not in those tables. In fact if you look even in the category here I was on other e-mails sent. This is what is here Chair. So it was not like I was one of those people that were really targeted. I was just one of the many people that they invited.

**ADV HOFMEYR:** Thank you Mr Manyi and I wonder whether you are aware that there was evidence given at the Commission in August of this year by Mr Simons and Mr Hlongwane. Are you aware of that evidence?

**MR MANYI:** I saw them on TV here, but I do not have the details.

**ADV HOFMEYR:** I think you might have received a Rule 3.3 Notice in relation to Mr Simons' evidence. Is that correct?

**MR MANYI:** Oh. *Ja.* Yes. Yes. Yes.

**ADV HOFMEYR:** Amongst the things that Mr Simons testified about  
10 was he said that it had been relayed to him by Minister Chabane that he was not keen to appoint you in – well – to facilitate the transfer to GCIS. Did Minister Chabane convey that to you ever?

**MR MANYI:** No. Never.

**ADV HOFMEYR:** Never. Do you have any to dispute Mr Simons' evidence in that regard?

**MR MANYI:** I do not know if he has any evidence to back up what he said in the first place and there is – and I did respond to that invite – that correspondence that is – I was told I am implicated. I said what is implication here. You are not implicated here. He is just saying things.

20 I think that guy just really wanted to be on TV to be honest. He just came and he put words in Mr Chabane's mouth. That no one can prove otherwise. So I did not want to come here and talk about a deceased person and you say he said. That I thought was a waste of time.

**ADV HOFMEYR:** Mr Manyi you answered my question as to whether

you had a basis to dispute what Mr Simons says Mr Chabane said to him by saying Mr Simons did not have evidence to back it up.

**MR MANYI:** Did not have evidence. Yes.

**ADV HOFMEYR:** That is a separate matter. I am asking whether you have any basis to dispute what Mr Simons says Mr Chabane said to him.

**MR MANYI:** No Chairperson. This is very odd. This is a wrong question. This is a wrong question. The question here is that Brent Simons comes here and says Mr Chabane said one, two, three,  
10 four and again I ...(indistinct). I mean what has that got to do with me Chair?

**CHAIRPERSON:** Is your answer I do not know what Mr Chabane may or may not have said in the conversation with her if there was such a conversation ...(intervenes).

**MR MANYI:** Yes and ...(intervenes).

**CHAIRPERSON:** And that is all I can say?

**MR MANYI:** *Ja.* No. That is and there is no legitimate expectation that I should know. So it is a totally ...(intervenes).

**CHAIRPERSON:** H'mm.

20 **MR MANYI:** Irrelevant and irrational question to ask me and to say do I have a basis to say he is wrong. As if I should have the basis to do – to know whatever Mr Chabane thinks. No. It this is ...(intervenes).

**CHAIRPERSON:** Well you ...(intervenes).

**MR MANYI:** It is an unfair question.

**CHAIRPERSON:** Well you see some of these things you know these

are not legal proceedings like in a court. They are not court proceedings, but to a very large extent things that happen in a court set up are used. Now the reason why Ms Hofmeyr asked that question is because she probably says look in case what that witness said becomes important at some stage in the future.

We must give Mr Manyi an opportunity to say whether he has issues with that kind of evidence. Does he dispute it? Now you say look I was not there. I do not know if that conversation took place, so I really do not know, but what you might be able to say is for argument  
10 sake you know I know that witness, he is an absolute liar, he lies a lot, whatever he said can't be true or I know he has something against me and that's why he came here and he said that it can't be true, but you might not be able to say anything like that, you might say I don't know whether what he says was told to him by Mr Chabane was told to him or not, I wasn't there and I don't particularly know why he might want to lie about Mr Chabane if he is lying but I wasn't there.

So sometimes that is what happens. I mean yesterday for you I think you were here, Mr Maseko was being asked a question about why Mr Maloyi would tell an untruth and say he consulted with him  
20 before he was transferred from GCIS if actually that didn't happen, and Mr Maseko's answer was well you know maybe his speculation might not be a good thing, but maybe he is confusing what was discussed at another meeting in June/July 2011 or was it 2012, July 2011 I think with a meeting that didn't take place, so sometimes a witness can come up with something that might assist to say okay maybe that witness is not

actually lying but he is confusing certain things, so that's the reason I think why.

**MR MANYI:** Maybe then Chair closer to that I could say my understanding of the relationship of Minister Chabane and – it was his PA, I just forget his name now, very – he was here, what was this guy's name?

**ADV HOFMEYR:** Mr Hlongwane who was his Private Secretary?

**MR MANYI:** What's the first name?

**ADV HOFMEYR:** I'd have to get his statement, just give me a moment.

10 Abednigo.

**MR MANYI:** Abednigo, yes sorry, I had a mental block. You see Chair if this was said by Abednigo it would carry a lot of weight because of my understanding of the closeness of Abednigo with Mr Chabane. Brett Simons he had a relationship with Mr Chabane but it is not my understanding that it was at that level of having this kind of discussion, so ...(intervenes).

**CHAIRPERSON:** Okay thank you.

**ADV HOFMEYR:** Thank you. There was also evidence from Mr Simons that Minister Chabane had conveyed to him a concern about  
20 appointing you because you were embroiled in a scandal at the time. Did Mr Chabane discuss that with you at all when you met with him?

**MR MANYI:** No not at all.

**ADV HOFMEYR:** And at any point thereafter?

**MR MANYI:** No never.

**ADV HOFMEYR:** Mr Simons' evidence was also that Minister Chabane



said people in communication should not become the news, did you have a discussion with Mr Chabane about that at all?

**MR MANYI:** No that was, that kind of statement was part of the stratcom line that's what they have been saying. I mean when I arrived at the Department from day one that comment was made, so no Mr Chabane never said anything like that.

**ADV HOFMEYR:** Mr Manyi at the end of the expiry of your contract it was not renewed by Minister Chabane, is that correct?

**MR MANYI:** It was not renewed by Public Service yes.

10 **ADV HOFMEYR:** Do you dispute that it was for Minister Chabane to determine whether to renew it?

**MR MANYI:** Well Minister Chabane would have – look the – when I – that contract Chairperson did not have an obligation to be renewed, so there was no expectation from my side that it should be renewed so I don't know if I am misunderstanding the question, I never expected it to be renewed because that was never the original understanding, it was a fixed contract.

**ADV HOFMEYR:** No I was just in my answer – in your answer you said it wasn't renewed by DPSA and that was in response to a question  
20 about Minister Chabane having decided not to renew you so I was seeking to clarify whether you take issue with the notion that it was Mr Chabane that had to take the decision?

**MR MANYI:** Mr Chabane would have to make a recommendation to the President, he would not have been able to do that on his own.

**ADV HOFMEYR:** The evidence of Mr Simons was that the President

was not happy when Minister Chabane communicated that to him, do you have any knowledge of that?

**MR MANYI:** I have no knowledge of that Chair.

**ADV HOFMEYR:** Thank you. Mr Manyi I would then like to conclude on this aspect of your evidence if I may, do you accept that – I think it has been borne out by your testimony today that it is the President who has the – who must decide whether to transfer Director-Generals.

**MR MANYI:** Correct Chair.

**ADV HOFMEYR:** And I would like to put to you what my observations  
10 are insofar as the facts between the 25<sup>th</sup> of January 2011 and the 2<sup>nd</sup> of February 2011 are, to give you an opportunity to comment to the extent that you wish to do so, or have any knowledge of the facts on the basis of which you may dispute them. There is evidence from Mr Maseko, Mr Simons and Mr Hlongwane that Minister Chabane was instructed by former President Zuma to remove Mr Maseko from GCIS, do you have any basis to refute that?

**CHAIRPERSON:** I'm sorry, just repeat the question.

**ADV HOFMEYR:** Indeed. I indicated that there was evidence from Mr Maseko, Mr Simons and Mr Hlongwane that Minister Chabane had been  
20 instructed by former President Zuma to remove Mr Maseko from GCIS, and my question to Mr Manyi was does he have any information that would show that that evidence is not correct?

**CHAIRPERSON:** I am not sure why he would need to indicate whether he accepts it or doesn't accept the evidence as correct.

**ADV HOFMEYR:** Chair just to be clear what I was searching for in the

question it was whether he had any information that he could share with us to indicate that it was incorrect. It's along the lines of the questions previously.

**CHAIRPERSON:** Maybe the way to put it would be whether Mr Manyi whether you have any knowledge as to who initiated Mr Maseko's transfer, do you have any knowledge of that?

**MR MANYI:** No – direct answer no Chair.

**CHAIRPERSON:** Okay, alright.

**ADV HOFMEYR:** Thank you. In relation to your move into GCIS the  
10 ...(intervenes).

**MR MANYI:** Sorry Chair.

**CHAIRPERSON:** Yes.

**MR MANYI:** Can I just make sure that that no is not a no to the question that she was asking because the question she was asking  
...(intervenes).

**CHAIRPERSON:** No, no you were saying no to the question I am asking?

**MR MANYI:** No to the question you're asking yes, *ja*.

**ADV HOFMEYR:** Mr Manyi in order for you to be transferred into GCIS  
20 the decision of Minister Mdladlana to dismiss you had to be reversed, do you accept that?

**CHAIRPERSON:** Hang on, just before that I have been given a note to the effect that your flight Mr Manyi has been booked for 16:00 so that arrangement seems to have succeeded.

**MR MANYI:** Chair there is something wrong with the Chair's mic.

**CHAIRPERSON:** Oh it is on, is it better now?

**MR MANYI:** *Ja*, much better yes.

**CHAIRPERSON:** Okay, I was saying that I have been given a note confirming that your flight has been booked for 16:00.

**MR MANYI:** Thank you Chair.

**CHAIRPERSON:** Yes okay. Thank you, would you like to repeat that question Ms Hofmeyr?

**ADV HOFMEYR:** Yes in order for Mr Manyi to be transferred to GCIS a decision had to be taken to reverse Minister Mdladlana's decision to  
10 dismiss you, do you accept that?

**MR MANYI:** I accept that I had to be brought back from precautionary suspension Chair.

**ADV HOFMEYR:** Do you accept that you were very actively engaged to be brought back from a position where you were not employed by the Department?

**MR MANYI:** I accept that, I wanted my precautionary suspension to be lifted and I was talking to everybody I could speak to.

**ADV HOFMEYR:** Do you accept that until two days before the transfer took place you were not in the employ of the Public Service?

20 **MR MANYI:** I don't have any evidence of that Chair.

**ADV HOFMEYR:** So the fact that a decision on termination needed to be withdrawn on the 31<sup>st</sup> of January does not constitute that evidence?

**MR MANYI:** The 31<sup>st</sup> decision by Minister Oliphant, which happened, and I didn't have the details of the dates and all of that as to when she would have written a letter in the first place maybe to Minister Baloyi

and all of that, I didn't have those details with me, but all I knew is that following my discussion with Minister Chabane I needed to be – well in the first place Chair my understand to be honest was that if you were on precautionary suspension you are still in the system, and that's why you get paid.

**CHAIRPERSON:** You are still employed?

**MR MANYI:** You are still employed.

**CHAIRPERSON:** Yes.

**MR MANYI:** *Ja* that was my real understanding and then I keep saying  
10 that I have evidence because I was getting the salary, so I have tangible evidence to back up my contention so when the transfer happened I just – you know it was a no-brainer.

**CHAIRPERSON:** Maybe I should put this question. In order for you to be brought back to the Department, because I think that's the wording, terminology you used, you said when you I think had a meeting with Minister Oliphant at the Sheraton Hotel you wanted to be brought back to the Department. Am I correct so far?

**MR MANYI:** Yes correct Chair.

**CHAIRPERSON:** Yes, the withdrawal of this decision that had been  
20 taken by Minister Mdladlana did you think it might be something to be done in order for you to be brought back?

**MR MANYI:** Yes Chair, I thought the precautionary suspension had to be lifted.

**CHAIRPERSON:** Yes, okay there is the precautionary suspension and the decision to put you on precautionary suspension was taken months

ahead of the end of October 2010.

**MR MANYI:** Yes Chair.

**CHAIRPERSON:** *Ja*, and the decision by Minister Mdladlana not to confirm your appointment or to dismiss you, whatever the terminology is that one uses, seems to have happened roundabout the end of October 2010.

**MR MANYI:** Yes Chair.

**CHAIRPERSON:** So there was that decision that you know – you knew that Minister Mdladlana had taken, you didn't think he had power to  
10 make such a decision but he had taken it, so the question that I am asking was whether in order for you to be brought back to the Department you accepted that that decision, maybe let's say the decision that you might not have recognised, that decision might have to be withdrawn anyway, is that something that – is that one of the things that you thought maybe needed to be done in order for it to be brought back?

**MR MANYI:** *Ja* yes Chair and I understood the lasting decision a legitimate decision I understood it to be the precautionary suspension one and so to remedy that somebody must undo that.

20 **CHAIRPERSON:** Okay thank you.

**ADV HOFMEYR:** Mr Manyi a great deal happened in those days between the 25<sup>th</sup> of January and the 2<sup>nd</sup> of February. I wonder if you have any insight for the Commission as to why so much had to happen in that urgent space of time, can you shed any light on that?

**MR MANYI:** No I have no idea Chair, I was just – it happened, from

my side and I really feel sorry as to the circumstances that Mr Maseko found himself in but ...

**CHAIRPERSON:** So when Mr Chabane spoke to you about two options in regard to transfer you were in your mind on precautionary suspension, is that right?

**MR MANYI:** Yes Chair.

**CHAIRPERSON:** Do you know what his understanding was, do you know whether he understood you to be in the Department actively working as DG or did he understand that you were on some suspension  
10 or special leave or whether he understood that a decision had been made to fire you, do you know what his own understanding was as he spoke to you?

**MR MANYI:** As he spoke to me, he spoke to me as somebody who is in the system.

**CHAIRPERSON:** Okay.

**MR MANYI:** He spoke to me as somebody who is in the system, so if I was dismissed in the true sense of the word that discussion would not have happened, so in my view he spoke to me with the understanding that it is one of those fallouts and somebody is in suspension but still  
20 employed.

**CHAIRPERSON:** Do you know whether he did have an understanding that you and Mr Mdladlana had had fallout?

**MR MANYI:** It was public Chair; I am sure he must have known that.

**CHAIRPERSON:** *Ja*, but in the discussion between the two of you it did not arise?

**MR MANYI:** It was not an issue; it was not an issue at all.

**CHAIRPERSON:** Thank you.

**ADV HOFMEYR:** Mr Manyi I am struggling a little bit with your sense that Minister Chabane would have known nothing about your dismissal and let me explain why, your interactions with Minister Baloyi since that letter of the 29<sup>th</sup> of October referred repeatedly to your dismissal, your efforts to try and get it reversed. They also referred we saw the letter between Minister Baloyi and Minister Oliphant recognising that that decision would have to be withdrawn by her and that's the backdrop to  
10 at least some evidence that we have received from Mr Baloyi that he had interacted with Minister Chabane about the prospects of moves. Is it conceivable that Mr Baloyi wouldn't have communicated that to Minister Chabane?

**MR MANYI:** *Ja*, we're going to go back to tailspin Chair. I think there's a colloquial understanding of dismissal, I have said this before, and that was the going term, but all those that understand the law properly knew that that could not happen without the President, so it was just some unlawful issue that was on the table that could be resolved, and so and so, and then did they resolve their unlawfulness  
20 to restore things to normality?

**ADV HOFMEYR:** Mr Manyi I would then like to just get your comment. There are numerous documents in the file that you would have looked at overnight, indicating steps taken within the Department of Labour to give effect to our termination, are you aware of those documents?

**MR MANYI:** No I saw them last night.



**ADV HOFMEYR:** It went as far as to confirm that you had no books outstanding in the library, did you see that document?

**MR MANYI:** Ja I saw that Chair.

**ADV HOFMEYR:** So were there interactions between you and the Department about these matters?

**MR MANYI:** No, I don't remember any Chair.

**ADV HOFMEYR:** Mr Manyi let's then move if we may to the evidence of Ms Williams Chair, unless there are aspects from you on this ...(intervenes).

10 **CHAIRPERSON:** No, no that's fine.

**ADV HOFMEYR:** Thank you. Mr Manyi you have given a very, very detailed affidavit in response to Ms Williams, you criticise her on – I think it's in excess of ten times as having lied to the Commission and you recommend that charges of perjury be brought, is that a fair summary?

**MR MANYI:** Yes.

**ADV HOFMEYR:** So I understand your affidavit to take lying to this Commission very seriously?

**MR MANYI:** Yes.

20 **ADV HOFMEYR:** I would like to start with an aspect of the evidence of Ms Williams that relates to ...(intervenes).

**CHAIRPERSON:** I'm sorry Ms Hofmeyr to which bundle should we move now?

**ADV HOFMEYR:** Right, so what you have is you have already, NN2 which is Mr Manyi's response to Ms Williams but what I also have

available for you is Ms Williams' own affidavit and so if I could beg leave to hand that up. That is NN6.

**CHAIRPERSON:** Okay, thank you.

**ADV HOFMEYR:** Mr Manyi has a copy already. Chair you may recall from the evidence of Ms Williams that – well it was the evidence of Ms Williams and then the evidence of Mr Manyi on the last occasion, you had requested that there be further information obtained by the Commission to give an indication of the comparative spend between various newspapers at the pertinent time. The reason why there was  
10 some information that Mr Manyi had provided to the Commission, but it became unclear as to the amounts that were being paid to News Houses as a conglomerate as distinct from the various newspapers themselves, so that was one thing you requested, it was the GCIS spend and that's and that's aspect that Ms Williams takes up in her affidavit.

On the last occasion that Mr Manyi gave evidence he was also asked about his support for the New Age and he gave evidence there and you repeated it in your affidavit in response to Ms Williams' affidavit, if I could take you there, it is in NN2 at page 21.

20 Mr Manyi if you will just read what you say in your affidavit at paragraph 63 on page 21.

**MR MANYI:** Okay the thrust of my argument for the New Age was value for money based on quantum dissemination and their anti-hostile yet balanced posture towards government.

**ADV HOFMEYR:** And then further down on that page at paragraph 65

sort of two thirds into that paragraph you record there for GCIS communication is serve delivery. If government messages are not reaching communities then GCIS is not doing its job, that's your evidence, is that correct?

**MR MANYI:** That's correct Chair.

**ADV HOFMEYR:** In your evidence on the 26<sup>th</sup> of November, last year, you gave an explanation about why target markets are important, do you recall that?

**MR MANYI:** Yes Chair.

10 **ADV HOFMEYR:** As I have that evidence you said that – it was quite an interesting way to put it, you said Departments do not advertise because they are bored, you said they advertise because they want to communicate a particular message to certain people to say we want this message to go to this target market, do you recall that evidence?

**MR MANYI:** *Ja* I recall that.

**ADV HOFMEYR:** Just for the record Chair it is at page 129 of the transcript of the 26<sup>th</sup> of November. Mr Manyi with that backdrop in place I want to make sure that you and I are on the same page about one or two aspects, circulation of newspapers is different to their  
20 readership, do we agree on that?

**MR MANYI:** Yes sure.

**ADV HOFMEYR:** And the Audit Bureau of Circulation colloquially referred to as ABC, deals with circulation, correct?

**MR MANYI:** That's correct Chair.

**ADV HOFMEYR:** And that is distinct from readership which I want to

come to in a moment. I want to just indicate to you that in the evidence of last week before the Commission there was an affidavit entered from ABC, which indicated that TNA was never a member of ABC nor accredited, does that accord with your knowledge?

**MR MANYI:** Yes, correct.

**ADV HOFMEYR:** And as I understood your previous evidence TNA had relied on its own auditors to provide circulation numbers, is that correct?

**MR MANYI:** That's correct.

10 **ADV HOFMEYR:** And did you rely on those figures when you gave support to placing advertisements in the TNA?

**MR MANYI:** Chair let me put it this way, the day to day operations that's why part of the recommendations I had made to this Commission is that they should invite the guy who was doing the actual job, who is Donald Diphoko, that is the media buyer, he is the guy that makes this kind of a call and does that. Here I am talking as the head of department supporting what my people are doing as it were, that's what I was doing, so whatever they were doing the nitty-gritty of those things is done at a different level but overall I support what they were doing,  
20 but I was – there was not a day where I went to sign that this must go left, this must go right, not a day that I did that, but I knew that it was done at a different level and I was supportive of what was happening there.

**ADV HOFMEYR:** Would it cause you concern if you understood that that media buying department within GCIS was relying on non-

accredited circulation figures from a publication?

**MR MANYI:** No I wouldn't be concerned Chair because I understand the industry. I wouldn't be concerned at all because firstly you need to – people need to understand that this ABC is something run by call it media cartel so to speak. In South Africa there is only the big four in media. So these are the people that do this and this thing actually Chair has got serious implications for those that want to get into the media space because what happens Chair they sit there, the big four, your TISA Blackstar, they have got a new name now, and your Caxton  
10 and your Naspers and there's an independent group as well, so there's four of these groups, they basically run the show, everybody – so what they do with these audited figures of theirs, that figure becomes a – something that a media buying house uses to decide where to place ads and so on, and depending on what comes out of there also talks to the price, the rate card that they charge for that particular advert, so what this thing does is that if a new player coming in you don't have enough of the circulation to be able to be a member of this elite group and now you have got media buyers that are sitting and all they want to deal with is the elite and yet we've got a government position that  
20 wants to broaden and I have made this point before that government is so serious about helping media that government even have a media development agency, MDDA, that is meant to encourage all of those people that are in the MDDA Chair are not members of ABC, but we advertise with them.

So if my – if the team I used to lead wanted to advertise to

people that are not in ABC I would encourage that because that would grow many voices, one message, many voices used to be the motto, so *ja* I would not have a problem with that at all.

**ADV HOFMEYR:** Mr Manyi my understanding of the process with ABC is that you become a member, you hand over your information about circulation it is interrogated by ABC and then you get a certificate of circulation. Is your understanding the same as mine?

**MR MANYI:** *Ja*, that's correct.

**ADV HOFMEYR:** Why could there possibly be a problem for a new  
10 entrant to become a member, hand over its circulation figures, have them audited by the accredited body and then get a certificate confirming their circulation?

**MR MANYI:** It is an election that you make to be part of that group Chairperson, it is an election that you make, so if you decide that you will have your figure audited differently there is no law that says you must use ABC, it is your democratic right not to use them. There is no law.

**ADV HOFMEYR:** No indeed it is the recognised industry body though is it not?

20 **MR MANYI:** Like many are. I mean even auditors are recognised.

**ADV HOFMEYR:** So did you ever make any enquiries as to the information from TNA's auditors that were being supplied to GCIS?

**MR MANYI:** *Ja*, see this is another operational issue Chair that somebody at that level they will do a deal with those nitty-gritties but I would know that as they do these things they do those checks, so that's

done at a different level, I didn't do that personally, because it was a delegated authority, so somebody DDG level or Chief Director level will be doing that.

**ADV HOFMEYR:** If you were to be told that no attempt had been made to obtain those audited figures prior to placing of advertisements by GCIS in TNA would that cause you concern?

**MR MANYI:** Not even check the audited figures?

**ADV HOFMEYR:** Yes.

**MR MANYI:** *Ja*, that would cause concern yes.

10 **ADV HOFMEYR:** Okay let's move to the audited figures when they might have been available. Is it not the role of an independent body like ABC to be able to interrogate whatever the auditors are handing over as alleged sales numbers, is that not a role that an independent accreditation body plays?

**MR MANYI:** No, they do that for their members Chair, they don't do that for everybody on the street.

**ADV HOFMEYR:** But unless you are going to an independent body to get that certificate then when you decide to place spend with TNA all you would be relying on is the sales numbers that come out of the  
20 audited financial statements of that business, is that correct?

**MR MANYI:** No, no what the auditors audit is the print-run which is the same as like circulation, so that is what they would audit, so if somebody if a registered auditor said they sign off on these are the numbers those are the numbers.

**ADV HOFMEYR:** Are you aware that freebies, newspapers that are

handed out for free, shouldn't be counted in the circulation numbers?

**MR MANYI:** Yes I am aware because they – there is a price issue and you see this is – I am ...(indistinct) to raise this Ms Hofmeyr because this is part of the business model that are in place. Now you find that an organisation let's say like TNA has got that understood that they must assist government as a partner to spread the word about government work, some of their copies would be sold, some would be sold on subscription and some would be sold on the corner and actually when you say freebies I am not even aware that they were giving  
10 freebies, but they would make sure that there is as wide a circulation as possible, *ja*, in fact they would actually even leave them at the airport some of them, and all of that *ja* so their aim was to make sure that the message goes out there.

**ADV HOFMEYR:** Mr Manyi there has been quite extensive evidence before this Commission that TNA, I have used the colloquium freebies, but that they were making available to State Owned Entities and departments numerous free copies of the TNA, were you not aware of that?

**MR MANYI:** I understood those to be subscriptions Chair, not  
20 freebies.

**ADV HOFMEYR:** No the evidence is that they were for free.

**MR MANYI:** No you see one of the reasons Chair when I took over that killed TNA is because the big subscriber, Free State and others, stopped subscribing, so that stopped the money flow so that was one of the killer punches as it were, so your understanding and mine are not



the same.

**ADV HOFMEYR:** Right, if you were to be told that as a matter of fact the TNA was distributing for free numerous of their newspapers would you then accept that relying on audited figures that have their base only in a print run would not be accurate.

**MR MANYI:** No that doesn't make sense, what you are saying. If Chairperson I have printed 100 copies, whether I have sold them or I have given them away I have printed 100 copies, so what difference was it make whether I have sold them or I have given them away, I  
10 have printed 100 copies.

**ADV HOFMEYR:** Mr Manyi it matters because of an answer you gave earlier. You accepted earlier that circulation should not include newspapers that are given for free, do you remember giving that answer?

**MR MANYI:** That's how I was not – yes I gave that answer, that's how they measure circulation but here we are talking about the print-run, I am answering a different question now, that what is the veracity of circulation of somewhere that gives things away, things for free, now my answer is that – and to complete that therefore what is the  
20 reliability of audited versus ABC, so the answer to that is simply that if you have printed 100 copies you can give all 100 copies away, they don't stop circulating in the community because you gave them for free, so the fact that the other system requires people to pay is neither here nor there.

**CHAIRPERSON:** But isn't the position about circulation, isn't the

question, isn't the significance of circulation numbers that whoever wants to know what a newspaper's circulation is wants to know how much on demand that newspaper is to the public, and that if people spend money to buy it, they must be attaching a certain value to the newspaper that they are prepared to spend money, and that the difficulty if one simply takes the number of newspapers that have been printed is that – that might not reflect its true demand if actually it's not that people buy X number of newspapers, copies per day or whatever from the newspaper but it's just given for free, isn't that the  
10 significance?

**MR MANYI**: *Ja*.

**CHAIRPERSON**: Or do I misunderstand something?

**MR MANYI**: *Ja*, let me explain this Chair.

**CHAIRPERSON**: Yes.,

**MR MANYI**: You see this whole debate is not a mechanical debate, because if the Chair's theory was correct then everybody would be advertising in the Daily Sun. The Daily Sun is the biggest newspaper in town, it is the biggest – there is nobody as we speak that competes with the Daily Sun in terms of circulation, but ...(intervenes).

20 **CHAIRPERSON**: No, that's quite interesting.

**MR MANYI**: Yes, it's the Daily Sun but it is not everybody that advertises in the Daily Sun despite that it is the biggest newspaper, and the reason is because of the profile of the people that are interested in the Daily Sun are not necessarily the profile of the people to who we want to go and explain a particular case law story and so on,

they are not the type of people that would do that.

So therefore the issue ...(intervenes).

**CHAIRPERSON**: Like a Business Day kind of ...(intervenes).

**MR MANYI**: Like a Business Day yes, yes.

**CHAIRPERSON**: Or the Star.

**MR MANYI**: That's right Chair, because there's – there's two elements to this, there's numbers and there's a target market, so the psychographics is part of this thing, so people that use these numbers blindly miss that thing. In my last testimony I used the word spillage  
10 for instance, that you can go and put very valuable information but it will land in that are never, ever going to use it, because it is not in their interest, so when you do advertising with a particular newspaper you must know who are the type of people that read that particular newspaper, that's your target market, so that's the essence of this thing, and with the New Age the issue as well Chair is that I when I was there the issue was to – I had a particular interest, my interest was government interest, my interest was to disseminate government information.

Now then there's posture by the ABC crowd, the posture by the  
20 ABC crowd is that if you want to communicate anything take an advert and so on, we are not going to communicate it for you, so I used to complain that I would go and read a press statement of 10 pages and then the next day I buy all these newspapers to see how much of that was covered, I'll be likely to get one sentence, and the beauty of the New Age was that they understood that they need to disseminate this

information, so therefore it's something that you would embrace, that here is a newspaper that is willing to fulfil the service delivery of the GCIS which is dissemination of information, when others when they come to you they come to you ready with their own questions, doesn't matter what you say, they just tolerate you, read you ten pages and they come and ask you about something that happened last week or some other scandal or whatever, and they report about how you responded to that or whatever, so that's what they are interested in and this is what happens in the media space.

10           So when I say the editorial approach of TNA was in line with what government really is yearning for, I say that even today, I think government misses TNA even today.

**ADV HOFMEYR:** Mr Manyi ...(intervenes).

**CHAIRPERSON:** Ms Hofmeyr?

**ADV HOFMEYR:** Apologies, thank you Chair. The Chair's question related to circulation and you will recall when we began this discussion I confirmed with you that circulation is different to readership, do you recall that?

**MR MANYI:** I make that same point in my submission.

20   **ADV HOFMEYR:** Yes, so your answer to the Chair at the moment has moved into readership which I absolutely accept is entirely – it is critical to know what the readership of a newspaper is in order to establish that you're getting to the target market you want. So take that as given, but I would like to focus on circulation, because the question at the moment is was it reasonable to place advertisements in

the TNA where they had no accredited circulation figures and the only offering for circulation that they gave, if they did give it to GCIS, was the information from auditors based on print runs and that as I understand it was where the Chair's question came from, because print-runs are not going to give you an indication of the level of demand for a newspaper if there's a substantial portion of those newspapers that are being dropped at departments and SOE's for free.

Let me just before I ask the question give you the background. We have had evidence before, last week, from Mr Pretorius in which he  
10 said the challenge when they're being dropped off at departments and state identities is you actually don't know if people are picking up the newspaper to read it, because they haven't had a cash transaction indicating their interest in it is that they could be picking it up to take it home to wrap their moving goods in, so my question to you Mr Manyi is would it be of concern to you if GCIS was making decisions to place advertisements with TNA in a situation where the only information they had about TNA circulation was based purely on print-run figures?

**MR MANYI:** No I would not have a problem for reasons explained.

**ADV HOFMEYR:** And those reasons relate to readership, is that  
20 correct?

**MR MANYI:** It relates to readership yes.

**ADV HOFMEYR:** Right let's go to readership because I put it to you Mr Manyi readership is a separate issue from circulation.

**MR MANYI:** I know, I know, but TNA also measures readership.

**ADV HOFMEYR:** Indeed, so let's go to what was known at the time

that you took over at GCIS about the readership of TNA, and we can find that in Ms Williams' affidavit, it is an annexure there, and that Chair is in the bundle that has been marked NN6.

For convenience Chair I submit that it be entered into the record as Exhibit NN6.

**CHAIRPERSON:** The lever arch file that contains Ms Mary Mphumla Williams affidavit dated ...(intervenes).

**MR MANYI:** Page

**ADV HOFMEYR:** If you will just wait for the Chair.

10 **CHAIRPERSON:** Dated – do you have the dates Ms Hofmeyr?

**ADV HOFMEYR:** I should Chair, if you will give me one moment, I think it was the 22<sup>nd</sup> of February, let me just check, I recall that because Mr Manyi made reference to it.

**CHAIRPERSON:** Yes, dated 22<sup>nd</sup> February 2019 is to be marked Exhibit NN6. *Ja.*

**ADV HOFMEYR:** Thank you Chair, and then if we can go to page 316 of that Exhibit NN6.

**CHAIRPERSON:** I see there are black and red numbers more or less at the same place, do we stick to the red numbers, page numbers?

20 **ADV HOFMEYR:** Chair I don't have a version with red numbers, so I am going to have to ask my – oh they're the same, they're the same, so 316, you can use either Chair.

**CHAIRPERSON:** It does look like it's the same number, 316 you said?

**ADV HOFMEYR:** Yes, 316 indeed. Mr Manyi as I understand Ms Williams' affidavit this is a summary that has been put together of the

readership of the Top Ten Newspapers, and then the TNA over the periods 2010, 2011, 2012 and 2013, do you understand this document in the same way as I do?

**MR MANYI:** Yes sure.

**ADV HOFMEYR:** And what is indicated there insofar as the New Age Newspaper is concerned which is in the bottom line of the table before that square box. In 2010 it indicates that it was not included for measurement, it seems to me that may have to do with the fact that its first newspaper was only printed on the 6<sup>th</sup> of December 2010, is that  
10 correct?

**MR MANYI:** Yes correct.

**ADV HOFMEYR:** So what we have in 2011 readership for New Age is an indication that it is not in the Top Ten, the Top Ten are those that proceeded as I understand this page, and then there's a 39 000 indicated there with an asterisk and if you go to the asterisk explanation at the bottom of the page it says unstable and two asterisks means highly unstable and then the comment there is:

“Less than 40 respondents claim to have read the paper,  
treated with caution for decision making.”

20 Do you see that?

**MR MANYI:** Yes.

**ADV HOFMEYR:** So if you had been making the decisions in GCIS whether to place advertisements in the New Age in 2011 would it have caused you concern that those compiling these readership statistics indicated that they were unstable for TNA, that less than 40

respondents have claimed to read the newspaper and that it should be treated with caution for decision making?

**MR MANYI:** No I would not be concerned Chair, because it's a new newspaper. I think it started in 2010, this is comparing apples to pears so if you understand how business develops you would know that the first three years are the most difficult years but if you were to take a view that all those that are in the development phase must not be supported then they will never have competition in this country, this is why I have got all these monopolies, it is because of this kind of  
10 attitude towards new entrants as it were.

To go further Chair just to talk to the issue of target marketing government has got 34 departments more or less, at a high level or national level, if I was an advertiser and I knew that there is a government magazine that all the DG's read, it's only 34 DG's, if I knew that this public sector, the magazine they call public sector if I knew that there's a public sector magazine that every DG has got on their table, they read this magazine, it might have a circulation of 1 000 this public sector magazine.

You might have another big magazine on the other side, call it  
20 Koffiehuis or You or whatever you call it, it has just got a print-run, circulation whatever of 100 000 but it's going to be some – it is going to be read by housewives etcetera, people that are at a particular space. Here I am a businessman and I am interested in the attention of the DG's, here is a newspaper that is – or a magazine, that is read by a 1 000 people but within those thousand people 34 of them are the



people we are really targeting, where do you think I am going to go?

I am not going to go to this big circulation of housewives magazine, I am going to go to this one, so this is the understanding that must be brought on board about niche newspapers, about target marketing that when you advertise, when you have a relationship with the newspaper you have it with them because they – because they can reach the target market that you are looking for, so *ja*.

So this is not Top Ten does not surprise me because we're dealing with old hands in the business, these are new entrants, you  
10 can't expect a new entrant to rush it up to a serious number on the first three years, so this was just to be expected.

**ADV HOFMEYR:** Mr Manyi I accept that in the first ...(intervenes).

**MR MANYI:** And to be supported.

**ADV HOFMEYR:** Yes, Mr Manyi I would like to separate two things in your answer.

**MR MANYI:** H'mm.

**ADV HOFMEYR:** You have given an answer that says new entrants need to be supported.

**MR MANYI:** Correct.

20 **ADV HOFMEYR:** That's one matter. The separate matter is when Government spends public money to advertise in newspapers, whether it is going to reach its target market, do you accept that those are two different things?

**MR MANYI:** Can you rephrase that or repeat that?

**ADV HOFMEYR:** Yes sure. There might be two reasons why

government spends public money on advertising, the first might be exclusively to support new entrants, no matter who is reading the newspaper but to give them a foot-up, do you accept that?

**MR MANYI:** Yes.

**MS HOFMEYR:** There's another reason why government might spend public funds on newspapers and that is because they want to reach a particular target market, do you accept that?

**MR MANYI:** Yes, yes I do.

**ADV HOFMEYR:** Let's focus on the latter, if we may, because your  
10 consistent evidence before this Commission is that reaching your target market is a critical component of a decision to spend on advertising, is that correct?

**MR MANYI:** Yes.

**ADV HOFMEYR:** If you are dealing admittedly with a newspaper not in the Top Ten, but a newspaper who the source of information on its readership indicates less than 40 respondents have read and that it should be treated with caution for decision making, how can you have any confidence as to the target market you want to reach?

**MR MANYI:** No you see, you see Chair it depends, the industry is  
20 monopolised, this industry is monopolised, so if you have got the owners of the industry that are making all kinds of comments that undermine new players you expect that and you have to work within that, but the nub of the answer is that if we have a situation Chairperson where their spend on this particular newspaper was so out of proportion with the others then we can have a discussion and I have

figures here that would show you Chairperson, in fact I submitted this is in my last submission, and I have got them here, just to show that in fact the government did not stop working with the – these monopolies, did not stop working with Naspers, working with all of them, did not stop, so we are not having a discussion here about a government that decided at some point to stop doing business with everybody but focus on this one, they were getting in context, it's probably about 4% or so, a bit more than 4% of the total spent of everything, so we can burn energy, but we are burning energy on 4% and this argument is that  
10 spend zero and so on, so .....(intervenes).

**ADV HOFMEYR:** Mr Manyi I would like to focus on the 4% and the rationality of government departments, including GCIS, placing advertisements in a newspaper that has less than 40 respondents reading it and in respect of which there is a caution for decision making.

Is it your evidence that it is rational to place an advertisement and spend public funds in the TNA if that is what you know about its readership?

**MR MANYI:** I don't know the reliability of these notes here, I don't  
20 know the reliability of these notes here.

**ADV HOFMEYR:** Do you have a basis to dispute them?

**MR MANYI:** That's your favourite question.

**CHAIRPERSON:** Well maybe if you don't know the reliability of those notes Mr Manyi maybe you could deal with the question on – and say assuming that they are reliable what would be your attitude, if they

were to be reliable or if they were reliable at the time.

**MR MANYI:** Okay here Chairperson we are dealing with a comparison of veteran newspapers, comparing them to a new entrant. The new entrant is launched in 2010 – December 2010, so we can even discount 2010, but already I think this comparison itself is malicious, in 2010 this newspaper the amount of time they had was probably a couple of weeks before end of the year, it launched somewhere end of December – somewhere in December 2010, this newspaper, so then 2011, 2012 are the teething years for this newspaper, so anything that would be  
10 written that is not complimentary is to be expected, but if you are going to take that to heart then Chairperson you will never have new entrants so these kinds of comments you can expect them from new entrants. If this was the case to an established that has been there for years and so on I would then get very worried but if it is said to a new entrant I will say okay you are not telling me anything that I didn't expect, so I note and we proceed.

**ADV HOFMEYR:** Mr Manyi do you then accept that your decision to place advertising spend with that newspaper is to support a new entrant and isn't linked to getting your message to a desired target market.

20 **MR MANYI:** No it's both, it's both, because to get to the target market you have an entrant that has got an appropriate strategy for that target market, the fact that the rest of the cartel has got a different view is noted.

**ADV HOFMEYR:** Mr Manyi you keep giving an answer that indicates a comparison with what you've described as the cartel or the monopoly.

I preface my questions, I am not for present purposes interested in the 96%, I am interested in the rationality of the spend of the 4%, I don't want to take this point further, I put it to you that it is irrational for government in the form of GCIS to spend money on the TNA if it has less than 40 respondents reading the newspaper and there's a caution for decision making, do you want to comment on that?

**MR MANYI:** *Ja*, I disagree with you, I think your summary is devoid of the developmental agenda of government, your summary is devoid of the experience of the new entrants in terms of barriers into the industry, so that kind of posture is the kind of posture that is causing huge inequalities in this country because everyone wants you on day 1 to be 100 meters sprinter, nobody wants to invest in you and grow with you.

So what would be useful by those that were doing this is to go to the first 10 years – first three years of these publications and compare them with this publication, that would have been a useful comparison. This comparison given here is a totally useless comparison because you are taking veteran newspapers and comparing them with a newspaper – this comparison on its own is totally irrational and devoid of any logic.

**ADV HOFMEYR:** Mr Manyi I would then like to move to the question of spend of TNA, and Chair and Mr Manyi you will pick up the information that was supplied by Ms Williams and GCIS's records at page 353 in that same Exhibit NN6.

**CHAIRPERSON:** 353?

**ADV HOFMEYR:** Indeed.

**CHAIRPERSON:** Okay. Yes I see we are at 13:30, how are we doing?

**ADV HOFMEYR:** I am optimistic that we will finish in time for our suggested 14:00 end.

**CHAIRPERSON:** Yes, I think I will need that we take a short break. Earlier on Mr Manyi when our flight was at an earlier time you said you could make it if you left at 12:30, which seem to give me the impression that's one and a half hours before departure. If we go beyond 14:00 because of the break that I am proposing you will still be more or less  
10 okay.

**MR MANYI:** I will be more or less okay yes Chair.

**CHAIRPERSON:** Okay, could we therefore take just a 15 minutes break and come back at quarter to two. If we do that I think we would aim to finish by at least not later than 14:15, would that more or less be fine with you Ms Hofmeyr?

**ADV HOFMEYR:** That seems fine to me.

**MR MANYI:** That's fine with me Chair.

**CHAIRPERSON:** Okay, alright.

**ADV HOFMEYR:** We are grateful for the break Chair, thank you.

20 **CHAIRPERSON:** *Ja*, let's take a break now, so it is half past, we will resume at 13:45. We adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**REGISTRAR:** All rise.

**CHAIRPERSON:** Yes Ms Hofmeyr.

**ADV HOFMEYR:** Thank you Chair. Before the adjournment we were in Exhibit NN6 at page 353. Chair and Mr Manyi this is part of the information that was produced pursuant to your request Chair that there be a breakdown per newspaper of the spend of GCIS over the period. And Mr Manyi I accept that the period spans time greater than the time that you were in GCIS and so I would like to focus on the two years in which you were there. That would cover on my understanding both the 2011/2012 year as well as the 2012/2013 year because you exited GCIS  
10 after the end of the financial year in 2012, is that right? Oh if you will just put on your microphone.

**MR MANYI:** I beg your pardon. Yes that is correct.

**ADV HOFMEYR:** Thank you. So if we start at page ...(intervenes).

**MR MANYI:** So 11/12, 12/13?

**ADV HOFMEYR:** Correct.

**MR MANYI:** Ja.

**ADV HOFMEYR:** Those are the two years we will focus on. And if we start with 2011 to 2012 it is at page 353. You will see right at the bottom of the page there the indicated spend on the New Age. Do you  
20 see that?

**MR MANYI:** Yes I do.

**ADV HOFMEYR:** And that is in the order of R6.3 million, correct?

**MR MANYI:** Yes.

**ADV HOFMEYR:** And then what you get to compare that to because now I am interested in the comparison is the spend on other

newspapers. So amongst them you will see in the third line down is the Sunday Times and the Sunday Times received spend from GCIS in that period of R8.4 million or thereabouts. Do you see that?

**MR MANYI:** On the same 353 Sunday Times?

**ADV HOFMEYR:** Yes so if you look down on Avusa it is the third line in that top block and you go across.

**MR MANYI:** Oh yes okay right at the top yes.

**ADV HOFMEYR:** You have got Sunday Times at R8.4 million, correct?

**MR MANYI:** Yes, yes correct.

10 **ADV HOFMEYR:** That is as I cast my eye down this table the highest spend in that year, is that also your understanding of the page?

**MR MANYI:** *Ja* in this page as reflected here that is correct.

**ADV HOFMEYR:** And the next highest is the New Age, is that correct?

**MR MANYI:** Yes that is correct.

**ADV HOFMEYR:** And the Daily Sun which you indicated earlier has the greatest circulation in the country you will see towards the bottom of the last block, second line from the bottom there. It says Media24 Daily Sun was R2.6 million thereabouts, do you see that?

**MR MANYI:** H'mm. It is correct.

20 **ADV HOFMEYR:** What concerns – what I notice about this page is that the spend on the New Age is second only to the Sunday Times and ...(intervenes).

**CHAIRPERSON:** Please help me where is the New Age? I am trying to ...(intervenes).

**ADV HOFMEYR:** Apologies Chair it is right at the bottom of the page



outside of a block at all. Do you see right at the bottom of 353?

**CHAIRPERSON**: I am at 353 and ...(intervenes).

**ADV HOFMEYR**: You have got a block for Avusa. You have got a block for Independent Newspapers. You have got a block for Media24 and then below the block for Media24 the last line on the page reads the New Age R6.3 million.

**CHAIRPERSON**: At page 353?

**ADV HOFMEYR**: Yes Chair we – you may be in the wrong file.

**CHAIRPERSON**: I know I have taken off my specs but ...(intervenes).

10 **ADV HOFMEYR**: Oh no. Are you in the Exhibit NN6?

**CHAIRPERSON**: You see my – on my – the last – oh outside. So I am looking inside.

**ADV HOFMEYR**: Yes indeed I do apologise.

**CHAIRPERSON**: Oh okay.

**ADV HOFMEYR**: It is odd that you have got three blocks and then something located beyond them.

**CHAIRPERSON**: Yes okay. Okay, okay now I see it. Okay.

**ADV HOFMEYR**: I think the reason for that is that there were no other publications. think the reason for that is that there were no other  
20 publications.

**CHAIRPERSON**: *Ja*.

**MR MANYI**: In The New Age.

**CHAIRPERSON**: Okay.

**ADV HOFMEYR**: Whereas the others have to be divided.

**CHAIRPERSON**: Yes.

**ADV HOFMEYR:** Insofar as Avusa is concerned between the Herald, Avusa Media, Sunday Times etcetera.

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** And what I was saying to Mr Manyi is that the highest spend on this page is R8.4 million and that is to the Sunday Times. Daily Sun receives in the order of R2.6 million but The New Age receives R3 – R6.3 million which is the second highest spend in that year. Do you read the table in the same way as I do Mr Manyi?

**MR MANYI:** Yes it is correct.

10 **ADV HOFMEYR:** Now that seems to me to raise a question. Why would The New Age in its first year given the challenges that we have traversed in the evidence already about its circulation and the concerns raised by the persons who did research on readership still command the second highest spend within GCIS?

**MR MANYI:** Okay. Thank you Chair. I am happy that you picked up Sunday Times which in fact is a good example of how people distort comparisons. Sunday Times is a once in seven day's newspaper. New Age is a five day newspaper. So why on earth would anyone compare what you spend on the once in seven days with a five day newspaper?

20 The comparison is absurd, totally absurd.

**ADV HOFMEYR:** Thank you. Please identify another five page – five day newspaper on this page? Is Daily Sun not a five day newspaper?

**MR MANYI:** But I thought we have discussed the Daily Sun?

**ADV HOFMEYR:** No it is ...(intervenues).

**MR MANYI:** It is but the same criticism can be made across many

people that Daily Sun does not attract as much advertising spend as others because everybody understands the issue that we – I spoke about that target marketing.

**ADV HOFMEYR:** But you had no idea of the target market of the New Age?

**MR MANYI:** No well when I say target market I am talking – I do not know what ...(indistinct) say I do not know, I have no idea, I do not understand the question. Maybe repeat – what are you saying?

**MR MANYI:** I was referring to the evidence earlier. There was no  
10 information before GCIS based on what we have seen in these papers that gave it any confirmed indication of a readership beyond 40 respondents, do you accept that?

**MR MANYI:** No I do not accept that because as I said earlier that I do not know who put that together, what is the voracity of what they have put here together.

**ADV HOFMEYR:** Right. So let us as the Chair suggested earlier let us assume that these facts are accurate.

**MR MANYI:** Let us assume that these facts are wrong?

**ADV HOFMEYR:** Well I cannot have a debate with you Mr Manyi and  
20 yes I have alternative facts on which to base the questions.

**CHAIRPERSON:** Maybe let us put it this way. If these facts were correct would it affect your answer in any way or whatever the facts are around that it would not affect your answer and your approach or attitude towards supporting the New Age?

**MR MANYI:** Can she repeat the question then Chair?

**CHAIRPERSON:** Okay maybe let– okay can you repeat it Ms Hofmeyr using ...(intervenes).

**ADV HOFMEYR:** Yes I am happy to Chair I was just worried that it was your question at this point but ...(intervenes).

**CHAIRPERSON:** *Ja* using my formulation maybe.

**ADV HOFMEYR:** But let me do so. Mr Manyi we have to take the debate on the basis of the facts that are here. So if it is accepted for the purposes of the question that the TNA had only 40 respondents identified in the year of 2011 that had read the newspaper. That target  
10 market is extremely small, is it not?

**MR MANYI:** Based on those circulation figures yes.

**ADV HOFMEYR:** Thank you. Those are readership figures just for the record. Then we move to your evidence a moment ago. You first disputed the comparison I drew between the Sunday Times and the New Age on the basis that the Sunday Times circulate once a week and the New Age circulates five times a week which I understand. That is why I moved the question to well let us find another five day circulating newspaper.

**MR MANYI:** Chair.

20 **ADV HOFMEYR:** I identified the Daily Sun.

**MR MANYI:** Can I?

**CHAIRPERSON:** Mr Manyi.

**MR MANYI:** Can I make this point? The day – let us compare the Daily Sun with an unparalleled circulation with the Sowetan and in this table here the Sowetan in 2011/12 according to this table got R4 million. And

if we go to that page so that we just stick with the facts we do not have alternative facts the page that we were pointed to initially with that circulation numbers or readership numbers. Chair.

**CHAIRPERSON:** Ms Hofmeyr will be trying to help you with ...(intervenes).

**MR MANYI:** Yes can she please help us with that?

**ADV HOFMEYR:** It is page 316.

**CHAIRPERSON:** Okay.

**MR MANYI:** Now Chairperson look at this. You can take any column.

10 Let us take the first column. Daily Sun has got R5 million in terms of the circulation figure. And Sowetan has got only R1.5. But here in these figures here Sowetan with R1.5 ...(intervenes).

**CHAIRPERSON:** You now going back to 353?

**MR MANYI:** Oh sorry yes.

**CHAIRPERSON:** Yes.

**MR MANYI:** Yes. Sowetan with – in fact just so that we can compare like with like let us go to 2012 Chair on the readership of 2012 on that 316 that we ...(intervenes).

**CHAIRPERSON:** Yes.

20 **MR MANYI:** *Ja*. Now you have got Daily Sun at 5.5 million readership. And then you have got Sowetan at 1.6 million. But on the Daily Sun how much we spend. On the Daily Sun we have spent

**ADV HOFMEYR:** R2.6 million.

**MR MANYI:** R2.6 here it is a R5 million. So what is the rationale? Why is – just compare veteran to veteran? Why spend R2.6 million on

a R5.6 million circulation and spend almost double the amount on something that is 1.5? And I can give you the answer.

**CHAIRPERSON:** I – my mind is still stuck on the point that you and Ms Hofmeyr were dealing with much earlier and it may be that the point that you are raising is another point. You raised the criticism that you cannot compare a five day newspaper with a one day a week newspaper.

**MR MANYI:** Yes.

**CHAIRPERSON:** Which I understand. Then she said let us look at  
10 another five day newspaper.

**MR MANYI:** Yes.

**CHAIRPERSON:** Now I was waiting that we go there and compare and then see what we – what emerges. But you have drawn my attention to I think the Sowetan.

**MR MANYI:** Yes the Sowetan versus the Daily Sun.

**CHAIRPERSON:** And what I believe to be a one day a week newspaper or am I wrong? The other newspapers ...(intervenes).

**MR MANYI:** No the Daily Sun is every day.

**CHAIRPERSON:** Oh the Daily Sun is ...(intervenes).

20 **MR MANYI:** It is the same as Sowetan.

**CHAIRPERSON:** The other one that has got a lot of that you were saying earlier on is a lot of ...(indistinct).

**MR MANYI:** It is Daily Sun Chair. The one that has – that is topping everyone.

**CHAIRPERSON:** Oh I thought it was the Sunday paper.

**MR MANYI:** No.

**CHAIRPERSON:** Oh it is the Daily Sun.

**MR MANYI:** It is the Daily Sun.

**CHAIRPERSON:** Okay alright. Okay just repeat the point you are making because when you were making ...(intervenes).

**MR MANYI:** Okay the point I am making Chair.

**CHAIRPERSON:** When you were making the point I thought you – it is a Sunday once – one day a week paper?

**MR MANYI:** The point I am making Chair and I am choosing a sample  
10 that is affected so that we can point out that you cannot operate mechanically on a straight line. Like we are made to do in this session. So I am pointing out here Chair that I note that the New Age is – there is more spend on the New Age compared to any other so to speak – five day. But I am saying I can say the same thing about the comparison of Sowetan and Daily Sun which are both five day newspapers and the comparison in terms of readership between Daily Sun and Sowetan is chalk and cheese. Daily Sun is sitting at 5.5 million readership and yet we spending only 2.6 million. Yet on the Sowetan that has got 1.5 we spending 4.1 million on it.

20 **CHAIRPERSON:** Yes.

**MR MANYI:** Which is almost double.

**CHAIRPERSON:** Yes.

**MR MANYI:** The other numbers. So the point is you must also have a problem with that if you are going to have a problem with this. So all I am asking for just be consistent when you do these numbers. Just not

cherry pick because the issue here is that this issue Chair is not a mechanical issue. There are just too many nuances in between as to why you would do business with a particular publication.

**CHAIRPERSON:** Yes no I think the point you are making has been understood Mr Hofmeyr?

**ADV HOFMEYR:** Thank you Chair. Mr Manyi I do want to make the comparison between the New Age and any other five day newspaper on this page because I would like your evidence on that aspect. So if we go to the page you have drawn our attention to which is 316 which sets  
10 out the comparative readership during the period. My question is the following: What basis could justify spending R6.3 million on let us take your 2012 figures a newspaper with 107 000 indicated readership where the next closest spend of a five day newspaper is less than R6.3 million. It is R4.1 million and the circulation – the readership there is 5.5 million. Does that not on its face seem to you to call for an explanation at least?

**MR MANYI:** I can give the explanation.

**ADV HOFMEYR:** H'mm.

**MR MANYI:** Chair you see one of the – just by way of example just to  
20 understand the business models of these different newspapers. New Age in its approach would generally have a lot of campaigns that are 2, 3, 4 pages. Campaigns they would have very competitive pricing because they would say to you, I mean one of the evidence that Ms Williams has brought to the attention here it is in her affidavit. Just to piggy back on that example just to illustrate the point where she got the



letter from TNA and TNA was saying they want to do an eight pager and so on. So what we have with the creativity of TNA is people that understand how to get the story to be exciting, mixing graphics with texts and all of that and pictures and all of this so that this thing is readable.

So what we then do is let us say you have a particular briefing by a President or State of the Nation and then they say okay let us do an eight pager just for – by way of an example. Then the first page will cover maybe the face of the President. Then the next page maybe will  
10 cover parliament or whatever else and as part of the story so that as you read the story because people understand the psychology of the reader that as you read the story if you have got pictures in between it makes the story much more easy to consume.

So because the New Age had a lot of those types of campaigns they would be the preferred medium. By the way Chairperson let me make this point that GCIS is not the actual decision maker on these things. The various departments that come to GCIS you get a DG of that department which you cannot override as GCIS DG. Despite the empirics you have. Despite the TELMA you have.

20 If a DG of a particular department says, I want this campaign run on Sowetan he has got the final say because he is the Accounting Officer for that money in his department. You can advise that do not do this, do not do that but the final position sits with that person Chair. You cannot overrule them.

One of the powers I had wanted was to be able to overrule

them on this matter so I left the Department without having won that battle. But as things stand let no impression be created that GCIS was making these decisions. GCIS was an enabler. The people that make the decisions where the Exco are the line departments.

So if anyone is to blame here it is not GCIS it is the line departments. These are the people that own the budget. By the GCIS on its own does not even have a media budget in my time. Did not have much by way of that. It would be savings here and there that we do something but it did not have a substantial millions and millions ready  
10 to advertise. No. We were just the enabler department.

**CHAIRPERSON:** Would the line departments send something in writing when they say please arrange for this to be advertised in a particular newspaper? In other words could one probably go somewhere and find that this is where you would have all the documentation to say you know this is what happened? Or was this sometimes just telephonic or in verbal?

**MR MANYI:** Yes.

**CHAIRPERSON:** Or always verbal or telephonic?

**MR MANYI:** No Chair I think it is documented actually. *Ja*.

20 **CHAIRPERSON:** it is documented?

**MR MANYI:** *Ja* it is documented as part of what they would require.

**CHAIRPERSON:** Yes.

**MR MANYI:** As the people that – because then if you do not do that.

**CHAIRPERSON:** Yes.

**MR MANYI:** Then you have a dispute with that particular department.

**CHAIRPERSON:** *Ja.*

**MR MANYI:** And so on. So you would have to – you can persuade them to do this or that but they actually have the final say.

**CHAIRPERSON:** Yes.

**MR MANYI:** That the GCIS does not have the kind of – or let me put it this way. In my time GCIS did not have the kind of power that National Treasury has. National Treasury is the ruler of government. They decide – give you a regulation and that is the line.

**CHAIRPERSON:** H'mm.

10 **MR MANYI:** There was no such in my time at GCIS.

**CHAIRPERSON:** So in effect what you are saying is to the extent that it may seem that during a particular time including your time there might have been a drastic increase or an increase in business being given to the New Age. You are saying those would not have been your decisions or the decisions of your department of GCIS people. It would have been decisions of the Departments to which those adverts related and whatever you or anybody in GCIS may have said to say what about advertising in that newspaper that would have been advise which would have been rejected if it was not somewhat ...(intervenes).

20 **MR MANYI:** It is not black and white Chair.

**CHAIRPERSON:** Sorry?

**MR MANYI:** It is not black and white.

**CHAIRPERSON:** Yes.

**MR MANYI:** So – but I would say roughly 80% of what would happen.

**CHAIRPERSON:** Yes.

**MR MANYI**: Would be from line departments.

**CHAIRPERSON**: Yes.

**MR MANYI**: *Ja*. So the persuasion.

**CHAIRPERSON**: Yes.

**MR MANYI**: The success of the persuasion.

**CHAIRPERSON**: Yes.

**MR MANYI**: I will probably had a 20% success rate. *Ja* but mainly ...(*interven*es).

**CHAIRPERSON**: *Ja*.

10 **MR MANYI**: I mean there are people that you will not shake.

**CHAIRPERSON**: *Ja*.

**MR MANYI**: That say this thing must go to the Sunday Times.

**CHAIRPERSON**: *Ja*.

**MR MANYI**: There is absolutely nothing you can do.

**CHAIRPERSON**: Okay.

**MR MANYI**: If you must just go to the Sunday Times.

**CHAIRPERSON**: Okay thank you.

**ADV HOFMEYR**: Chair I am very conscious of the time. We may need to ...(*interven*es).

20 **CHAIRPERSON**: Oh yes, yes.

**ADV HOFMEYR**: To go to half past if we can. That still leaves an hour and a half so I am optimistic Mr Manyi.

**CHAIRPERSON**: Let us confirm that would still be fine Mr Manyi if we go up to half past?

**MR MANYI**: Half past yes it is fine.

**CHAIRPERSON:** *Ja* okay.

**ADV HOFMEYR:** I would like to try and wrap this up quickly. Your understanding of the decision making in GCIS is slightly different to my understanding. Certainly GCIS is procuring four departments I accept that. But as I understand it often what happens is the brief comes to GCIS and the brief is, we have a particular communication strategy. We want to get it to this target market. GCIS please use all of your expertise to assess the market, look at readership, look at circulation etcetera and make a proposal back to us as to who we use. Have I  
10 understood it incorrectly?

**MR MANYI:** Yes you have understood it incorrectly.

**ADV HOFMEYR:** Oh.

**MR MANYI:** What typically happens Chair. The – people approach anybody. They can approach a GCIS but then they – it depends because it depends what campaign you want to run. The most campaigns that would generally be funded from GCIS would be the Presidency Campaign. It will be maybe very small budget around that because it is the only line department so to speak for GCIS at the time. But if somebody else comes to GCIS and they say they have got this  
20 brilliant way of advertising energy for argument sake. I can tell you this now Chair there is no way that GCIS will spend one cent on that campaign. They would direct that person to the Energy Department and then they will have that discussion then they would ...(indistinct) a campaign between that department and that particular newspaper. Then when it comes to GCIS, GCIS would assess if the chosen media

by that department is correct or not correct depending on what are the target market requirements and all of that. Then GCIS will say to the Department I know that you want A but actually for your target market it is B. But the GCIS has not got the final say on that matter.

**ADV HOFMEYR:** So is it your evidence that we must regard all GCIS spend as not having involved a decision of GCIS but the decision of the line department?

**MR MANYI:** I did say Chair it is not black and white. I did make a – I did make an estimate of 80/20. What I am saying is that 80% of what  
10 you see here is the wish of the Departments.

**ADV HOFMEYR:** So let us ...(intervenes).

**CHAIRPERSON:** Well I am sorry. If your statement that the people who have the final decision are the line departments then I am not sure whether you should be making the distinction you make about 80% and 20% because it would mean that what you regard as 20% is where GCIS make suggestions or gives advice to line departments. And if line departments are not bound by that they would still be making the decision to – that the advert should go to a particular newspaper. Of course one can always say in regard to certain – a certain percentage  
20 maybe the choice of the newspaper was influenced by GCIS. But maybe in the end it is the Departments which decide whether to accept the advice or not?

**MR MANYI:** *Ja.* There are two things Chair. One GCIS is the point of interface. So GCIS is the one that would interface with the various publications on behalf of government as a whole.

**CHAIRPERSON:** H'mm.

**MR MANYI:** So to speak. So at one point when various departments come to GCIS.

**CHAIRPERSON:** H'mm.

**MR MANYI:** They come with their own proposals and so I want to say actually I want this in the Sowetan, I want this in this particular newspaper. You can persuade – so I am trying to understand what you mean by decision Chair because it is just the mechanism of placing a paper. It might be done by GCIS it is just a mechanism but the  
10 executive decision on which newspaper is with the line department if you have not persuaded them otherwise.

**CHAIRPERSON:** Yes. But precisely the last point you make is the point that I was trying to find out whether that is not the position. Because if you say government department – line departments have got final decision but you say GCIS has the opportunity to advise and persuade? Okay. But they can advise, they can persuade if the line departments do not accept the advice or are not persuaded the decision still lies with them.

**MR MANYI:** Yes.

20 **CHAIRPERSON:** You know. But I think maybe it is fair – maybe I should not have been kin of critical of the distinction you were making because maybe what you are seeking to do is to make sure that nobody understands that you are saying GCIS had no influence in the choice of newspapers in terms of where the adverts would be placed. But what you are saying is they had some influence but the final decision makers

were the line departments and maybe what you were seeking to say is if you had to give a percentage of what that influence was like you would say more or less 20% of the choice of newspapers for adverts that is where they are – GCIS influence was.

**MR MANYI:** Yes that is correct Chair.

**CHAIRPERSON:** Is that correct?

**MR MANYI:** Yes Chair. And in addition Chair – in addition nothing stopped a department from going directly and not even coming to GCIS. So we had not at 2011/2012 when I was there we had not come to a  
10 regulatory framework that would compel everybody to come via GCIS. So some of these figures are GCIS figures, but it would be interesting to see can you look at the line departments by themselves, because they do have a direct line and when they have done that.

They have still - broken - not broken any law. They have just did not have act with the required understanding, but there is no particular regulation that they have broken. So line departments do make their own arrangements in parallel.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** Mr Manyi I do not think it is profitable to get into a  
20 debate our understanding. My understanding was based on the evidence of Ms Williams who indicated that process as I have described it to you and the evidence which you say is not the process. I would like for the purposes of today's evidence simply to ask you then to the extent that GCIS was ever involved in the decision making to place advertising spend with TNA.



Would it be cause for concern for you to learn that the decisions in the relevant period that you were there resulted in greater spend with TNA than any other comparative five-day newspaper?

**MR MANYI:** It – no. It would be a matter that one must look at closely as to what are the reasons for that.

**ADV HOFMEYR:** Thank you. Let us move then to one or two aspects of your response to Ms Williams and I will endeavour to be brief here Chair, but there are a few points I wanted to pick up. A large portion of your affidavit in response to Ms Williams criticise ...(intervenes).

10 **CHAIRPERSON:** You can put away the other bundle that we have been using ...(intervenes).

**ADV HOFMEYR:** Yes. So Chair, we – I am hoping in the interest of time not to have to go actually into the affidavit.

**CHAIRPERSON:** Yes. Okay.

**ADV HOFMEYR:** If there is an issue we will do so.

**CHAIRPERSON:** Yes. Okay. Alright.

**ADV HOFMEYR:** Certainly I have the references, but if we can do it ...(intervenes).

**CHAIRPERSON:** Yes.

20 **ADV HOFMEYR:** Initially at the level of Mr Manyi's recollection of her affidavit ...(intervenes).

**CHAIRPERSON:** Yes.

**ADV HOFMEYR:** And what he said.

**CHAIRPERSON:** Okay.

**ADV HOFMEYR:** You criticise what you described as an unlawful trial

phase that was operating under Ms Williams' watch at GCIS.

**MR MANYI**: Yes.

**ADV HOFMEYR**: Is that correct?

**MR MANYI**: Correct.

**ADV HOFMEYR**: And you highlight the fact that in the National Treasury Report on the Light Fuse's contract amongst others that it had found that there was no request for a dispensation for this in-house media buying not to follow a competitive process.

**MR MANYI**: Yes. Correct.

10 **ADV HOFMEYR**: Do you recall highlighting that?

**MR MANYI**: Yes.

**ADV HOFMEYR**: My question to you is whether you accept that that unlawful trial phase persisted while you were the Accounting Officer of GCIS?

**MR MANYI**: 20% of the time. Chair the trial phase started in 2010 in September and it was apparently a six-month thing. So 80% of this trial phase happened not in my era and this – all these shenanigans payments and stuff happened in that period. In my era it was just the tail end of things that happened, but the bulk of the breaking down of –  
20 bulk or I mean all the split invoices.

All the irregular things that happened largely in January 2011 before I arrived. So the trial phase I got 20% of it. It was six months and so if you count from September. I probably got the tail end of the two months. The bulk of it happened before my time.

**ADV HOFMEYR**: Mr Manyi we do need to distinguish two things. I

understand the procurement that occurred in January 2011 before you arrived there. That was the subject matter of the National Treasury Report. I absolutely accept that those payment decisions the authorisation occurred before you got there. So take that as given.

What I am asking about is your criticism of Ms Williams and the fact that there was an unlawful trial phase that did not receive National Treasury approval to move media buying in-house into GCIS. You criticise her repeatedly for having an operation in place which allowed in-house media buying to take place without National Treasury  
10 approval and my question to you is it not the case that that very situation persisted not for two months, but for the entire time that you were DG of GCIS?

**MR MANYI:** Chairperson I think the – if you go to the relevant paragraphs of Ms Williams part of the nub of the issue here is where money got lost in my view by GCI – by GCIS where she was signing these commitment of payments and so on which were irregular and all of that. The splitting of invoices.

That happened. So the loss that had happened here which is the real reason for this report is that main seven million that went  
20 missing because of this – not went missing was paid irregularly and so on. That is the thing. In my – when I came to the picture.

We did not have this commitment to pay happening again, because then it got stopped as soon as we saw this. We – it did not happen again.

**ADV HOFMEYR:** Mr Manyi that is not an answer to my question. I will

ask it again. By the time you left GCIS had you received National Treasury dispensation for in-house media buying within GCIS?

**MR MANYI:** That is something I will have to check Chair.

**ADV HOFMEYR:** You can do so at least on the basis of a letter that you wrote shortly before you left GCIS. It is one of the attachments to Ms Williams' affidavit. You will find it in NN6 at page 46. Again if you need to go there you can, but I can tell you it is a letter that you signed on the 28<sup>th</sup> of May 2012. Just remind us when did you leave GCIS?

**MR MANYI:** *Ja.* I think Chair let us just set the context. That the –  
10 that memo that she is talking about was a complete overhaul of how things should work to make sure that media buying gets the maximum. That was a Rolls Royce request that one had put there.

That does not necessarily mean in between that there were no other legitimate words of doing things. That is just of the detail, because as I say this was – this was happening. A person that really should be asked here and I will say this again should be asked to come and talk to this at operational level is Donald Diphoko.

I think this Commission would be a serious injustice if they do not ask him to come here. He can explain this at a level of details as  
20 to what was happening at that point in there, but I just know that there was some way in which this was done in a manner that would not disadvantage the taxpayer, but the detail I do not have.

**CHAIRPERSON:** What was the name again of the person?

**MR MANYI:** Donald Diphoko, but ...(intervenes).

**CHAIRPERSON:** Yes.

**MR MANYI**: Diphoko is spelt D-I ...(intervenes).

**CHAIRPERSON**: D-I, I remember ...(intervenes).

**MR MANYI**: Yes. Yes. *Ja*. Diphoko.

**CHAIRPERSON**: *Ja. Ja.*

**MR MANYI**: That person ...(intervenes).

**CHAIRPERSON**: Yes.

**MR MANYI**: Chair will – he was heading media buying.

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

**MR MANYI**: So all – most of these detail via his ...(intervenes).

10 **CHAIRPERSON**: His name is ...(intervenes)?

**MR MANYI**: Donald.

**CHAIRPERSON**: Would appear in a list that - in a list of names that I have previously said - of people that I have said should be called.

**ADV HOFMEYR**: H'mm.

**CHAIRPERSON**: Or should be interviewed ...(intervenes).

**MR MANYI**: *Ja*.

**CHAIRPERSON**: Quite some time back ...(intervenes).

**ADV HOFMEYR**: H'mm.

20 **CHAIRPERSON**: So I am sure he is going to be interviewed if he has not already been interviewed and would be called.

**MR MANYI**: He is the same buy Chair – I know we are running out of time ...(intervenes).

**CHAIRPERSON**: H'mm.

**MR MANYI**: And I do not want to disrupt Ms Hofmeyr's input here. He is the same guy Chair on NN2 that has submitted an affidavit.

**CHAIRPERSON:** H'mm.

**MR MANYI:** Page 97.

**CHAIRPERSON:** Yes, but that is fine. Let us not spend more time.

**MR MANYI:** Okay.

**CHAIRPERSON:** I had – he is one of the people that I had identified many months ago as people who should be interviewed ...(intervenes).

**MR MANYI:** *Ja.*

**CHAIRPERSON:** And possibly be called. So there are many who have not been called who should be called and will be called.

10 **MR MANYI:** Okay.

**CHAIRPERSON:** So I am sure he will be called at some stage.

**MR MANYI:** Okay.

**CHAIRPERSON:** Ms Hofmeyr your time is limited. So ...(intervenes).

**ADV HOFMEYR:** H'mm.

**CHAIRPERSON:** Both Mr Manyi and I are trying to give you time to continue.

**ADV HOFMEYR:** Chair, we really only have about two minutes left. I ...(intervenes).

**CHAIRPERSON:** Five on my watch.

20 **ADV HOFMEYR:** Five. Oh. That is better than mine.

**CHAIRPERSON:** Mr Manyi on your watch?

**MR MANYI:** Five on mine.

**CHAIRPERSON:** Five on his watch. So five at least. Let us see.

**ADV HOFMEYR:** Mr Manyi to close off on this point just for the purposes of the record. The letter that I drew your attention to I read

that letter to be a request for the very dispensation that you criticised Ms Williams for not having obtained for the in-house media buying. Do you dispute that?

**MR MANYI:** Yes and no. I dispute – I – this is a thing of this yes and no answers Chairperson. The issue is that that dispensation if it was in place we would not be having this problem, but the fact that that dispensation was not yet in place. Did not mean we did the irregularities that Ms Williams and her team committed – splitting invoices.

10                   There is a whole list of things that they have done which even without the regulation you should not be doing. So most of what was done was really the illegal stuff. That it – you did not need any regulation. You did not need any dispensation. Beg your pardon. You did not need – you do not need a dispensation to say do not split invoices.

                  There is a regulation already on that. Do not do that, but they were doing it and in fact they were saying this is how GCIS does its business. One of the recommendations I had said here in that - in my submission is that what this Commission should do is to investigate  
20                   the splitting of invoicing by GCIS before, because this is one of these people interviewed here was saying no one – somebody I think at a director level was saying it was never brought in as an irregularity for me, but this is generally how we do things here. You know.

                  So that you do not need a dispensation for and this was my centre of the criticism. A lot of the things that were done that were just

not following any prescript. That do not require a particular dispensation.

**ADV HOFMEYR:** Mr Manyi do you accept that there was an extensive investigation conducted on this matter by National Treasury?

**MR MANYI:** On which matter?

**ADV HOFMEYR:** The matter that you have just referred to. The R7 million. The splitting of invoices ...(intervenes).

**MR MANYI:** *Ja.*

**ADV HOFMEYR:** Like these.

- 10 **MR MANYI:** Chairperson there are two issues which we must not confuse. The one issue is centralisation of the media bulk buying. The issue at hand here we are not dealing with – the issue at hand here was a particular service provider who himself is not a media house as it were. The name is there.

They are not a media house and the irregular appointment of that service provider would obviously have gone to – go and get media somewhere. He was himself not a service provider. So we must not confuse issues. The National Treasury investigation was not about media bulk buying.

- 20 It was about the irregular appointment of that particular service provider and the rest of what happened as a result of that irregular appointment. So my criticism was around the appointment of that service provider and the irregularities that flew from that. The media buying issue is not even affected by this thing.

It is a separate matter of trying to consolidate resources. It



is a positive process of making sure that we get economies of scale, but there is nothing in media buying that requires the shortcuts that the people were doing and payment commitments, splitting of invoices and all of that. So let us not confuse issues.

**ADV HOFMEYR:** Mr Manyi it may be late in the day, but we are completely at cross purposes. I was moving to the very thing that you say this Commission must investigate. You say this Commission must investigate this irregular expenditure that occurred prior to you joining GCIS. Is that correct?

10 **MR MANYI:** No. I said they must investigate – there is too broad a term. I was very specific and narrow. The splitting of invoices.

**ADV HOFMEYR:** Thank you. Mr Manyi is that a matter that was investigated extensively by the National Treasury?

**MR MANYI:** That – well that was one of the things. Not ...(intervenues).

**ADV HOFMEYR:** Yes.

**MR MANYI:** It is not specifically that.

**ADV HOFMEYR:** No, but the one that you say you are interested in the splitting of the invoices that amongst other things ...(intervenues).

**MR MANYI:** *Ja.*

20 **ADV HOFMEYR:** Was fully investigated ...(intervenues).

**MR MANYI:** H'mm.

**ADV HOFMEYR:** By the National Treasury. Is that correct?

**MR MANYI:** *Ja.* That – there was an – that was an incident investigation. Yes Chair. There was an incident that said that and my request was to do a much broader investigation. That was just an

incident of one company or two companies that were involved in this. So that is what the issue was.

It is not only the splitting of invoices that was investigated. It was also the irregular appointment and a lot of other things.

**ADV HOFMEYR**: Are you aware that the matter relating to the specific splitting on invoices on the Stats SA contract for Census 2011 became the subject matter of court proceedings?

**MR MANYI**: Yes. I am aware.

**ADV HOFMEYR**: And that the claim made by the service provider to  
10 GCIS Light Fuse was dismissed?

**MR MANYI**: Yes.

**ADV HOFMEYR**: You are aware of that?

**MR MANYI**: Yes.

**ADV HOFMEYR**: Thank you. The – one of the last points that I want to deal with and Chair my suggestion is if the follow-on matters particularly given that we are going to be delving into the salary issue. We may initially engage on affidavit with Mr Manyi ...(intervenes).

**CHAIRPERSON**: Yes.

**ADV HOFMEYR**: About that...(intervenes).

20 **CHAIRPERSON**: Yes.

**ADV HOFMEYR**: And then take it forward ...(intervenes).

**CHAIRPERSON**: *Ja*.

**ADV HOFMEYR**: But I would just like on the question of disciplining of staff – Mr Manyi Ms Williams says in her affidavit that there was this extensive investigation. There were disciplinary processes that

followed it within GCIS and at no point in the disciplinary process was she ever disciplined. Do you accept that?

**MR MANYI**: This is the dispute of the issue Chair. The issue was that the people that were *prima facie* fingered were the junior staff. So the DDG's were the people that did the investigations to the junior staff and a lot happened there. Nothing happened to any of the DDG's including Ms Williams. That is the factual position.

**ADV HOFMEYR**: Did you hold the view at the time that Ms Williams should be disciplined?

10 **MR MANYI**: I did not hold any view against anybody. I wanted an investigation. I wanted an investigation. So the first phase in my mind was to start at the lower levels where a lot of action is happening. The senior staff they are a bit more sophisticated. So I was hoping that the National Treasury Report because it was going to do that, because what they did.

They went through everybody including DDG's. They took laptops and all of this. They did the investigation National Treasury including everyone. I did not do anything. Basically – personally not on anyone. Not even on junior staff. Junior staff was processed by  
20 their line managers at a particular level.

**ADV HOFMEYR**: Do you accept that it is your responsibility as the Accounting Officer of GCIS to have ensured that any persons who engage in irregular expenditure should have been disciplined?

**MR MANYI**: Yes. Correct.

**ADV HOFMEYR**: So I have your evidence to be at the time that you

were GCIS you did not for the view that Ms Williams had engaged in irregular expenditure?

**MR MANYI:** I did not have evidence Chair and I was not going to accused her, but I was hoping that because we have got a Treasury Report that she is also part of it. I will be informed by the outcome of that report. Unfortunately when it came out I was already gone.

**ADV HOFMEYR:** Thank you Chair. I just suggest we take up the remainder points in an exchange with Mr Manyi on affidavit.

**CHAIRPERSON:** Yes. No. That is fine. So that means Mr Manyi you  
10 may be requested to deal with certain questions by way of affidavit, but for now we will stop here because we also do not want you to miss your flight, but thank you very much for taking part and for giving your evidence. So I will then now adjourn the proceedings, but thank you very much.

**MR MANYI:** Thank you Chair, but as I go Chair.

**CHAIRPERSON:** Yes.

**MR MANYI:** For the record.

**CHAIRPERSON:** H'mm.

**MR MANYI:** Noting that the Chair has adjourned, but for the record  
20 when I said and I want to just in my parting shot where I say Ms Williams lies. She lies because she says mine investigation basically I resolved her. I have no findings on her and the fact of the matter is that I never investigated her.

So I cannot have findings without having investigated you. That is the one point. The second point, she says the National

Treasury Report did not have any findings against her. I want to close by saying the Commission should look at the Treasury Report on Clause 8.1.1.8 and Clause 8.1.2.11.

Those clauses are very specific that she did not have delegated authority to make the commitments to those – commitment of pay notices. It is written there. So as – in the list of findings. So you cannot then say there are no findings against you. Thank you Chair.

**CHAIRPERSON:** Thank you very much. I think Mr Manyi I must excuse you because you might have to run. So you are excused. Yes.  
10 Ms Hofmeyr you probably need to say something about Ms Oliphant, because we spoke yesterday on the basis that she would appear today ...(intervenes).

**ADV HOFMEYR:** Yes.

**CHAIRPERSON:** And the public may be wondering.

**ADV HOFMEYR:** H'mm. Indeed Chair.

**CHAIRPERSON:** You want to place something on record?

**ADV HOFMEYR:** Indeed. Just to clarify.

**CHAIRPERSON:** H'mm.

**ADV HOFMEYR:** When I referred yesterday to the fact that she would  
20 be giving evidence and I think I indicated today that was based on an assumption that I held at the time. That the necessary arrangements had been made with Ms Oliphant for her to appear today. At the conclusion of yesterday's hearing I was informed that that had not in fact taken place.

There have been regular engagements or attempts at

engaging with Ms Oliphant. The last of those I am – I understand have not been responded to by Ms Oliphant and that is why we find ourselves in the position where I had assumed there had been contact. As a matter of fact I understand that despite repeated attempts to make contact with her there has not been contact.

The consequence of that is that she is not here today to give evidence, but certainly my proposal is that steps be taken to ensure that she does give evidence on the important matters we have been addressing yesterday and today.

10 **CHAIRPERSON**: No. That is fine. So the matter must receive further consideration. All obviously also taking into account yesterday's evidence and today's evidence insofar as it may be relevant.

**ADV HOFMEYR**: Indeed Chair.

**CHAIRPERSON**: We are going to adjourn. At this stage we certainly are not sitting tomorrow and at this stage we are not sitting next week, because next week was set aside for the further appearance of the former President who will not be appearing for his reasons that have been given publically, but should there be some days next week that will be used for the hearing. The public will be informed.

20 We adjourn.

**REGISTRAR**: All rise.

**INQUIRY ADJOURNS SINE DIE**

**TRANSCRIBER'S CERTIFICATE FOR COMMISSION OF INQUIRY INTO STATE  
CAPTURE  
HELD AT  
BRAAMFONTEIN, JOHANNESBURG**

DATE HELD : 2019-11-07

DAY: : 188

TRANSCRIBERS : B KLINE; M NETTA; D STANIFORTH

**Audio's are typed verbatim, as far as audible/possible**



# Accura Africa Group

Your Forward-Thinking Partner