

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

17 FEBRUARY 2020

DAY 213

20

PROCEEDINGS RESUME ON 17 FEBRUARY 2020

CHAIRPERSON: Good morning Ms Hofmeyr, good morning everybody.

ADV KATE HOFMEYR: Good morning Chair.

CHAIRPERSON: Are we ready?

ADV KATE HOFMEYR: We are indeed Chair.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair I – I propose this morning to do a few things in anticipation of starting with the first witness. And the first is just to give an introduction to where we are in the evidence and then to
10 deal with an application and certain procedural matters.

If I may begin then with where we are in the course of the evidence because I indicated at the outset of this session that my proposal was to do a short introduction at the beginning of each new investigation area.

Chair today we take a slight detour from aviation matters and we focus the attention of the commission to Richards Bay in fact and the Mhlathuze Water Board. Chair we will be exploring the conduct of the Water Board particularly during the period 2015 and 2016. During this period Ms Duduzile Myeni was the Chairperson both of the
20 Mhlathuze Water Board and South African Airways. The investigation has revealed Chair what appears to be an elaborate scheme of looting designed to siphon monies out of the Water Board for the benefit of employees and officials within the Water Board. And there will be evidence over the next two days testifying to those features of the investigation.

Chair also during the period that we will be focusing on the Mhlathuze Water Board there was an RDP housing project that was underway in Vrede in the Free State. Chair some of the monies for that project had been paid from the state's coffers to the Free State – the Free State Development Corporation which is a corporation we have heard about previously in the evidence in this commission particularly in the aviation stream.

Again in 2015 it was at a point in time going to be securing funding of R15 billion for SAA. Those acts on the part of the Free State Development Corporation you have previously heard evidence was stopped in its tracks when National Treasury intervened. But it is again a place where Free State Development Corporation appears in the investigations of the commission. Because what happened with the RDP housing project was that the Free State Development Corporation received certain funds and paid certain contractors from those funds who were appointed to the housing project. And amongst those contractors Chair was an entity trading as VNA Consulting.

Now part of what the commission's investigations have sought to explore is whether there is any link between, on the one hand an alleged R2 million that was supposed to have been paid so the allegation goes as a thank you fee to former President Zuma for his role in facilitating the appointment of certain of these contractors to the RDP housing project. And the question is whether there is a link between that allegation and in that period the activities of the Mhlathuze Water Board, Ms Myeni and those connected with her.

Chair the evidence will commence with testimony from Mr Thalente Myeni who is the sole member of a Closed Corporation called Premier Attraction 1016. Premier Attraction is the entity to which VNA Consulting paid R2 million in June of 2015.

Chair the evidence will also include that of Mr Mboniseni Majola. Mr Majola was the Program Manager of Mhlathuze Water during the period that we are focusing on the investigation. Mr Myeni has been summoned to give evidence today and Mr Majola tomorrow.

Chair between their evidence the legal team intends to present
10 the evidence of another witness. This witness brings an application to give his evidence in a manner that will protect his name and his appearance from being publicly disclosed. His evidence will be heard by the public if his application is granted and heard by everyone in this room but if he succeeds in his application he will not have his name or his appearance publicly revealed.

Chair the witness is unrepresented. He was represented at a point of the commission's engagements with him but not for some period of time and it is for that reason that the legal team of the commission will move his application. I am going to refer broadly to
20 the application as his in-camera application but it is important that I emphasize up front there are only two respects in which the witness seeks not to have his identity publicly disclosed. He does not want to give – he does not seek to give the content of his evidence purely in camera.

Chair there is a challenge with quite how to refer to a witness

who brings such an application. The witness is currently deposing to an affidavit seeking to clarify this. What he seeks is that he be referred to as Mr X in his evidence. Any reporting about his evidence similarly refer to him in that manner and that affidavit as I understand it is currently being deposed to as a supplement to the application that he finalised and seeks to move this morning. He finalised that application only yesterday.

Chair just a bit of background to the processes followed in relation to that application and why it was only available yesterday.

10 Finalising the witness' evidence has not been an easy feat Chair and the reason for that is that quite simply he fears for his life in giving this evidence.

The threat to him and his family in giving this evidence has been assessed by the Security Protection Services of the Commission and has been found to be real and credible. As with Saturday he was placed in the custody of those services and he was only able to meet with the legal team for the first time yesterday.

After that meeting his main affidavit was finalised and his application to bring this evidence in camera was also finalised.

20 Chair within minutes of that finalisation and an appropriate redaction of the affidavit notice was given to the persons who will be implicated in his evidence. That was done by way of email communication yesterday and the notice was given to Mr Thalente Myeni who will be appearing to give evidence today. Ms Duduzile Myeni, Mr Majola who will give evidence tomorrow and to former

President Zuma. All of that notification went to their lawyers because they are on record as being represented by lawyers with the commission at this stage.

They were alerted to the fact that the application would be made this morning and they were provided with a copy of the application. In a further effort to ensure that that application was received Chair this morning the Secretariat of the Commission made telephonic contact with all of those lawyers and they have all indicated receipt of the application.

10 Insofar as Mr Thalete Myeni is concerned he is present and his lawyers are present here with him. I have not been advised that they have any response to the application but I am sure if they are afforded an opportunity they will make that clear.

Chair with your leave then I would like to move that application if I may at the outset today because depending on the ruling certain arrangement will need to be put in place for the remainder of the morning.

CHAIRPERSON: The supplementary affidavit are you able to place on record what it is going to deal with?

20 **ADV KATE HOFMEYR:** Indeed I can do so.

CHAIRPERSON: Insofar as you are able to?

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Hm.

ADV KATE HOFMEYR: I understand it is currently being deposed to.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: But an investigator of the commission has confirmed with the witness.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: That he is happy with its contents and that it is underway to be deposed to.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: The essence of it is that he explains that he filed an application yesterday.

CHAIRPERSON: Hm.

- 10 **ADV KATE HOFMEYR:** To give his evidence in camera in the respects that I have described. He indicates that his name was disclosed in that affidavit prior to it being redacted. He then indicates that in order to navigate the evidence today and in order for it to be clear who brings the application he requests that he be referred to as Ms X in these proceedings and going forward in any publication in relation to this matter.

- And he makes it clear that he will sign this supplementary affidavit but that he – he trusts that steps will be taken again to redact it before there is any publication of the affidavit by the commission on
20 its website or otherwise.

And I will be updated in the course of the morning as soon as a copy of that has been secured and we will hand it up to you Chair at the appropriate point.

CHAIRPERSON: Will – do we need to finalise this application before your first witness gives evidence or can it be dealt with later when we

have got that supplementary affidavit with us?

ADV KATE HOFMEYR: We could certainly do it later.

CHAIRPERSON: Ja. Let us ...

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Let us do it when the supplementary affidavit is available.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: I have looked at the prayers sought in the application maybe I can say this, if I am satisfied that I should grant an order
10 essentially protecting his identity and his name being disclosed I think
we could formulate a much shorter order.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Roughly something along these lines.

1. The applicant's non-compliance with – then you can specify the rules as hereby condoned.

ADV KATE HOFMEYR: Indeed.

2. The applicant, - the applicant is to be referred to during his evidence and after his evidence insofar as the commission is concerned as Mr X.
- 20 3. The applicant's name shall not be disclosed or published in any way.
4. Nobody may take pictures of the applicant nor have his pictures or image or appearance published in any way. The applicant need not be present at the venue of the hearing of the commission when giving his evidence and may give his evidence

from a secret location. Nobody other than the Chairperson or members of the commission's legal team or the security advice of the commission may approach the secret – secret location from which the witness will give evidence without prior written permission of the Chairperson.

I think more or less something along those lines it can be – when it is drafted it can be dealt with more elegantly than I have been doing. Ja I think that may cover everything but...

ADV KATE HOFMEYR: Indeed.

- 10 **CHAIRPERSON:** Do go back to the Notice of Motion if there are things that I have not covered which you think are important then you can just retain them.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: But I think the formulation should...

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: More or less be along the lines that I have indicated.

ADV KATE HOFMEYR: Indeed Chair.

CHAIRPERSON: It may be that the arrangement of the various orders or prayers may also be realigned.

- 20 **ADV KATE HOFMEYR:** Yes.

CHAIRPERSON: You can include the audio link part.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: As well.

ADV KATE HOFMEYR: Thank you Chair. What we will do in preparation for moving that application later once we are in receipt of

the supplementary.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Is we may just put this in the form of a draft order.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: For your consideration.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Following the guidance you have given in relation to the formulation of the prayers. But we will check if there is
10 anything that in our view is still necessary to be included.

CHAIRPERSON: Yes. I had some concerns about 4.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: Prayer 4.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: But...

ADV KATE HOFMEYR: Seems to me unnecessary.

CHAIRPERSON: If – if the applicant's concern is more about – I mean prayer 4 would allow that an implicated person gets to know him.

ADV KATE HOFMEYR: Hm.

20 **CHAIRPERSON**: And so on – must understand that he understands that – that may have to be done.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: So to the extent that that – that he understands that.

ADV KATE HOFMEYR: Hm.

CHAIRPERSON: Then there may be no problem. You can just...

ADV KATE HOFMEYR: We will confirm.

CHAIRPERSON: Have a look at it again.

ADV KATE HOFMEYR: Indeed we are indebted Chair.

CHAIRPERSON: Otherwise we can deal with it at a later stage.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: If I may then just deal with two procedural matters before we commence with Mr Myeni's evidence?

CHAIRPERSON: Yes, yes, ja.

- 10 **ADV KATE HOFMEYR:** Thank you Chair. The first is in relation to another witness who was in fact scheduled to give oral evidence today. That was Mr Khan who was one of the engineers appointed on an engineering project for Mhlathuze in 2015.

Chair during Mr Khan's evidence it was the intention of the legal team of the commission to refer to another affidavit of one of the Closed Corporations who was doing construction work on one of these projects for Mhlathuze Water. That was an affidavit deposed to by Mr Shange who is the managing member of Mdima Civils. Now Mr Shange's affidavit implicated or may have implicated certain persons in
20 acts of wrongdoing and so notice was given on the 31 January to those person to alert them to the fact that reference would be made to Mr Shange's affidavit.

Chair amongst the persons to whom notice was sent was Stefanutti Stocks which was also a company involved in some of the construction works for Mhlathuze at the time.

Stefanutti Stocks received notice on Friday the 31 January. That is more than 14 days prior to today. But despite that Stefanutti Stocks responded to the notice through a letter sent to the commission on Friday afternoon and it claims to, in that letter to have been prejudiced despite the fact that it had been afforded the full 14 days in which to respond to Mr Shange's affidavit and it seeks in essence more time to bring any application that it may wish to bring in terms of Rule 3.3.6.

10 The letter also notified the Secretariat that legal representatives for Stefanutti Stocks would be present today – they are indeed here. I have confirmed that. And that they would watch the evidence, take note of it insofar as Stefanutti wanted to put before the commission any version of its own in the affidavit of Mr Shange and notification on the 31 January was the first time that it was disclosed to Stefanutti Stocks what allegations were being made against it and what the details of the affidavit contained.

20 And the essence of their request is that they say they need more time to consider the affidavit – the allegations carefully, to identify people within Stefanutti who need to be consulted. They raise the fact that some of those people may no longer be in the employ of Stefanutti. They say their lawyers need to take instructions and their client needs time to source documents.

Chair the one thing that they do not say in their letter to the Secretariat on Friday is that the commission's investigators have been engaged with Stefanutti Stocks since October of 2019. They do not

mention that there was a meeting with the commission's investigator and Stefanutti Stocks and its lawyers on the 22 October 2019. And they do not disclose that pursuant to that meeting and at that meeting the areas of investigation were disclosed to Stefanutti. They do not disclose that after that meeting there have been numerous follow ups between October and January by the investigators of the commission seeking an affidavit from Stefanutti Stocks giving its version of the events that are going to be revealed in the evidence over the next two days.

10 Chair therefore to the extent that the request for this extension seeks to paint a picture that Stefanutti was only alerted to these matters when it first received Mr Shange's affidavit on the 31 January it is simply false.

Stefanutti has been well aware of these matters and that they were being investigated since October of last year and has as a matter of fact missed every proposed deadline for submission of an affidavit to the commission.

To that extent therefore the legal team does not support the request for an extension because it is not adequately motivated and it
20 omits material facts.

Having said that though Chair the legal team sees no reason why Stefanutti Stocks should not give its version to this commission if...

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: It is our submission that it should. We have been asking for it for some time. And if all that they seek today is an

opportunity to bear witness to this evidence and give an affidavit in due course certainly the legal team of the commission would have no difficulty with that. But the notion that they get more than since October last year to present their version and make an application under Rule 3.3.6 the legal team of the commission certainly does not support that.

CHAIRPERSON: Of course if they sought an extension of any period they would have had to bring a substantive application.

ADV KATE HOFMEYR: Indeed.

10 **CHAIRPERSON**: They have not brought any substantive application.

ADV KATE HOFMEYR: No.

CHAIRPERSON: You do not ask for an extension by simply sending a letter.

ADV KATE HOFMEYR: No. Indeed.

CHAIRPERSON: That is not how things are done here.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: But we do not propose to take it further.

CHAIRPERSON: Ja.

20 **ADV KATE HOFMEYR**: Other than to record their efficient – their position publicly as we always do.

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: And furthermore to invite them in due course.

CHAIRPERSON: Hm.

ADV KATE HOFMEYR: If they wish to give a version to this

commission to do so.

CHAIRPERSON: Hm. Yes thank you.

ADV KATE HOFMEYR: Chair the final aspect of process is a matter related to Mr Khan's evidence. Since the finalisation of Mr X's evidence yesterday the legal team has evaluated the proposed witnesses who would be – have been appearing for the course of this week's evidence and it is our proposal Chair that it is not necessary in fact to receive oral testimony from Mr Khan.

Let me just be clear and this will unfold in the next two days.

10 Mr Khan's evidence, Mr Shange's evidence and the evidence of a Mr Paton are all in a sense corroborative versions of the evidence that Mr X will give if he is permitted to give it in the terms that he has requested. And in the interest of time and efficiencies in this commission the legal team does not believe it is necessary also to present Mr Khan's evidence orally in the commission.

Of course Chair that is done as it always is done provisionally. If an aspect of his affidavit's evidence which will then be put to the witnesses who do testify becomes contentious there would always be an opportunity to revisit the need for him to come and give oral
20 evidence. But it is our proposal that it is unnecessary at this stage and pursuant to that we would request that you release him from giving oral evidence today.

CHAIRPERSON: That is Mr Shange?

ADV KATE HOFMEYR: Mr Khan.

CHAIRPERSON: Mr Khan?

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: Yes. You propose to hand up his affidavit.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: At some stage.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Yes. Okay. Mr Khan is released from the proceedings today.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: Okay.

10 **ADV KATE HOFMEYR:** And then we can proceed with Mr Myeni's evidence if all is in order?

CHAIRPERSON: Yes. Let us do that. Will somebody call him?

ADV KATE HOFMEYR: Yes. I think he is present in the room.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: So he will be coming forward.

CHAIRPERSON: Alright. Take a seat there Mr Myeni. Please administer the oath or affirmation?

REGISTRAR: Please state your full names for the record?

MR MYENI: Thalente Cyril Myeni.

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

MR MYENI: No I do not.

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

MR MYENI: Yes I do.

REGISTRAR: Do you swear that the evidence you will give will be the

truth; the whole truth and nothing but the truth, if so please raise your right hand and say, so help me God.

MR MYENI: So help me God.

CHAIRPERSON: Thank you. You may proceed.

ADV KATE HOFMEYR: Thank you Chair. As a matter of housekeeping Mr Myeni's affidavit and documents related to his evidence have been put together in Bundle DD27. May I request for the record that we enter it as Exhibit DD27?

CHAIRPERSON: Mr Thalente Cyril Myeni's affidavit together with
10 annexures will be admitted as Exhibit DD27. Thank you.

ADV KATE HOFMEYR: Thank you Chair. Mr Myeni in front of you is a file containing what we will be referring to in this hearing as Exhibit DD27. You will see at the top right hand corner of each page is page numbers printed in red. So when I make reference to a particular page that is where you will look in order to follow in your own copy of the file. And the other thing just to mention is just to make sure that that microphone is close enough to you so that your voice is sufficiently amplified in the course of the evidence. Mr Myeni can you clarify for us your position in the Closed Corporation Premier Attraction 1016?

20 **MR MYENI:** I am the sole shareholder and managing member.

ADV KATE HOFMEYR: Thank you. And how long has the Closed Corporation been in existence?

MR MYENI: It was registered in 2000 maybe 2007 somewhere there.

ADV KATE HOFMEYR: And what work does it do?

MR MYENI: Mostly consulting work in various fields.

ADV KATE HOFMEYR: Can you give us a sense of those fields?

MR MYENI: Property, property development, just various – it is – I mean it is – when I registered the entity really it was you know my first sort of entry into business so I have done a lot of things over the years using the same entity. Hospitality, events etcetera. Many things.

ADV KATE HOFMEYR: Thank you. And what sort of annual turnover does the business have?

MR MYENI: Fluctuate – it has fluctuated over the years so it is difficult to give a number. Some years have been better than others.

10 **ADV KATE HOFMEYR:** Can you give us a range?

MR MYENI: It is difficult to say.

ADV KATE HOFMEYR: How many staff are employed?

MR MYENI: At different points different staff was employed and again there is no constant standard amount of staff that is employed. It will be – just depends. And also in certain – some of the projects we do not need to employ full time staff so we sort of sub-contract or you know get consultants in or whatever it is.

ADV KATE HOFMEYR: In 2015 how many staff did it employ?

MR MYENI: I cannot say for sure.

20 **ADV KATE HOFMEYR:** How would you be able to say for sure?

MR MYENI: Maybe I would need to check SARS records for maybe Pay As You Earn or something like that.

ADV KATE HOFMEYR: Hm.

MR MYENI: And maybe – ja that would be – I do not really have the records.

ADV KATE HOFMEYR: Do you have a sense of 1, 2, 20, 30?

MR MYENI: No not 20, 30 maybe – I do not know. I cannot – it is difficult to say.

CHAIRPERSON: What is the biggest number that the close corporation has had over the years in terms of staff? The highest number that you remember that it reached.

MR MYENI: I - I cannot say Chair. As I said you know we - we would employ people on a project by project basis. Some would be permanent. Some not. So it is - and I mean it is 2015. I - I really
10 cannot recall what ... (intervenes).

CHAIRPERSON: *Ja.* No - no. I am not talking about 2015. I just talk about the entire period since it was registered. What is the highest number that you can remember to say well the - the highest number of staff that I have ever had is 10 or 20 or ...

MR MYENI: It is difficult.

CHAIRPERSON: Or seven?

MR MYENI: It is difficult to say Chair, because also I - you know I run a number of businesses. So to - to pinpoint who is employed where at any given point is quite difficult. So I do not want to say a number and
20 then ...

CHAIRPERSON: Huh-uh.

MR MYENI: That is not the number.

CHAIRPERSON: Would your staff under this CC also help in other businesses that you have other than this ...

MR MYENI: Yes.

CHAIRPERSON: This CC?

MR MYENI: Yes. That is ...

CHAIRPERSON: Hm ...

MR MYENI: And ...

CHAIRPERSON: But - but - and what is the lowest number it has ever had in terms of ...?

MR MYENI: It would always - it would always have one. Which is myself?

CHAIRPERSON: One?

10 **MR MYENI:** Which is myself as a managing member and ...

CHAIRPERSON: Yes.

MR MYENI: So it will always have at least one.

CHAIRPERSON: Yes.

MR MYENI: Yes.

CHAIRPERSON: Okay. That - that is one other than yourself as a member of the CC?

MR MYENI: No. I am saying it will always have me.

CHAIRPERSON: Oh. Okay ...

MR MYENI: In the employ.

20 **CHAIRPERSON:** But sometimes you would have somebody else?

MR MYENI: Yes. Sometimes ...

CHAIRPERSON: *Ja.*

MR MYENI: There is other people.

CHAIRPERSON: Okay. Sometimes it would just be yourself?

MR MYENI: Yes.

CHAIRPERSON: Okay.

MR MYENI: Thanks Chair.

ADV KATE HOFMEYR: And where are its offices?

MR MYENI: Okay. Currently we are in Sandton. Based in Sandton.

ADV KATE HOFMEYR: Where were you previously?

MR MYENI: It has always been in Sandton, but we just moved various offices within the Sandton area.

ADV KATE HOFMEYR: Have you ever had offices at Design Quarter in Fourways?

10 **MR MYENI:** No.

ADV KATE HOFMEYR: And have you ever employed a Mr Mokotong?

CHAIRPERSON: Do you want to spell that name?

ADV KATE HOFMEYR: Certainly Chair. Thank you for the reminder. That is M-O-K-O-T-O-N-G.

MR MYENI: Can you say the first name please?

ADV KATE HOFMEYR: Yes. Moeketsi.

MR MYENI: Oh yes. No. Never employed him. No ...

ADV KATE HOFMEYR: Okay.

20 **MR MYENI:** But we were in a business relationship with them at some point.

ADV KATE HOFMEYR: We will come to that.

MR MYENI: Sure.

ADV KATE HOFMEYR: Mr Myeni you received a Regulation 106 directive from the Chairperson of the Commission. Requiring you to give the Commission on affidavit all the information that you had

available to you. Your knowledge of and your records of two sets of transactions. Do you recall that?

MR MYENI: Yes. I do.

ADV KATE HOFMEYR: And what I would like to do in your evidence is focus on those two sets of transactions ...

MR MYENI: Sure.

ADV KATE HOFMEYR: And I talk about them as two sets, because there is a transaction. The one that I referred to in the opening of the evidence where VNA Consulting paid R2 million to Premier Attraction.

10 **MR MYENI:** Sure.

ADV KATE HOFMEYR: That occurred in June 2015. Are you aware of that?

MR MYENI: Yes.

ADV KATE HOFMEYR: Thank you and then the second set of transactions are payments made later in 2015 and early 2016 from Premier Attraction to an entity called Isibonelo. Are you aware of those transactions?

MR MYENI: Yes. I am.

ADV KATE HOFMEYR: Thank you. So let us start with the first set.
20 That is the payment from VNA Consulting to Premier Attraction. Do you recall the date on which that payment was made?

MR MYENI: No. I - I know received the - but I do not recall what - what date it was now.

ADV KATE HOFMEYR: You have actually ...

MR MYENI: Sometime in 2015 though.

ADV KATE HOFMEYR: Yes. It was 19 June 2015.

MR MYENI: Okay.

ADV KATE HOFMEYR: Just to refresh your memory.

MR MYENI: Sure.

ADV KATE HOFMEYR: Now if we go to your affidavit that you provided to the Commission in response to the directive. You will find that at page 1 of EXHIBIT DD27.

MR MYENI: Okay.

ADV KATE HOFMEYR: I would like to pick it up at paragraph 3 there.

10 **ADV KATE HOFMEYR:** Could you please indicate to the Chair and the Commission what your - you indicated in that paragraph is your best recollection about that payment?

MR MYENI: Sorry. Please say that again.

ADV KATE HOFMEYR: Could you please indicate to the Chairperson what you state in paragraph 3 is what your best ...

MR MYENI: Yes.

ADV KATE HOFMEYR: Recollection was ...

MR MYENI: Yes.

ADV KATE HOFMEYR: In relation to that payment?

20 **MR MYENI:** Yes. It is Chair.

ADV KATE HOFMEYR: And what was that? Why did you receive the payment?

MR MYENI: Must I read what I said or ...?

ADV KATE HOFMEYR: You can read it or you can ...

CHAIRPERSON: You can read or you can just say it.

MR MYENI: Oh.

CHAIRPERSON: *Ja.*

MR MYENI: So it - we were involved in a housing development in Mpumalanga - private housing development - and we were rendering some services - consulting services through Premier Attraction and we received that payment for work done.

CHAIRPERSON: And the reference to Mpumalanga is a reference to the Mpumalanga Province?

MR MYENI: Province. Yes.

10 **CHAIRPERSON:** *Ja.* Okay. No. In KZN there is a township called Mpumalanga.

ADV KATE HOFMEYR: Oh. Right.

CHAIRPERSON: So ...

ADV KATE HOFMEYR: So we - we are talking about the province here. Is that correct?

MR MYENI: Yes. Yes.

ADV KATE HOFMEYR: Okay. Could you tell us a little bit more? What - what was the project about?

20 **MR MYENI:** Well it was a - a project specifically to build or design/build housing for - I do not know how you classify, but it was workers - sort of Government workers for - like nurses and teachers etcetera. That kind of level and they would then be assisted to secure bonds to buy those properties, but they were being developed with a specific purpose to looking at their affordability etcetera and I think in that area there - there was a shortage of - of properties of that nature.

So that - that is really what - what it was.

ADV KATE HOFMEYR: What particular area?

MR MYENI: I forgot the name of the - the area now in Mpumalanga. I do not want to guess the name. It might have been Emzinoni. Maybe. I have - I have forgot.

ADV KATE HOFMEYR: What was the name of the project?

MR MYENI: I do not think it had a specific name. It could have been the name of the area. Housing development. So if it was Emzinoni. It would be Emzinoni Housing development. I would ...

10 **ADV KATE HOFMEYR:** Do you remember what extension of Emzinoni?

MR MYENI: No. I do not.

ADV KATE HOFMEYR: And where was it located? Did you ever visit the site?

MR MYENI: In Mpumalanga. No. Our work did not require us to really visit the site.

ADV KATE HOFMEYR: And just give us a little bit more insight. What particular services did Premier render to VNA in relation to the project?

MR MYENI: Mostly design work for the actual structures. The actual houses.

20 **ADV KATE HOFMEYR:** And how many people did you have working on the project?

MR MYENI: There was a lot of people working on the project. A combination of people from VNA and Premier Attraction. I cannot recall the number now, but there was a couple of people that were brought in.

ADV KATE HOFMEYR: And what was your role?

MR MYENI: I was managing the work from the Premier Attraction side.

ADV KATE HOFMEYR: And who did you deal with at VNA?

MR MYENI: I dealt with Mr Naicker maybe - the surname. Mr Vikash - I know his surname is Vikash. Mr Vikash Naicker. I - I suspect.

ADV KATE HOFMEYR: I think his surname is Narsai.

MR MYENI: Oh Narsai.

ADV KATE HOFMEYR: Is that correct?

MR MYENI: Yes. Yes.

ADV KATE HOFMEYR: For the record that is spelt N-A-R-S-A-I.

10 **MR MYENI:** Yes. Apologies.

ADV KATE HOFMEYR: Not at all and anyone else?

MR MYENI: *Ja*. There were a couple of people that we worked with. I cannot recall who they are now.

ADV KATE HOFMEYR: And how long had you known Mr Narsai?

MR MYENI: I cannot recall.

ADV KATE HOFMEYR: Had you known him before this work?

MR MYENI: Yes. Yes. Definitely.

ADV KATE HOFMEYR: For a number of years before that?

20 **MR MYENI:** I - I cannot recall. I do not know if it was a number of years. Maybe not years, but it had been some time prior.

ADV KATE HOFMEYR: And had you worked together before this project?

MR MYENI: No. I do not - no. I do not think so.

ADV KATE HOFMEYR: Now at paragraph 4 on page 11 of your affidavit you say:

“VNA Consulting was the main independent contractor and/or consultant for the said project.”

MR MYENI: *Ja.*

ADV KATE HOFMEYR: And then at paragraph 5 you say:

“Premier Attraction was subcontracted by VNA.”

Is that correct?

MR MYENI: That is correct. Yes.

ADV KATE HOFMEYR: And you go on and you describe in paragraph 5 what Premier Attraction was contracted to do. You say there and I
10 quote:

“It was subcontracted by VNA as consultants to
“carry out some of VNA’s services or scope of work
in respect to the above mentioned project.”

MR MYENI: Yes.

ADV KATE HOFMEYR: Is that correct?

MR MYENI: Yes.

ADV KATE HOFMEYR: And I think the evidence you gave a moment ago was that the work that you were doing was design work on structures. Is that correct?

20 **MR MYENI:** Yes.

ADV KATE HOFMEYR: And what was the arrangement insofar as fees were concerned for Premier’s work?

MR MYENI: Well we agreed on scope of work and I mean I assume - *ja*. We would have agreed on scope of work and then he fee for that work. There was no formula.

ADV KATE HOFMEYR: What - what was the arrangement?

MR MYENI: There was no formula. When you say arrangement what do you mean?

ADV KATE HOFMEYR: For the fees.

CHAIRPERSON: At what rate was your close corporation going to be paid ...

MR MYENI: Oh. So we ... (intervenes).

CHAIRPERSON: And so on? What was the - that is what she is talking about.

10 **MR MYENI:** Oh yes. So - apologies. So we did not have like an hourly kind of - it was not like that arrangement. So we had a set amount of money that we are going to receive and a set of services that we had to do and that was it.

ADV KATE HOFMEYR: What was the amount that you were to receive?

MR MYENI: R2 million.

ADV KATE HOFMEYR: R2 million and how were you going to account for that R2 million?

MR MYENI: Account in what ... (intervenes)?

ADV KATE HOFMEYR: Were you going to ...?

20 **CHAIRPERSON:** What were you going to do? How much - how much work were you required to do in order to earn the R2 million?

MR MYENI: *Ja*. So it was the scope of services that we would have had at the time which I - I obviously cannot recall exactly now what it was, but that is - so that is how we are going to account. We are going to deliver on the work that we had to do.

ADV KATE HOFMEYR: But you have no recollection of precisely what that work was?

MR MYENI: Mainly it would have been around design, space planning, planning whether to have single storey, double storey house. *Ja*. It is - I cannot really recall exactly what it was, but it would around ...

ADV KATE HOFMEYR: And over what ...?

MR MYENI: That.

ADV KATE HOFMEYR: And over what period were you going to be doing this work that would earn you R2 million?

10 **MR MYENI:** Well it would have been as quickly as we could finish the work I guess. It was not - there was no really defined period, but I made sure the development itself as a whole had a period - defined period of when it needed to reset milestones, but for us and maybe at the time we did have a - I - I really cannot recall the exact details.

ADV KATE HOFMEYR: Do you have a sense of when you started this work?

MR MYENI: No. I - I do not have a sense of the times exactly, but it would have been at the beginning of the development.

ADV KATE HOFMEYR: When was that?

20 **MR MYENI:** I do not know. I cannot recall.

CHAIRPERSON: Well the payment was in 2015. Is it not?

ADV KATE HOFMEYR: June 2015.

CHAIRPERSON: June 2015.

MR MYENI: Yes, but Chair it could have been - it could have been even in 2014 that the development would have or the developer ...

CHAIRPERSON: Hm.

MR MYENI: Would have said to VNA here is a contract. This is what we are looking for, because it is quite involved Chair. This thing involves bulk works. You have to figure out where the pipes are going to run and it is quite a lot of work. So - *ja*. I cannot really say when and how long and all of that.

CHAIRPERSON: So do you - do you know whether at the time when you received the payment you completed your part of the work?

MR MYENI: I would have - I would assume yes.

10 **CHAIRPERSON:** Yes.

MR MYENI: We would have completed our work.

CHAIRPERSON: But you cannot remember when - when you may have completed - which month and so on?

MR MYENI: No. I cannot - I cannot recall Chair.

CHAIRPERSON: Yes. Okay. Ms Hofmeyr.

ADV KATE HOFMEYR: Thank you Chair. I - I have just been sent a note Mr Myeni. If you would not mind raising a voice a bit when you speak.

MR MYENI: Sure.

20 **ADV KATE HOFMEYR:** It is just not been recorded as well as it should be.

MR MYENI: Sure.

ADV KATE HOFMEYR: Can you help then Mr Myeni with what the SACPCMP is?

MR MYENI: I am not sure what that is?

ADV KATE HOFMEYR: You are not sure. Do you know the South African Council for Project and Construction Management Professionals?

MR MYENI: Not really. No.

ADV KATE HOFMEYR: No. Do you know that they are a body that publishes guidelines for the scope of services on these types of housing projects?

MR MYENI: Okay.

ADV KATE HOFMEYR: So you do not know that?

10 **MR MYENI:** No.

ADV KATE HOFMEYR: Right.

CHAIRPERSON: Maybe before you proceed Ms Hofmeyr. Mr Myeni, from what you have said in your affidavit it appears that effectively you say you were subcontracted by VNA. Is that correct?

MR MYENI: Yes Chair.

CHAIRPERSON: Did you subcontract the work further to somebody else or did - did you do it yourself?

MR MYENI: *Ja*. So we would have brought in other consultants to come in and do certain aspects maybe of work that we could not do in
20 house or whatever it would have been, but - *ja*.

CHAIRPERSON: So - but you would not have subcontracted it as such. You would have brought in people to ...

MR MYENI: *Ja*. So - so ...

CHAIRPERSON: To help you do the work?

MR MYENI: Yes. So similarly even with this subcontracting. I do not

think it is - you must define it as - as strongly as subcontracting *per se*, but we were brought in to provide certain skills and to do certain work towards the project. So similarly if we needed to also bring in certain you know skills or expertise we would do that.

CHAIRPERSON: So you say your arrangement might not have been subcontracting in the true sense?

MR MYENI: Yes. *Ja*. I mean it - it is subcontracting in practice, because ...

CHAIRPERSON: Hm.

10 **MR MYENI:** They are the main contractor. They receive the contract and then they farm out work to whomever it is that they feel they want to bring on board to the project. So in a sense it is subcontracting.

CHAIRPERSON: Hm. Okay. Ms Hofmeyr.

ADV KATE HOFMEYR: Thank you. Did you conclude any written agreements to capture the arrangement that you had with VNA?

MR MYENI: I cannot recall, but I would think that we would have captured something.

ADV KATE HOFMEYR: Hm.

MR MYENI: *Ja*. I think we should have. We would have.

20 **ADV KATE HOFMEYR:** There would have been a written record?

MR MYENI: There - there would have maybe.

ADV KATE HOFMEYR: You have no records yourself though of that. Do you?

MR MYENI: No. We actually have no records of you know the - the project. I mean of - we have - we have looked. We have tried to find

documents. We cannot find them. We have moved offices etcetera. So I do not have and I mean it is from 2015.

ADV KATE HOFMEYR: Yes.

MR MYENI: We do not keep the records that long.

ADV KATE HOFMEYR: You do not? Why - why do you not keep records that long?

MR MYENI: Well I guess one did not anticipate that it would be asked questions about it five years later. I mean if I had to keep records of everything from 2017 that would be quite - quite a lot of records to
10 keep.

ADV KATE HOFMEYR: There is usually a statutory reference - certainly for companies. That they keep records for five years. Is that not a provision that you have put in place in your business?

MR MYENI: No. Not necessarily, because mostly the line of work that we - we do. We - I do not think it falls within that. That the reason why we should keep them that long.

ADV KATE HOFMEYR: You also said in your affidavit that you have no email communications either. You will see at page 2. You say at paragraph 7:

20 “I do not have any email communication relating to these payments as I did not keep any records in respect thereof.”

MR MYENI: *Ja.*

ADV KATE HOFMEYR: Can you just help me with what that means? That you did not keep any records of email communications.

MR MYENI: I think maybe that is not capturing what we were trying to say correctly ...

ADV KATE HOFMEYR: Yes.

MR MYENI: But I was answering to a question around “do you have any emails?”

ADV KATE HOFMEYR: Hm.

MR MYENI: “Do you have any records?”

ADV KATE HOFMEYR: Hm. Hm.

MR MYENI: Etcetera. So I think we just sort of grouped it into one but
10 basically what I was saying is that I went through my emails. I have since changed laptops and computers multiple times. I do not have those emails and I do not have any physical records of - of any of the documents whether it would be the agreement I just spoke of etcetera ... (intervenes).

ADV KATE HOFMEYR: I understand.

MR MYENI: *Ja.*

ADV KATE HOFMEYR: Can you just help me with another acronym? Do you know who PROCSA is?

MR MYENI: No. I do not.

20 **ADV KATE HOFMEYR:** So you would - it would be new to you to learn that they are the Professional Consultants Services Agreement Committee. Would it?

MR MYENI: Sure. Yes.

ADV KATE HOFMEYR: So it would be news to you if you had signed an agreement that had been designed by PROCSA if you did not know

PROCSA?

MR MYENI: Yes.

ADV KATE HOFMEYR: Is that correct?

MR MYENI: Yes.

ADV KATE HOFMEYR: And again just to try and get the chronology a bit clearer here. The payment was in June 2015. Right. Can you give us some idea of when VNA first engaged you to supply services for the project?

MR MYENI: I do not know what to say except it would have been for
10 the payment.

ADV KATE HOFMEYR: Well that would certainly be the case. Would it not?

MR MYENI: Yes.

ADV KATE HOFMEYR: And I assume from your evidence you identified VNA was the main contractor.

CHAIRPERSON: Well - well I am not sure about that Ms Hofmeyr.

ADV KATE HOFMEYR: May we not.

CHAIRPERSON: We have had lots of evidence comes before work is done.

20 **ADV KATE HOFMEYR:** It is true. It is true, but I understand Mr Myeni's - he - he cannot be more specific than to say the agreement would have been concluded prior to the payment. Are you - are you comfortable with that evidence?

MR MYENI: Yes. Yes.

ADV KATE HOFMEYR: And the other thing I want to do just to try and

help with the chronology is. If VNA was the main contractor and you were brought in by them.

MR MYENI: Yes.

ADV KATE HOFMEYR: I assume their relationship with the client would have been established first. Then they would have brought you in and at some later point you would have received the payment. Is that a fair description of the chronology?

MR MYENI: Sorry. Please say that again.

ADV KATE HOFMEYR: So we have already established in your
10 evidence your agreement with VNA would have preceded the payment
on 19 June 2015.

MR MYENI: Yes.

ADV KATE HOFMEYR: Is that correct?

MR MYENI: Yes. Yes.

ADV KATE HOFMEYR: And then I said your evidence before the
Commission has been that VNA was the main contractor ...

MR MYENI: Yes.

ADV KATE HOFMEYR: Appointed to the client ...

MR MYENI: Yes.

20 **ADV KATE HOFMEYR:** And that you were then brought in by VNA. Is
that correct?

MR MYENI: No.

ADV KATE HOFMEYR: Oh. Explain why.

MR MYENI: Because I know the client.

ADV KATE HOFMEYR: Right. Sorry. I thought that your evidence

earlier was that VNA had contracted you.

MR MYENI: Yes.

ADV KATE HOFMEYR: You did not want to use the formal term of ...

MR MYENI: Subcontractor.

ADV KATE HOFMEYR: Subcontractor.

MR MYENI: Yes. Yes.

ADV KATE HOFMEYR: So that led me to conclude that their arrangement with the client would have preceded your being involved ...

MR MYENI: No.

10 **ADV KATE HOFMEYR:** But is that not the case?

MR MYENI: No, because I knew the client.

ADV KATE HOFMEYR: So how did you become involved?

MR MYENI: Involved in what exactly?

ADV KATE HOFMEYR: To provide the services.

CHAIRPERSON: In the project. In the project.

MR MYENI: In - okay. To provide ...

CHAIRPERSON: *Ja.* How did you ...?

MR MYENI: There are two things Chair.

CHAIRPERSON: Yes.

20 **MR MYENI:** Two provide the services and then project are two different things.

CHAIRPERSON: Yes.

MR MYENI: So in terms of the project I know the client. I know the project owner and through a series of conversations and discussions which I do not remember how they really went and maybe as - as you

have said Ms Hofmeyr. These bodies that you talk of that would have been why VNA would have been the contractor to the client - to the project.

To fulfil all those things which I assume they had. Then they brought us in separately.

ADV KATE HOFMEYR: They being VNA?

MR MYENI: VNA, brought us in separately, but ...

ADV KATE HOFMEYR: Yes.

MR MYENI: I have always - I knew the project owner - the developer.

10 **ADV KATE HOFMEYR:** Yes. That is fine, but that is a separate matter.

MR MYENI: Yes.

ADV KATE HOFMEYR: I am trying to deal with chronology ...

MR MYENI: Yes.

ADV KATE HOFMEYR: Because your consistent testimony has been VNA is the main contractor and then they bring you in. Right. So in terms of chronology I want to clarify with you. They would have been appointed as the main contractor. Then they brought you in and those two events must have happened before 19 June 2015. Is that correct?

20 **MR MYENI:** Yes, but it does not mean that it will follow that. I know the client. So it - it - V ...

ADV KATE HOFMEYR: So could you have been brought in before VNA was the main contractor?

MR MYENI: So - so when I say brought in. VNA brought us in to subcontract us or to contract with us. Whatever we will call it, but it does not mean I did not know the client prior.

CHAIRPERSON: Did you have any involvement in the project other than your involvement at the request of VNA?

MR MYENI: No other involvement in the project.

CHAIRPERSON: So your only involvement in the project was via your arrangement with VNA?

MR MYENI: Yes.

CHAIRPERSON: So it is correct to say VNA brought you into the project. Is that right?

MR MYENI: Not into the project, because I already knew of the project
10 and I knew the developer of the project. I just did not have a - a role in terms of services to play at the time.

CHAIRPERSON: *Ja.* No, no when - when we - when I say brought you in. Firstly you were the one who used that terminology that VNA brought you in. I mean for purposes of doing the work that you - we are talking about.

MR MYENI: Yes Chair.

CHAIRPERSON: *Ja.* They - they brought you in for purpose of doing that work?

MR MYENI: Yes.

20 **CHAIRPERSON:** *Ja.*

MR MYENI: Yes Chair.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: And who was the client?

MR MYENI: I forgot the company name, but Moeketsi would have been one of them.

ADV KATE HOFMEYR: Mr Mokotong?

MR MYENI: Mr ... yes. Moeketsi Mokotong.

ADV KATE HOFMEYR: Mokotong.

MR MYENI: Yes.

ADV KATE HOFMEYR: Apologies.

MR MYENI: Yes and he had a partner at the time as well.

ADV KATE HOFMEYR: And when do you recall your first interactions with him about the project?

MR MYENI: I cannot say, but I have definitely known them longer than
10 I knew VNA Consulting, but I cannot recall when I would have started talking to them about the project. I cannot recall.

ADV KATE HOFMEYR: Mr Myeni, the Commission has also engaged Mr Narsai ...

MR MYENI: Sure.

ADV KATE HOFMEYR: And VNA Consulting about this payment.

MR MYENI: Sure.

ADV KATE HOFMEYR: And Mr Narsai's recollection of the events around the project is different to yours.

MR MYENI: Okay.

20 **ADV KATE HOFMEYR:** Does that surprise you?

MR MYENI: It will definitely surprises me, yes.

ADV KATE HOFMEYR: You see what Mr Narsai says is he says Premier was initially the development manager to Optics and he says you appointed various consultants. You being Premier. Appointed various consultants to do work on the private housing development and

that in early 2015 you approached VNA to take over management of the project and Mr Narsai has provided the Commission with a pack of documents that make up the file in front of you.

MR MYENI: Sure.

ADV KATE HOFMEYR: Which he says is all of the reports that you as Premier had arranged through the people that you had brought into assist you. Remember you said earlier you would sometimes bring people in for skills. So he says when VNA was going to be taking over from Premier you provided to him this wad of documents which are
10 reports on all sorts of scoping aspects for the housing development.

There is electricity plans. There is water and sanitation and he says - I am summarising now - the essence is. It is you first there as Premier as the development manager. Right. It is you getting all these contractors to do this work and to prepare these reports, but then at a point in early 2015 you need VNA to take over the roll from you.

So you in a sense give them - give VNA all the reports and it is becue you hand over that VNA owes you two million. Do you accept that that is different to the version you have given this morning?

MR MYENI: It - it is very different yes.

20 **ADV KATE HOFMEYR:** It is. Yes. Does it - he - he of course has a wad of documents ...

MR MYENI: Sure.

ADV KATE HOFMEYR: To support the version that he has provided.

MR MYENI: Yes.

ADV KATE HOFMEYR: Does this becoming familiar with his version

help to jog your memory at all?

MR MYENI: *Ja.* I do not need my memory jogged *per se*, but you know it is difficult to say that Mr Narsai is being dishonest, but it - unfortunately that is what it is. So those documents whichever they are must be signed off if they are reports. If they are all of that. So that should tell us who signed them off, one.

Two, my recollection tells me that those documents actually came from the developer themselves, because they would have had to do preliminary work to see whether the project or the development
10 would take off or would work and then we came in later. So as to whether you know they knew the client before me. No. That is not the case, but in terms of our involvement.

Our involvement came in through VNA Consulting and there is no work that we did prior. There is no work that we did prior to us being involved with VNA Consulting. Again you can check those - those reports. I can assure you. My signature is not on them or any of the people that I have ever worked with or subcontracted or brought into consult. That I ...

ADV KATE HOFMEYR: How ...?

20 **MR MYENI:** That I can be sure.

ADV KATE HOFMEYR: How do you know your signature is not on those documents?

MR MYENI: Because I did not do those reports.

ADV KATE HOFMEYR: But how do you know what reports I am referring to?

MR MYENI: You - you mentioned electricity something and whatever else that you mentioned. So when it comes to those things that is what I am specifically responding to.

ADV KATE HOFMEYR: Are you able to say that there was never any report that bore your name in relation to this project?

MR MYENI: No. I cannot say there was never any report, because obviously we had to do work around the project, but I am saying electricity and whatever you would have mentioned. That would not have been our - part of our scope.

10 **ADV KATE HOFMEYR:** And do you have no records at all of that work that you did?

MR MYENI: No. Unfortunately, I do not.

ADV KATE HOFMEYR: And VNA's version before the Commission is that all of these various plans that I will take you to now were provided by you to them. Is that false?

MR MYENI: It would have been possible that the developer would have given me the information to pass on. It - It is a possibility. I do not want to deny that outright without really remembering, but - *ja*.

ADV KATE HOFMEYR: Let us go to some of those reports if we may.
20 You will find the first set commencing at page 13 of DD27.

MR MYENI: Okay.

ADV KATE HOFMEYR: Can you just help us with what those are?

CHAIRPERSON: I am sorry Ms Hofmeyr. Okay. I have seen what I was not seeing. So it is fine. Yes.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Hm.

CHAIRPERSON: What page are we on to?

ADV KATE HOFMEYR: We are on page 13 of DD27.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: So what - what are these - 13 runs to about page 42 or so. Well let us start before that to 38. They appear to be diagrams and plans. Can you help us with what they are?

MR MYENI: No, no, no.

10 **CHAIRPERSON**: Did you say at page 38?

ADV KATE HOFMEYR: Yes it runs from 13 to 38.

CHAIRPERSON: But the page you want us to look at right is?

ADV KATE HOFMEYR: It is 13 indeed.

CHAIRPERSON: Is 13?

ADV KATE HOFMEYR: One three Chair. What are these?

MR MYENI: I don't know, I can't see what it is.

ADV KATE HOFMEYR: You can't see what it is.

MR MYENI: *Ja*, it's not clear

CHAIRPERSON: *Ja*, that copy is quite bad, it's very poor.

20 **ADV KATE HOFMEYR**: That was the copy that the Commission received from, there is a better copy of the same but I am worried you may have the same answer Mr Myeni but maybe just assist us if you may, go to page 273 in the same bundle, DD27

CHAIRPERSON: Did you say 273

ADV KATE HOFMEYR: 273 indeed Chair.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: So what is that?

MR MYENI: It says the sewer layout.

ADV KATE HOFMEYR: Is this a document you have seen before?

MR MYENI: I don't recall I have seen this one, but yes I have seen a similar document before.

ADV KATE HOFMEYR: For the development?

MR MYENI: Ja, I would have seen something like this yes.

ADV KATE HOFMEYR: But you can't recall seeing this one?

10 **MR MYENI:** This one exactly no.

ADV KATE HOFMEYR: This is one of the ones that Mr Narsai said you provided to him when VNA took over the work from you as development manager, what's your response to that?

MR MYENI: Well they didn't take over from me, I was never development manager, and as I said it is possible I would have sent him information from the developer or from the client, it is possible.

ADV KATE HOFMEYR: But you don't recall this document?

MR MYENI: No, not specifically. Yes Chair.

20 **CHAIRPERSON:** Are you saying that it is possible that you did provide this document to him after you had obtained it from the developer?

MR MYENI: Yes Chair.

CHAIRPERSON: Okay, is it also possible that other documents that he may be referring to may be documents that you did provide to him after obtaining them from the developer?

MR MYENI: Yes Chair

CHAIRPERSON: Okay, alright.

ADV KATE HOFMEYR: And who was the developer?

MR MYENI: Mr Mokotong, I just forgot the ...[intervenes]

ADV KATE HOFMEYR: Octex?

MR MYENI: Oh yes, Octex I remember now yes.

ADV KATE HOFMEYR: Was it Octex? So just explain to me why would the developer Octex give you documents to give to VNA?

MR MYENI: Depending on when they would have given it to me it is because we were working together.

10 **ADV KATE HOFMEYR:** It sounds like you would be receiving them if you were the manager, doesn't it? Why else would you receive them to give them on to a main contractor?

MR MYENI: Well because I knew the developer prior, I think we had a long-standing relationship or better relationship that VNA, so it is not a surprising thing and also although VNA are obviously in Johannesburg, they are based in Durban, so the developer was based in Johannesburg, I am based in Johannesburg, so I think it would be easier to share information and sometimes information is quite thick to be emailed etcetera, so it is – I don't see ...

20 **ADV KATE HOFMEYR:** Mr Myeni I understand that if you and Octex are located in Johannesburg it might be easier save for the advances of email technology for Octex to share documents with you in Johannesburg, but we are talking about why you would have been the one to give documents to VNA in Durban in circumstances where the main relationship is between Octex and VNA.

MR MYENI: We were part of the project ma'am, I don't see what would be wrong with sharing of information?

ADV KATE HOFMEYR: I am probing the logic of it Mr Myeni, your evidence is that VNA was the main contractor to Octex.

MR MYENI: Yes.

ADV KATE HOFMEYR: On what possible basis would Octex give you documents relevant to the project when you played a subordinate role to VNA?

MR MYENI: As I said I can't answer that question but maybe to say
10 because the documents are thick, as I think we can see, to email them is a bit difficult so maybe they would have said send it to me and I would have then met with VNA at their offices whenever they were in Johannesburg and to discuss them or to work through them, I have no idea, I cannot tell you why but there is nothing about to say why did they send the documents to me, I was part of the project and as I said I had an established relationship with the developer prior and even outside of this development, so I don't see an issue.

ADV KATE HOFMEYR: Mr Myeni I need to put it to you that it is highly
20 emailing reports to their main contractor and as a consequence of that gave them to you to give to the main contractor when the main contractor happened to travel up to Johannesburg for a meeting to look at the reports, do you have a response to that?

MR MYENI: So as an example with document like that, so this document has been reduced to A4 size, normally these documents you

lay out on a table, so maybe that's the reason why I would have received some of the documents because you couldn't email them, as I am trying to say, but ja, other than that I can't say why they would have sent it to me except for the fact that I was part of the project and I would have had to be privy to some of these documents.

ADV KATE HOFMEYR: Why? You said you had nothing to do with sewer works or electricity?

MR MYENI: Ja, I never ...[intervenes]

ADV KATE HOFMEYR: So would you have to have seen these
10 documents?

MR MYENI: But you have to be privy to documents – well okay okay, so when you have to design a development or you put together your structures etcetera, as I have mentioned that you have to decide what the structures must look like etcetera, etcetera, you have to understand where your sewer lines run, you have to understand where they're planning the roads to be, so you have to be, you have to at least see the documents. All I said I did not compile these reports and documents, it doesn't mean I never saw them.

ADV KATE HOFMEYR: So you worked with them?

20 **MR MYENI:** It is possible yes that I worked with them.

ADV KATE HOFMEYR: Do you recall working with these documents?

MR MYENI: I recall working with a lot of documents yes, with a lot of documents on the table that we would look at and decide certain things.

ADV KATE HOFMEYR: And just to be clear again you still, you have absolutely no records of your design work on these structures?

MR MYENI: Maybe Mr Narsai has but I don't.

ADV KATE HOFMEYR: I beg your pardon, maybe?

MR MYENI: Maybe VNA Consulting has, because we would have sort of sent everything to them, they would have then compiled the final sort of document and so maybe they have, but I don't have any records on hand.

ADV KATE HOFMEYR: And just to go back to what VNA has said to the Commission and Mr Narsai, so you recall the one bone of contention or conflict is you say they were the main contractor and you
10 were brought in by them, they say the reverse was the case, you were initially appointed as the development manager but handed over to them at a point in 2015.

MR MYENI: Sure.

ADV KATE HOFMEYR: Can I just be clear your testimony today is VNA is incorrect in its description of the events?

MR MYENI: Yes and I would urge anyone to bring a document to reflect that I was the main contractor and passed it on to them. Anybody who has that information please ...[intervenes]

ADV KATE HOFMEYR: But you will do recall an agreement being
20 concluded, is that right?

MR MYENI: I said I am not 100% sure whether we concluded an actual agreement and what it would have looked like, I just know that we would have received a scope of services and we would have agreed an amount to be paid, but between the developer, Octex and Premier Attraction there is no agreement appointing us as a main contractor.

ADV KATE HOFMEYR: So what agreement was there between Octex and Premier?

MR MYENI: I don't know, I don't recall what agreement there would have been.

CHAIRPERSON: Well I – Ms Hofmeyr may be meaning agreement reaching or oral, in other words what were the terms of the agreement as you remember them, whether it was original agreement or an oral agreement, what is your recollection of the main terms and conditions of your engagement by VNA?

10 **MR MYENI:** There would have been a scope of services Chair and there would have been an amount agreed, I can't say exactly ...[intervenes]

CHAIRPERSON: It would have been here is the scope of the work that you must perform and if you do that maybe if you finish it within a certain time then you will be paid R2million.

MR MYENI: Yes Chair.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: What was the period of time you had to complete the works?

20 **MR MYENI:** I can't recall.

ADV KATE HOFMEYR: And this is the agreement between yourselves and the developer, Octex is that correct?

MR MYENI: No, with VNA Consulting, as per the Chair's question.

ADV KATE HOFMEYR: Apologies.

CHAIRPERSON: Yes. I was talking about VNA and his close

corporation.

ADV KATE HOFMEYR: Right, and your relationship with Octex how was that agreed?

MR MYENI: Agreed in what sense?

ADV KATE HOFMEYR: Well did you have an agreement about the role you would play directly to Octex?

MR MYENI: I don't think I would have had an agreement with Octex.

ADV KATE HOFMEYR: Despite the fact that them using you to get documents to VNA?

10 **MR MYENI:** They were not using me to get documents to anybody ma'am.

ADV KATE HOFMEYR: I thought your testimony a moment ago had been that the reason why Octex didn't just give these documents directly to its main contractor VNA, was because you were utilised to give the documents to VNA. Did I have that evidence incorrect?

MR MYENI: I was simply just trying to give you a picture of the possibilities. As I said I don't recall, all I said to you though is that – because I know what I would or would not have done in terms of work, I know my limitations, skill level, expertise etcetera, so I would have
20 never been a main developer or development manager, because I have never provided that service as a company in my entire sort of career.

Similarly the reports that you referred to about the electricity etcetera, etcetera, we wouldn't have done that, so that's what I was simply saying, and then in terms of them using me to get documents I don't think that is putting it correctly. I was simply saying a possibility

would be because they are based in Durban documents will be sent to us because we are all working together. Also some of these documents as actually not A4 as you see them that's why it's difficult to even see and read them because they are actually much bigger than this.

So ja, that is why.

ADV KATE HOFMEYR: Octex just as I understand it from your evidence was the client in this arrangement, is that correct?

MR MYENI: Yes, yes.

ADV KATE HOFMEYR: Why then was your arrangement not directly
10 with the client?

MR MYENI: In what way must it be direct with the client?

ADV KATE HOFMEYR: Well you have explained that pursuant to the question that I asked that there was no agreement between yourself and Octex, so I want to understand why that was not the case.

MR MYENI: Maybe there were some services that just didn't have the expertise to provide and if there was certain experience they wouldn't have so that's why we would have gone, or they would have gone with VNA, who has got, who has done projects of this scale, so we were a small emerging black company just being given an opportunity really,
20 so you know we didn't have years and years of experience in this.

ADV KATE HOFMEYR: No I am not suggesting Mr Myeni that you contrary to VNA's case were the development manager, because I understand you to say you reject Mr Nasai's version that you played that role.

MR MYENI: Ja, definitely.

ADV KATE HOFMEYR: I am interested in why for your specific scope of services there wasn't an agreement between yourself and Octex?

MR MYENI: Because our work was based on the scope that would have been given to VNA, so VNA would have given us a portion of their scope of work, so there would have not been a need *per se* to have an arrangement with Octex, I don't know. Maybe we might have, you know I really can't recall what we would have had and not had with Octex because as I said I have known Mr Mokotong and his partner for some time so we have had many dealings and discussions and I mean
10 you start companies and they don't work out, and so there could be a lot of information floating around out there, that I cannot recall today, but specifically in regards to this project, that is what I'm answering, but I don't want to answer generally and broadly and then ...[intervenes]

ADV KATE HOFMEYR: No I am certainly not requesting a general answer, I am requesting a very specific answer about whether there was an agreement between yourself and Octex.

MR MYENI: It is possible.

ADV KATE HOFMEYR: It is possible, you don't recall.

20 **MR MYENI:** I can't say.

ADV KATE HOFMEYR: You were doing work to earn a fee of R2million, is that correct?

MR MYENI: Yes.

ADV KATE HOFMEYR: Does it not, is that not something you would want to have committed to writing, the terms on which you would be

paid etcetera.

MR MYENI: Ja, sure.

ADV KATE HOFMEYR: Yes. But you didn't commit it to writing.

MR MYENI: As I am saying it is possible we did, but I cannot recall and I don't have that document with me, but it is very possible that we did.

ADV KATE HOFMEYR: Right. Let us then go, if we may to a few more of these reports. You will find at page 47 ...[intervenes]

CHAIRPERSON: Maybe this is the right time.

10 **ADV KATE HOFMEYR:** Oh yes, Chair.

CHAIRPERSON: Yes., we will take the tea adjournment and we will resume at half past eleven.

We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay, let us continue.

ADV KATE HOFMEYR: Thank you Chair. Mr Myeni just before the break I was going to take you to another of the reports that Mr Narsai and V and
20 A have indicated to the Commission you provided to them, because of sub-contractors you had secured to do various works on the project. Before I take you there can I just clarify, your evidence today is that you did not sub-contract these various entities who provided reports. Is that correct?

MR MYENI: Which various entities?

ADV KATE HOFMEYR: The ones that we, I thought you said previously you did your own work as Premier, you did not sub-contract to any people doing sewer or electricity or quantity surveying on the project. Is that right?

MR MYENI: Sewer, electricity, quantity surveying? No.

ADV KATE HOFMEYR: No, okay, let us go through each of them so we can be absolutely clear about your evidence, right? Let us go to Exhibit DD(27) at page 47, four, seven. Forty-seven. Do you see that?

MR MYENI: Yes.

10 **ADV KATE HOFMEYR:** It appears to be a budget report prepared by QS Consult Africa, do you see that?

MR MYENI: Yes.

ADV KATE HOFMEYR: Is that an entity known to you?

MR MYENI: No.

ADV KATE HOFMEYR: And can you help us with what this document is?

MR MYENI: It says it is the budget report.

ADV KATE HOFMEYR: Is this a document you had seen previously?

MR MYENI: It is possible.

20 **ADV KATE HOFMEYR:** But then let us just clarify, your relationship with QS Consult Africa, did you have any relationship with them?

MR MYENI: No.

ADV KATE HOFMEYR: No, they were not brought into the project at your behest?

MR MYENI: No.

ADV KATE HOFMEYR: But you may have seen this budget report before, is that correct?

MR MYENI: Yes.

ADV KATE HOFMEYR: Let us go to the next one at page 50, five zero. What is that document?

MR MYENI: It says The Professional Services Contract.

ADV KATE HOFMEYR: Is this a document you have seen before?

MR MYENI: It is possible, I do not know.

ADV KATE HOFMEYR: Do you recall having provided it to V and A
10 Consulting?

MR MYENI: Us providing it to them?

ADV KATE HOFMEYR: Yes.

MR MYENI: No, we would not have provided them because we are not the employer, so I do not think so.

ADV KATE HOFMEYR: Thank you. And then if we go to page 148 there is a further report. This is still in Exhibit DD(27). What is that document?

MR MYENI: It says Scope of Work for Project Works.

ADV KATE HOFMEYR: Is Project Works an entity known to you?

20 **MR MYENI:** No.

ADV KATE HOFMEYR: No. So, did you procure Project Works to prepare this report?

MR MYENI: No.

ADV KATE HOFMEYR: Is it a report you had seen prior to today?

MR MYENI: It is possible.

ADV KATE HOFMEYR: But again, your evidence is you did not get Project Works involved on this project, correct?

MR MYENI: Yes. Yes.

ADV KATE HOFMEYR: And you did not submit this report then to V and A as evidence of the work that you had done on the project, correct?

MR MYENI: Sorry please repeat that?

ADV KATE HOFMEYR: You did not provide this report to V and A as evidence of the work that you had done on the project?

10 **MR MYENI:** No.

ADV KATE HOFMEYR: No. And as evidence of work that you had arranged to have done on the project?

MR MYENI: Arranged?

ADV KATE HOFMEYR: I am drawing a distinction between Premier itself doing the work and you organising for Project Works to do the work. Did you organise for Project Works to do this scope of works?

MR MYENI: No, I do not think so. I do not think so.

20 **ADV KATE HOFMEYR:** Well until this point you have been very clear that the previous reports you were not responsible for procuring. Is the situation different in relation to Project Works?

MR MYENI: So, what I am clear about is in relation to Premier Attraction, but any other work that would have been outsourced I am not clear about that?

ADV KATE HOFMEYR: But Premier Attraction did not outsource that work, is that correct?

MR MYENI: Which work?

ADV KATE HOFMEYR: The work of Project Works that we see in this report.

MR MYENI: No, I do not, that is why I am saying I do not think so. No.

ADV KATE HOFMEYR: You do not think so?

MR MYENI: No.

ADV KATE HOFMEYR: Your evidence is not right. Let us go to the next one.

CHAIRPERSON: I think Miss Hofmeyr wanted to establish whether you
10 are as categorical in regard to this work, this report as you have been
with regard to the others. I notice that you say you do not think you did,
is that because you are not sure or are you quite clear that you did not
provide such work?

MR MYENI: Yes - yes Sir, so I do not know what this report is for. I do
not know what the work that was done here.

CHAIRPERSON: Oh okay.

MR MYENI: So, I, when she listed sewer, direct.

CHAIRPERSON: Yes, you were clear about that.

MR MYENI: Yes, so I do not know what Project Works did.

20 **CHAIRPERSON:** Yes, okay, yes okay.

MR MYENI: So, I cannot say for sure whether we would have or not.

CHAIRPERSON: That is fair enough.

MR MYENI: Sometimes you ...[intervenes].

ADV KATE HOFMEYR: Well, does it not follow though if you do not know
what Project Works did, that you then did not provide this as evidence of

the work that you arranged be done on the project by Project Works.

MR MYENI: Please repeat that Ma'am?

ADV KATE HOFMEYR: Apologies. I am just trying to get a sense as the Chair is following up on, precisely what you are certain about and what you are not certain about, okay? I understand you to be certain that Sewer Works, Premier Attraction was not responsible for getting contractors to do that work, is that correct?

MR MYENI: Yes.

ADV KATE HOFMEYR: And then we looked at the budget that was
10 prepared by QS Consulting and again you were quite clear in your evidence. Premier Attraction did not engage QS Consult Africa to do that work, correct?

MR MYENI: Yes.

ADV KATE HOFMEYR: Thank you. You must give the answer, so the record reflects it.

MR MYENI: Yes.

ADV KATE HOFMEYR: Now we move to another set of the documents that V and A says you provided to them as evidence of all the many contractors, Premier was engaging to do work on the project, right? You
20 have already given evidence that that account by V and A is false, is that correct?

MR MYENI: Yes. It is – it is false.

ADV KATE HOFMEYR: Right. So now let us go to this one which is the Project Works report. What is your evidence in relation to the Project Works report? Did Premier sub-contract to projects works, to prepare this

report?

MR MYENI: No, I do not think we would have sub-contracted to projects works, because the entity is not coming to me. So, I do not think so. I could say it is highly unlikely let me put it that way but it does not mean that I would not have handed the document over to V and A from the client. That is two different things.

ADV KATE HOFMEYR: They are indeed. So, I understand your evidence to be it might have been that you handed over these documents?

10 **MR MYENI:** Yes.

ADV KATE HOFMEYR: But is it your evidence in doing so it was not because you had sub-contracted Project Works to do this work for the project. Is that correct Mr Myeni?

MR MYENI: Yes- yes

ADV KATE HOFMEYR: Thank you that does clarify matters. Let us go to the next report it is at page [Intervenues].

CHAIRPERSON: Ja, I am sorry. So if you did hand over this document to V and A is the position that you would have done so simply because you would have been asked by the developer to hand it over?

20 **MR MYENI:** Yes Chair.

CHAIRPERSON: And not because your Close Corporation was involved in giving Project Works any work to do?

MR MYENI: Yes Chair.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Thank you and let us go to the next report that is

on page 153 of DD(27). What is this document?

MR MYENI: It says Water and Sewer Infrastructure, it is a scoping report.

ADV KATE HOFMEYR: And who prepared it?

MR MYENI: Safargo Capital Investments.

ADV KATE HOFMEYR: Is that entity know to you?

MR MYENI: Yes.

ADV KATE HOFMEYR: Did you bring them into the project to do this work?

10 **MR MYENI:** Bring them into the project to do the work? No. I do not. No, this they would have been brought in by Optics because this a separate, as I said we were not involved in sewer.

ADV KATE HOFMEYR: Correct.

MR MYENI: So, it would have been an Optics.

ADV KATE HOFMEYR: And then let us deal with the last one which relates to electricity. You will find that at page 199. What is that document? Apologies Mr Myeni.

MR MYENI: Okay. Yes- yes.

20 **ADV KATE HOFMEYR:** Page 199. Can you assist us with what document that is?

MR MYENI: Scope of Services, okay. It is a bulk electricity. Something about bulk electricity. It is not quite clear.

ADV KATE HOFMEYR: And who has on the face of this document [intervenes].

CHAIRPERSON: Well It appears to be a letter from a Mr Robert

Zietzman addressed to Octics (Pty) Limited, and the subject matter is Proposed Scope Of Our Services For Township Developments Projects, is that right?

MR MYENI: Yes- yes Chair.

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: Do you know Mr Zietzman?

MR MYENI: No.

ADV KATE HOFMEYR: Do you know the entity Geo-Power?

MR MYENI: No.

10 **ADV KATE HOFMEYR**: And again, was Geo Power a company that Premier was responsible for bringing into the Housing Development Project?

MR MYENI: No.

ADV KATE HOFMEYR: Have you seen this document before?

MR MYENI: I cannot recall now, it is possible.

ADV KATE HOFMEYR: And again I take it you will give the same answer it may have been that you have provided this document to V and A, is that correct?

MR MYENI: Yes, that is correct.

20 **ADV KATE HOFMEYR**: But you would be doing so on behalf of Octics, is that correct?

MR MYENI: Yes, it is correct.

ADV KATE HOFMEYR: Thank you, and then can I just clarify, so we are on the same page about your previous testimony. Your evidence was there was no agreement directly between Premier and Octics is that

correct?

MR MYENI: No, I said there was no agreement between Premier and Octics relating to us being or managing the development or being the lead whatever it would have been but I am not saying there is no agreement between Premier and Octics because I said the Directors and shareholders are known to be and who have engaged in many or tried to do many business opportunities together, so there could very well be an agreement somewhere floating around but in relation to this project no.

CHAIRPERSON: Sorry, in regard to this project there was no agreement
10 between the two?

MR MYENI: Between us and Octics as the lead [intervenes].

CHAIRPERSON: As the lead to this project

MR MYENI: Yes, with being the lead.

CHAIRPERSON: Or would there have been any other any agreement between you and them in regard to any role at all in the project

MR MYENI: It is possible Chair, but I cannot recall and [intervenes].

CHAIRPERSON: You cannot recall, okay.

MR MYENI: I do not think there would have been a need. There would not have been a need [intervenes].

20 **CHAIRPERSON**: Yes.

MR MYENI: Because our roles and services were specifically coming V and A Consulting, so I do not think so.

CHAIRPERSON: Okay

ADV KATE HOFMEYR: Were you ever appointed as Octics Representative?

MR MYENI: No.

ADV KATE HOFMEYR: And just to be clear you were contracted by V and A?

MR MYENI: Yes.

ADV KATE HOFMEYR: Is that correct?

MR MYENI: Yes.

ADV KATE HOFMEYR: Okay, I would like to take you to the version that V and A has provided to the Commission. For that you need to go to, in the same bundle to DD(27) and it commences at page 8.

10 **MR MYENI:** Okay.

CHAIRPERSON: Page 8?

ADV KATE HOFMEYR: Eight of Exhibit DD(27) Chair.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Chair just to give the background to this document. There was a summons issued to V and A in relation, seeking documents related to this payment and the response that you see at page 8 is the response from V and A 's attorneys. Pursuant to receiving the response the Commission was in contact with V and A's attorneys and requested that the facts set out in this letter be deposed to in an affidavit
20 by Mr Narsai and we requested that that be provided by at the latest Friday of last week. We received communication on Friday to indicate that that would not be possible as Mr Narsai was travelling and on business and the undertaking has been that he will provide it, I think it was by the latest Thursday this week. So that is where we are. That is why I am not referring Mr Myeni to an affidavit.

CHAIRPERSON: Yes, okay.

ADV KATE HOFMEYR: But we are in the process of securing one that will attest to the facts set out in this letter.

CHAIRPERSON: Yes, okay.

ADV KATE HOFMEYR: Now Mr Myeni what happened in response to the summons is that this letter was furnished with V and A's account of the way in which this payment came about, and then all of those documents that I have taken you to are what V and A provided to the Commission, as evidence of the reports. It says it received from Femier.

10 **MR MYENI:** Yes.

ADV KATE HOFMEYR: As the basis for the payment made to Premier. Okay, so I would like to take you to what V and A says about its understanding of this arrangement and you will find that over the page at page 9. So, at page 9 what is recorded here, and I am going to read it into the record and then I am going to ask for your comment at various points. What is stated at the top of paginated page 9 is:

“In order to give context to the above-mentioned documents we are instructed to advised the following:

a) V and A consulting was approached by Premier Attraction
1016 (Pty) Limited”

20

I think that is an error because you are not (Pty0 Limited are you?

MR MYENI: CC.

ADV KATE HOFMEYR: You are a CC. During the early course – during the course of early 2015 wherein it advised and then there is a series of things that V and A says Premier said to it. The first is that Premier was

the project, was the Development manager and representative of Octics Holdings in respect of a privately owned project described as Mzinoni Extension eleven Bethal Mpumalanga, do you see that?

MR MYENI: Yes.

ADV KATE HOFMEYR: Now your previous evidence as I have it Mr Myeni is that you were neither the Development Manager nor the representative of Octics, is that correct?

MR MYENI: Yes correct.

ADV KATE HOFMEYR: So, this statement is false in those two respects,
10 is that correct?

MR MYENI: Yes.

ADV KATE HOFMEYR: V and A goes on and says,

“That it understood from Premier that in it’s a forced mentioned capacity, Premier had already attended to the initial phases of the project including the establishment of the township. The work that had been done and disbursements incurred was two million Rand.”

That I take it from your previous testimony is also false, is that correct?

20 **MR MYENI:** Yes, well and the reports shows there is no Premier Attraction report prior.

ADV KATE HOFMEYR: And then they go on and V and A records that “Premier indicated to it that the project had reached a stage where it required V and A to take over the management of the project

and to provide professional services including that of architecture, quantity surveying, engineering and project management.”

Is that also false?

MR MYENI: Ja, I mean, it does not even make sense. If we had the project and we had already done all these reports, why would we hand it over to somebody else?

ADV KATE HOFMEYR: So, your answer is it is false?

MR MYENI: Yes. False.

10 **ADV KATE HOFMEYR**: And at four on that page,

“(iv). That the client Octics was prepared to appoint V and A consulting to provide the aforementioned services.”

those ones we have just referred to with Premier continuing to act as the client’s representative. Is that also false?

MR MYENI: Which part?

ADV KATE HOFMEYR: Well, you tell me any part of it that is false.

MR MYENI: Well, Octics clearly was prepared to appoint V and A because they did and to provide the services above which, without seeing
20 the Scope of Service, I assume that is what it included, but as Premier we never acted as the representative. [Intervenes]

ADV KATE HOFMEYR: The client’s representative.

MR MYENI: Of the client.

ADV KATE HOFMEYR: Thank you. So [Intervenes]

CHAIRPERSON: And. And.

ADV KATE HOFMEYR: At last. [Intervenes]

CHAIRPERSON: I am sorry. And you did not tell V and A that Octics wanted you to continue to act as their representative?

MR MYENI: I definitely did not tell them that. Maybe the owner of Oct, I mean, V and A assumed.

CHAIRPERSON: Ja.

MR MYENI: As I am sure we can assume if I am getting documents and passing them, you might think I am a representative, but, no, that was never the case.

10 **ADV KATE HOFMEYR:** Okay. I would then like to leave this page. We will return to it in a moment.

CHAIRPERSON: Sure.

ADV KATE HOFMEYR: Because amongst the documents that V and A provided to the Commission is an agreement that was concluded between itself and Octics, and I would like to take us there if we may. You will find it in the same Exhibit DD(27) and you will find it at page 213.

MR MYENI: Okay.

ADV KATE HOFMEYR: Feel free to page through the agreement if it will assist in refreshing your memory. My question is whether you have seen
20 this agreement before?

MR MYENI: It is possible, but I do not think so because there would have been no need for me to.

CHAIRPERSON: Do you want to page through a little bit and see if anything reminds you or not, or you are quite clear?

MR MYENI: I am quite clear, Chair I do not.

CHAIRPERSON: Okay.

MR MYENI: I do not think I would have had any part in this agreement.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: See, this is the agreement that V and A provides to the Commission as evidence of the basis for its two million Rand payment to Premier. Okay? The first thing that is noteworthy about the agreement at page 213, but before I get there could you just tell us who the parties are to this agreement on the face of it Mr Myeni?

MR MYENI: Okay. The parties. Client, Octics Holdings Consultant,
10 V and A Consulting.

ADV KATE HOFMEYR: And what services was V and A Consulting going to provide in accordance with this agreement?

MR MYENI: Professional services.

ADV KATE HOFMEYR: And then there is a, a sort of summary in brackets there. Can you help us decipher that?

MR MYENI: It is not quite clear.

CHAIRPERSON: So, what seems to be written is PM, Architect, QS and then C#Eng?

ADV KATE HOFMEYR: Indeed.

20 **CHAIRPERSON:** Civil Engineering?

ADV KATE HOFMEYR: I think so.

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: And then S/Eng, may be Sewer Engineering. E/Eng, Electrical Engineering, M/Eng, Mechanical Engineering, W/Eng, may be Waste Engineering. Chair, we are speculating.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: I understand from Mr Myeni, you do not have knowledge of this agreement?

MR MYENI: No, I do not. I do not. I do not I do not.

ADV KATE HOFMEYR: Tell. Could you just assist us with what is recorded on the front page as the agreement date?

MR MYENI: 24/07/2015.

ADV KATE HOFMEYR: That was after V and A had paid you the two million, was it not?

10 **MR MYENI:** Yes.

ADV KATE HOFMEYR: Does that strike you as odd?

MR MYENI: No.

ADV KATE HOFMEYR: No? Why would it not be odd that the agreement in terms of which V and A was appointed to this project only occurred after it had made payment to you?

MR MYENI: I cannot answer for V and A and Octics so I do not know. Maybe this was a second agreement that they had signed. Who knows? I do not know. So, we cannot rely on it being the only one.

20 **CHAIRPERSON:** Yes. No, I think Miss Hofmeyr expected you to say you find it odd that they come up with an agreement that was signed after you had been paid because you would have expected, and I think Miss Hofmeyr canvassed that with you earlier on that their agreement, V and A's agreement on your version with the developer would have preceded your being brought in. So, if now they come up with an agreement that happened after the payment, one would have expected

your answer to be, “yes, I find this odd.” But you said no, you do not find it odd. [Intervenes]

MR MYENI: Well, Chair if you, follow the logic as per the documents that are here, yes, I find it odd. But I do not find it odd because of my understanding of the project. [Intervenes]

CHAIRPERSON: So, is it a question of your answer is yes and no?

MR MYENI: My answer is yes. [Intervenes]

CHAIRPERSON: At the face of it, it is odd.

MR MYENI: Yes, it is not odd. At the face of it, it is odd, but my
10 understanding of the project and where the project came from with the
little limited information that I have, for instance, my understanding is
that Octics actually had a different consulting company prior to V and A
even coming in. A lot of reports as you can see, they are 2014 *et cetera*.
So, a lot of work would have been done prior so to rely on an agreement
started the 24th, this agreement could have been making amendments to
the original agreement. I do not know, but what I do know is that as of
2014 there was already work being done here, so I would have assumed
that there would have been an agreement, whether written or verbal, but
at the very least there would have been a Scope of Services and
20 everybody would know exactly what they would make out of it. So, I do
not want to rely on a document that I do not have context, I cannot say.
[Intervenes]

ADV KATE HOFMEYR: Except that V and A puts this up as the agreement that brought it into the project.

MR MYENI: That is what they are saying. They also say I was a lead.

[Intervenes]

ADV KATE HOFMEYR: And a representative and you were not.
[intervenes].

MR MYENI: But they cannot. But they cannot provide an agreement to that. So at least if they were providing agreements, I would say fine, they are correct. But I am actually, was even saying to you that some of these reports that you have mentioned, I was quite clear. I was not involved. So, you know. People can, people will say what they have to say.

10 **CHAIRPERSON:** I am not sure I understand why you say you do not find it odd. I would understand, I understand when you say you find it odd that they put up an agreement that they say brought them into the project. That agreement having been signed after payment had been made to you. When you find that odd, I understand. I do not understand why you do not find it odd because you say you find it both odd and not odd.

MR MYENI: So, all I am saying, Chair is that this may not be the only agreement that was signed. Unfortunately, I just do not have the records so in that sense, because, yes, it is odd that I would be paid prior to an agreement being signed, but I am saying that never happened. That is
20 not how I conduct myself so [Intervenes]

CHAIRPERSON: Yes, but if this is, if they are correct [Intervenes]

MR MYENI: Yes.

CHAIRPERSON: That this is the agreement that brought them into the project [Intervenes]

MR MYENI: And then it will be odd.

CHAIRPERSON: Then it would be odd.

MR MYENI: Yes, Chair.

CHAIRPERSON: Okay.

MR MYENI: It would be very odd.

ADV KATE HOFMEYR: Your evidence a moment ago was you do not receive payments prior to agreements being in place. You do not conduct your business that way. Is that correct?

MR MYENI: Yes.

ADV KATE HOFMEYR: So, where was the agreement? [Intervenes]

10 **MR MYENI:** Sorry, I do not. Sorry you said I do not receive payments prior to?

ADV KATE HOFMEYR: The agreements being in place.

MR MYENI: No. I never said, “agreements being in place.”

ADV KATE HOFMEYR: Apologies. What was your evidence?

MR MYENI: But there had to be a reason for a payment, so I do not just receive payment for no reason. So, the reason could have been, for instance, we have a verbal agreement and an arrangement, we have a scope of service that is sent to us which is not necessarily an agreement. We execute then we get paid.

20 **ADV KATE HOFMEYR:** Is that the basis for your receiving the two million Rand payment from V and A?

MR MYENI: What do you mean?

ADV KATE HOFMEYR: The evidence you have just given. A verbal agreement in terms of which you got a Scope of Services at some point. You delivered work on it and you got paid two million Rand by V and A.

MR MYENI: So, I am not saying it is a verbal agreement because I cannot recall, but I am saying there would have been an agreement of sorts whether verbal or written.

ADV KATE HOFMEYR: So, it could... [Intervenes]

MR MYENI: Number two, there would have been a Scope of Services, and there would have been an agreement prior of the amount of money that will be paid for those works. So, you know, at that point then we would have.

ADV KATE HOFMEYR: Okay, let us unpack that a little bit. I understood
10 your previous evidence to be there was no written agreement between yourselves and V and A?

MR MYENI: I said I cannot recall whether there is a written agreement or not. It is possible that it could have been, or it could not have been. Possible that it was verbal, possible that it was written. I cannot say for sure right now.

ADV KATE HOFMEYR: But there is a legally binding agreement in terms of which you were to be paid two million Rand for the work that you did on design for the structures. Is that correct, Mr Myeni?

MR MYENI: Yes. Legally binding.

20 **CHAIRPERSON:** Well, exactly, you might not know about legally binding, but as far as you are concerned there was an agreement.

MR MYENI: Yes.

CHAIRPERSON: That is why you did the work.

MR MYENI: Yes.

CHAIRPERSON: You would not do the work if there was no agreement.

MR MYENI: Yes, Chair.

CHAIRPERSON: What you do not know is whether it was written.

MR MYENI: Yes.

CHAIRPERSON: Or it was verbal.

MR MYENI: Yes, Chair.

CHAIRPERSON: And as far as you are concerned, you did the work.

MR MYENI: Yes.

CHAIRPERSON: And you got paid.

MR MYENI: Yes, Chair.

10 **CHAIRPERSON:** Okay, and to go back to the scope of the work, I do not think you can be in doubt that there was scope of work for you because what would you be doing.

MR MYENI: Yes, Chair. Yes.

CHAIRPERSON: If you do not know where your limits are.

MR MYENI: Yes, Chair.

CHAIRPERSON: So, you. So, you are able to say there would have been an agreement on the scope of work.

MR MYENI: Yes, Chair.

CHAIRPERSON: There would have been an agreement on the payment.

20 **MR MYENI:** Yes, Chair.

CHAIRPERSON: The amount.

MR MYENI: Yes Chair.

CHAIRPERSON: And you are saying that by the time you got paid you would have done the work and you would have finished the work. Am I right?

MR MYENI: Yes, Chair.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: And you have no records of any of that, correct?

MR MYENI: Yes.

ADV KATE HOFMEYR: Do you think Octics might have records?

MR MYENI: I am hoping someone does so that they can sort of clarify this, but I do not know.

ADV KATE HOFMEYR: Yes, that would be helpful. Let us go to page 216. We are still in the agreement there.

10 **MR MYENI:** Yes.

ADV KATE HOFMEYR: I would like to look at that page at Clause 1.1.4. Could you read into the record what is defined there, please?

MR MYENI:

“Client’s representative means a representative designated by the client and so named in the schedule to act with complete authority on his behalf and who shall be available at all reasonable times.”

ADV KATE HOFMEYR: Thank you. I would then like to go to the schedule that is referred to there and let us see who is indicated as the
20 client representative in this agreement. You will find that at page 227.

MR MYENI: Yes.

ADV KATE HOFMEYR: Who is indicated at the top of the page as the client representative under this agreement?

MR MYENI: It says,

“Name: Premier Attraction.”

ADV KATE HOFMEYR: But you deny that you were the representative under this agreement, correct?

MR MYENI: Maybe there was an error ma'am because the address is not our address. That can be verified at CIPC it has never been. The number- cell phone number, it is not my number, it has never been. The email moeketsimokotong@yahoo.co.uk that is obviously not me. So, I do not know who would have done this and put this together but we cannot just rely on Premier Attraction when everything else is not correct.

10 **CHAIRPERSON:** So, in other words you are saying that you know- you can see that on this page your close corporation is recorded as having been the client's representative. But you are saying that that was not done with your permission or consent.

MR MYENI: No Chair, I am saying I am not sure what happened. So Premier Attraction was a shelf company just maybe to give you background as well. So, the reason why mine is 1016 is because there is a Premier Attraction 123- all the way, right. So, this just says Premier Attraction, it does not say 1016 which you have to be specific to be talking about my entity, number one. Number two, I am then
20 saying the address, the email, the cell phone number, all of that information has never been my information or my company's information.

CHAIRPERSON: Yes.

MR MYENI: So, we might be confusing Premier Attraction with Premier Attraction 1016. That can be verified with CIPC, there are many of

them. So, without the 1016 I think it becomes difficult to attribute it to my company.

ADV KATE HOFMEYR: So, is this a fabricated page of the agreement, do you think?

MR MYENI: I cannot say whether it is fabricated ma'am. I have never- I do not know.

ADV KATE HOFMEYR: But you played no role as the client representative under the agreement between Octics and VNA Consulting. Is that correct?

10 **MR MYENI:** No.

ADV KATE HOFMEYR: I think the answer is yes if you agree with me.

MR MYENI: Sorry if?

ADV KATE HOFMEYR: If you agree with me your answer have to be yes for the record ... (intervenes)

CHAIRPERSON: If you agree with her.

MR MYENI: Yes, I agree with you yes. I agree with you.

ADV KATE HOFMEYR: Okay. Let us go over to where else you are referred to in this agreement. You will find that at page 229.

MR MYENI: Okay.

20 **ADV KATE HOFMEYR:** At page 229 there is a clause there A5 about a third of the way down headed documents. Do you see that?

MR MYENI: Yes.

ADV KATE HOFMEYR: And it lists the documents that comprise the agreement. It is the Agreement, there is Annexure A The schedule, there is Annexure B Scope of Services and then there is Annexure C

and what has been written there in hand is as per the brief and document submitted by Tholente Myeni. Do you see that?

MR MYENI: Yes.

ADV KATE HOFMEYR: And then under that it says; signed original documents held by and then what has been written in there VNA Consulting - as handed over by T Myeni.

MR MYENI: Yes.

ADV KATE HOFMEYR: Did you have any involvement in these records in this agreement?

10 **MR MYENI:** No.

ADV KATE HOFMEYR: And I have your previous evidence to be, it is false that you handed over these documents to VNA Consulting in so far as that was the basis for the payment you received from VNA. Is that correct?

MR MYENI: Yes. So, are you suggesting ... (intervenes)?

ADV KATE HOFMEYR: Do I have to unpack it?

CHAIRPERSON: I think let me clarify that.

MR MYENI: Yes.

20 **CHAIRPERSON:** I think what she said Ms Hofmeyr is he may have handed over to VNA various documents.

ADV KATE HOFMEYR: Indeed Chair.

MR MYENI: Yes.

CHAIRPERSON: On behalf of the developer.

ADV KATE HOFMEYR: Ooties.

CHAIRPERSON: Ja okay.

ADV KATE HOFMEYR: But not- sorry it was a composite question so I do apologise. I understand your evidence Mr Myeni and you must correct me if I am wrong, to be at some point you may have handed over documents to VNA.

MR MYENI: Yes.

ADV KATE HOFMEYR: But not as the basis upon which you were to be paid the 2 million rand.

MR MYENI: No.

MR MYENI: Is that correct?

10 **MR MYENI:** No.

ADV KATE HOFMEYR: So, who would have been putting these records into this agreement without your knowledge and based on false facts?

MR MYENI: I am not sure whether when you say false facts but I am not sure we would have also done the agreement. I would assume that the parties listed would have done the agreement. But I do not see false facts.

ADV KATE HOFMEYR: Well we have already established one which is that you were not the client's representative and that is ... (intervenes)

20 **MR MYENI:** Yes.

ADV KATE HOFMEYR: Reflected at page 227, correct?

MR MYENI: As I have pointed out that is Premier Attraction, it does not refer to 1016 so legally in fact that does not even talk to my entity. It was a different entity all together if it just says Premier Attraction.

CHAIRPERSON: But would you agree that if you have a close

corporation whose name includes Premier Attraction.

MR MYENI: Yes Chair.

CHAIRPERSON: Even if that is not officially the complete name.

MR MYENI: Yes Chair.

CHAIRPERSON: And you are the sole member of that close corporation.

MR MYENI: Yes Chair.

CHAIRPERSON: And that reference to Premier Attraction and the document says the client's representative is Premier Attraction and
10 later in the same document there is a reference- let me try- there is a reference- what does it say here? There is a reference to Thalente Myeni.

MR MYENI: Yes Chair.

CHAIRPERSON: One may be forgiven to think that the Premier Attraction they are talking about is your one.

MR MYENI: I agree Chair.

CHAIRPERSON: You agree? Okay, thank you.

ADV KATE HOFMEYR: And sorry, you paused on my description of some of the facts recorded in this agreement as being false. I would
20 like to draw your attention at 229 to the recordal against Annexure C just before the middle of the page. It says there; As per brief and documents submitted by Thalente Myeni. Right.

MR MYENI: Yes.

ADV KATE HOFMEYR: What I am interested in there is "brief" because the reference to brief ties in with the VNA account of how it came into

this arrangement, the account that you say is false. And let me explain why that is.

MR MYENI: Yes.

ADV KATE HOFMEYR: VNAs version before the Commission is that you, Premier Attraction were originally playing the development manager role. You wanted out but by that stage you had incurred certain expenses. You had contracted a certain sub-contractor and so you needed to be paid out effectively by VNA when they came into you position. So, it is in that context that the brief is the briefing from you, previous project manager to VNA new project manager. But I understand your evidence to be that that did not take place. Is that correct?

MR MYENI: Ja I think maybe you are referring to brief maybe in the legal sense of when you client briefs but this maybe could have just been a document to say ... (intervenes)

ADV KATE HOFMEYR: No but it says; and documents. So, it is something other than the documents.

MR MYENI: Yes, so I am saying it could have- so the documents you refer to was a sewer report etcetera, etcetera.

20 **CHAIRPERSON:** What is your understanding of brief in this context?

MR MYENI: Ja that is what I am trying to explain Chair. I am saying a brief could have just been a two-pager from the developer to say; this is what we want to be done etcetera, etcetera. Now me passing that document on does not mean I authored that document. So I ... (intervenes)

CHAIRPERSON: Yes, but is it correct that your understanding of brief in this context ... (intervenes)

MR MYENI: Yes.

CHAIRPERSON: Is that it refers to the mandate being given by the client for the work to be done by VNA.

MR MYENI: I do not understand that Chair. Mandate ... (intervenes)

CHAIRPERSON: You do not understand it that way?

MR MYENI: Can you please repeat it please Chair?

CHAIRPERSON: Okay alright.

10 **MR MYENI:** I do not think I ... (intervenes)

CHAIRPERSON: Okay. What- remember I asked you what your understanding of the meaning of brief in this context.

MR MYENI: Yes.

CHAIRPERSON: Now my understanding of it and I want to check with you if you have the same understanding.

MR MYENI: Yes.

CHAIRPERSON: Is that it refers to the mandate that VNA was being given by the client that this brief came via you that VNA got the brief or the document or that contained the mandate or they were told- maybe it

20 was verbal the brief ... (intervenes)

MR MYENI: Ja so.

CHAIRPERSON: By you what they were required to do.

MR MYENI: Ja so Chair I do not have an understanding because I do not have context.

CHAIRPERSON: So, you do not ... (intervenes)

MR MYENI: I do not know this document.

CHAIRPERSON: Ja.

MR MYENI: It is difficult to say what he was referring to.

CHAIRPERSON: Yes.

MR MYENI: I cannot say.

CHAIRPERSON: Yes okay. Ms Hofmeyr.

ADV KATE HOFMEYR: Thank you Chair. And you will see the other place where there is a reference made to Premier Attraction is at the bottom of that page 229 where the professional fees that are being
10 agreed between VNA and Octics are set out. You will see there, professional fees for this project shall be 20.31% inclusive of 25% discount on tariff and the amount of 2 million paid to Premier Attraction. Do you see that?

MR MYENI: Yes, I see it.

ADV KATE HOFMEYR: Did you have any knowledge prior to today that this is how the payment of your 2 million rand was recorded between Octics and VNA?

MR MYENI: No.

ADV KATE HOFMEYR: Do you read this in the same way as I do which
20 is to suggest that VNA is going to have a claim against Octics for the 2 million rand that it paid to you?

MR MYENI: A claim?

ADV KATE HOFMEYR: Mm.

MR MYENI: I would assume so yes because we were all providing services to Octics so Octics would have had to pay everybody involved.

ADV KATE HOFMEYR: Mm.

MR MYENI: Including Premier Attraction.

ADV KATE HOFMEYR: Well it did not pay Premier Attraction. The arrangement was VNA would pay it and then VNA would be reimbursed by Octics. Is that as you understand this recordal?

MR MYENI: Yes.

ADV KATE HOFMEYR: Just tell me ... (intervenes)

CHAIRPERSON: I am sorry. Looking at the reference to Premier Attraction at the bottom of that page namely 229, the one we were
10 looking at just now. Looking at the fact that there is reference to Premier Attraction on that page same reference namely Premier Attraction on page 227. It seems to me that one can now accept that when whoever wrote Premier Attraction and I think the handwriting is the same at page 227 as client's representative, must have been meaning your Premier Attraction.

MR MYENI: I agree Chair.

CHAIRPERSON: You would accept that?

MR MYENI: Agree Chair.

CHAIRPERSON: Ja okay.

20 **ADV KATE HOFMEYR:** Mr Myeni, I would like to go back to page 9 of Exhibit DD27 because I said I would return there. That is where VNA sets out its account of these facts for the Commission.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: And I pick it up there Mr Myeni at paragraph 2 B because it is here that VNA after setting out the background explains

... (intervenes)

CHAIRPERSON: I am sorry Ms Hofmeyr. Did you deliberately leave our V?

ADV KATE HOFMEYR: I did.

CHAIRPERSON: You did- well you did ... (intervenes)

ADV KATE HOFMEYR: For my purposes ... (intervenes)

CHAIRPERSON: You did not refer to it ... (intervenes)

ADV KATE HOFMEYR: I did not refer to it.

CHAIRPERSON: I just want to know that it is not oversight.

10 **ADV KATE HOFMEYR**: It was not oversight.

CHAIRPERSON: Okay alright.

ADV KATE HOFMEYR: It was not pertinent at the time but I am happy to include it for completeness.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Maybe we should just read it into the record.

CHAIRPERSON: Ja maybe to completeness ja.

ADV KATE HOFMEYR: Because se got to IV Mr Myeni before we moved to the agreement.

MR MYENI: Yes.

20 **ADV KATE HOFMEYR**: But what VNA also records at V on page 9 of Exhibit DD27 is amongst the things that it alleges Premier told it is that;

It was expected of VNA to provide the aforesaid services and that VNA would start receiving payment for the said services once funding for the development had been secured as is the norm in projects of this nature.

And then at B is where VNA records ... (intervenes)

CHAIRPERSON: Maybe for the sake of completeness again. I take it you deny that you told VNA what is reflected in V? There they say you ... (intervenes)

MR MYENI: Oh yes, no.

CHAIRPERSON: Ja, you deny that ja.

MR MYENI: I would not have ... (intervenes)

CHAIRPERSON: Okay alright.

ADV KATE HOFMEYR: Thank you Chair. If we go to 2 B, that is were
10 VNA explains the basis for it paying Premier 2 million rand. It says;
VNA accepted the aforementioned appointment on an understanding
that it VNA would pay Premier the aforementioned 2 million rand for all
the reports, documentation and work completed that hat been furnished
to Premier by the various consultants that it had appointed.

Do you see that?

MR MYENI: Yes, I see it.

ADV KATE HOFMEYR: Your evidence before this Commission is that
you did not appoint those consultants, correct?

MR MYENI: No.

20 **ADV KATE HOFMEYR**: And you did not procure the rendering of those
reports, correct?

MR MYENI: No.

ADV KATE HOFMEYR: So VNA paid you 2 million rand for work on
your version that you did not do, correct?

CHAIRPERSON: Let us put it this way. To the extend that VNA says it

paid you the 2 million rand because you had provided certain reports and documentation, that is not true as far as you are concerned?

MR MYENI: Yes.

CHAIRPERSON: Is that right?

MR MYENI: Yes Chair, but for work completed yes.

CHAIRPERSON: For work completed, that you say that was true.

MR MYENI: And also Chair if I may just point out I think something that ... (intervenes)

CHAIRPERSON: Yes.

10 **MR MYENI:** Is quite obvious. It says that VNA Consulting then commenced work on the project during or about March 2015. So ... (intervenes)

CHAIRPERSON: Yes.

MR MYENI: But they have given us a contract for July of that year. They are saying they started the work and that is why I was saying it was not odd that an agreement could be showing another date whereas our payment- because we did start work prior to us getting paid and I think that line there just confirmed what I was saying.

CHAIRPERSON: Are you saying that elsewhere on this document ...

20 (intervenes)

MR MYENI: Just on C Chair, just below where you are reading.

CHAIRPERSON: Ja.

MR MYENI: Same page but C.

CHAIRPERSON: Oh okay.

MR MYENI: Yes.

CHAIRPERSON: Yes okay.

MR MYENI: So, we commenced work on March.

CHAIRPERSON: So, the point you are making is that on their version it appears that they say they started the work in March 2015.

MR MYENI: Yes Chair.

CHAIRPERSON: But we do know that if the agreement that they have put up as the agreement between themselves and the developer, that agreement was not concluded in ... (intervenes)

MR MYENI: July.

10 **CHAIRPERSON**: July 2015.

MR MYENI: Yes.

CHAIRPERSON: Okay.

MR MYENI: So, they can come explain that why that is the case.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: So, I just want to be clear about this. VNA as recorded in 2 B on page 9 of Exhibit 27 paid Premier Attraction 2 million rand for work that it believed Premier had done but Premier had not done. Is that correct?

MR MYENI: Yes Chair.

20 **ADV KATE HOFMEYR**: Thank you.

MR MYENI: Or Maybe he was mistaken. Maybe his memory also ... (intervenes)

CHAIRPERSON: Well I am not sure if you in turn saying what you have just said because you qualified your answer earlier on in relation to 2 B by saying that it is not true that they paid- they made that payment for

reports that you had prepared. But what you did say is that they paid you for work that you had completed.

MR MYENI: Yes Chair, I think you said the same thing. You said report that were prepared.

CHAIRPERSON: Yes.

MR MYENI: So yes, so the work that we would have prepared yes.

CHAIRPERSON: Ja.

MR MYENI: But the reports here- are actually indicate who prepared them.

10 **CHAIRPERSON:** Yes.

MR MYENI: So those ones, we would not be paid for work that we would not have done.

CHAIRPERSON: Ja.

MR MYENI: We would have been paid for work that we would have done.

CHAIRPERSON: Yes.

MR MYENI: But I was saying that I may have passed the documents on to them.

20 **ADV KATE HOFMEYR:** But the challenge Mr Myeni with that is, is that those are not the reports that VNA said it was paying 2 million for. These reports that you have no records of that you say dealt with the structural design of the houses.

MR MYENI: Ja, I cannot answer for VNA.

ADV KATE HOFMEYR: VNAs version is they paid 2 million because they received a whole lot of reports that you provided to them from sub-

contractors who were owed monies because of the works that they have been doing for you as project developer. And your evidence is that that is false.

MR MYENI: I am sure if you asked those companies, they do not even know me.

ADV KATE HOFMEYR: We have asked the companies and they do not know you. You are absolutely correct about that.

MR MYENI: So?

ADV KATE HOFMEYR: But what I am interested in is that VNA says it
10 paid you 2 million rand for a series of reports that it believed you had procured and were owed for. And your evidence says that is false, correct?

MR MYENI: Yes, that is correct.

ADV KATE HOFMEYR: And they also did not pay you for the reports that you have no records of that your evidence today indicates dealt with design of the structures of the houses. Is that correct?

MR MYENI: Yes. So, without the selling reports so for instance we would meet at their offices and we would work on those designs. So, it is not necessarily that you are going to find an actual report but you
20 might find drawings ... (intervenes)

ADV KATE HOFMEYR: How many times ... (intervenes)

MR MYENI: You might find all types of things.

ADV KATE HOFMEYR: How many times did you meet?

MR MYENI: I do not know, many times. I cannot recall how many times.

ADV KATE HOFMEYR: Five or ten?

MR MYENI: I cannot recall, many times. I cannot recall how many times.

ADV KATE HOFMEYR: More than ten?

MR MYENI: I cannot recall ma'am. Many times, though.

ADV KATE HOFMEYR: Well I just need some indication of what many times is because you were paid 2 million rand for this work Mr Myeni. And I would like to understand what went into the work that produced the payment of 2 million rand. So, can you give me an order of
10 magnitude?

MR MYENI: I cannot say how many times we met.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: So, did you provide VNA with any report that related to work that your Premier Attraction had done in regards to this project?

MR MYENI: Okay so not the report maybe in the sense that you say.

CHAIRPERSON: A written report.

MR MYENI: Not a report in this sense.

CHAIRPERSON: Ja.

20 **MR MYENI:** But we would have provided them work that we have done which required us to meet or not to meet, it did not really matter. We would have provided that to them and I indicated earlier that they would then compile all that information, put it together and finally submit to the client. So, there may be not be a specific report saying this has been compiled etcetera but we would have done our services and

handed over whatever it is that would have needed to them.

CHAIRPERSON: Does that answer mean one, Premier Attraction did not provide VNA with any report of the work that- any written report of the work that they had done. Or does it mean that you are not sure whether somewhere there may be a report lying that relays to work that you did and a report that you may have provided to VNA. You just do not know, you cannot remember.

MR MYENI: Yes, Chair so somewhere there could be a report lying but you know our services were support services to VNA and what they had
10 to do. So, we would not have compiled an actual report per se. But we would have done work and handed it over to them for them to then combine with whatever other aspects and then they would send that information to the client.

CHAIRPERSON: Would that be something in writing whether you call it a report or an email or a letter that would have come from Premier Attraction to VNA that says; this is how far we are now with the work the we are supposed to do. And maybe once you had completed the work maybe an email or a letter that you would have sent to them to say; we have now completed the work.

20 **MR MYENI:** It is possible Chair but also as I said we used to meet so those were the status updates to meet ... (intervenes)

CHAIRPERSON: Ja.

MR MYENI: And to say this is where we are. This is what we have done etcetera. Although I cannot really recall exactly but that is what would happen and ... (intervenes)

CHAIRPERSON: Mr Myeni, do you have a clear recollection that some of your progress reports would have been verbal others in writing by way of an email or letter or are you not sure?

MR MYENI: Oh yes, they would have been verbal because Mr Narsai was based in Durban so he would only come up for the bigger meetings. There would have been maybe phone calls to his team that was based in Johannesburg and there may have been emails as well, I cannot.

CHAIRPERSON: And I take it there would have been invoices that
10 Premier Attraction sent to VNA?

MR MYENI: Yes, I would definitely have invoice for the 2 million rand, yes.

CHAIRPERSON: Okay. Ms Hofmeyr.

ADV KATE HOFMEYR: Did you invoice along the way as you were doing this work and having the meetings?

MR MYENI: No, we would have invoiced probably at the end. When it was time for us to be paid. Ja.

ADV KATE HOFMEYR: How did you know when it was time for you to be paid?

20 **MR MYENI:** When the work would have been completed.

ADV KATE HOFMEYR: And you made a point earlier in your testimony in response to the Chair's question that what you were paid for were the support services that you provided to VNA. Did I have that correct?

MR MYENI: What I was saying is our services were supporting what VNA was doing.

ADV KATE HOFMEYR: Yes.

MR MYENI: So not providing support services per se.

ADV KATE HOFMEYR: Indeed.

MR MYENI: Yes.

ADV KATE HOFMEYR: The challenge I have with that Mr Myeni is VNA does not believe it was paying you for that reason, correct?

MR MYENI: Yes.

ADV KATE HOFMEYR: Mm, it believed it was paying you for work you did not do, correct?

10 **MR MYENI:** Yes.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: The work that you say VNA asked you to do, would it have been work that they did not have capacity to do? In other words, why did they bring you in?

MR MYENI: Yes. So yes, capacity broadly Chair could have been at the time skill, expertise, it could have been time, not enough consultants. It could have been a range of things depending on what they needed to deliver at that time so.

20 **CHAIRPERSON:** And it would have been capacity or skills or expertise that Premier Attraction had?

MR MYENI: Yes Chair, had or could source yes.

CHAIRPERSON: Just repeat the last part.

MR MYENI: Had or could source.

CHAIRPERSON: Okay.

MR MYENI: Yes.

CHAIRPERSON: Mm-hmm.

ADV KATE HOFMEYR: Thank you Chair. I do have a follow up question on that. I understood you previously to say your testimony- in your testimony that the scope of services that Premier was required to fulfil related to design work for structures. Is that correct?

MR MYENI: Ja so what I was explaining is that it would not have related to the work that you have spoke about sewer for instance.

ADV KATE HOFMEYR: Yes.

MR MYENI: Because that is below the ground.

10 **ADV KATE HOFMEYR:** Yes.

MR MYENI: So, I was talking about that he would have spoken directly to the actual structure that ... (intervenes)

ADV KATE HOFMEYR: Right.

MR MYENI: Yes.

ADV KATE HOFMEYR: Anything else in your scope of services?

MR MYENI: Are you asking me?

ADV KATE HOFMEYR: Yes.

MR MYENI: Oh, I cannot recall what the scope of service was that I mentioned but it would have been around the top structure.

20 **ADV KATE HOFMEYR:** Mr Myeni, I have to indicate to you that I have a concern with a situation in which your company was paid 2 million rand for a scope of services that you cannot now recall what it included. How did you compile your invoice for 2 million rand if you as you sit here today do not know what the scope of services was for that work?

MR MYENI: Ma'am we compiled our invoice after work done in 2015, it is five years ago. I conduct my- I conduct a lot of businesses Chair and I do a lot of transactions. I cannot recall a 2-million-rand transaction. It is- I just simply cannot recall the details of what was happening at the time.

ADV KATE HOFMEYR: So, as you sit here today you have no certainty as to what work you did to merit the payment of 2 million rand?

MR MYENI: It would have been consulting work around the top structure.

10 **ADV KATE HOFMEYR:** The top structure.

MR MYENI: The housing, the actual housing design etcetera. That is what it would have been around. I cannot say for certain what it was.

ADV KATE HOFMEYR: Then I want to put it to you Mr Myeni that it is highly unlikely that that type of work would have been done without there being a single written record of the work you performed on the top structures. Do you accept that?

MR MYENI: Yes, I accept it.

ADV KATE HOFMEYR: And if we were to go back to Octics and VNA, we have already gone to yourself for records and no one has a single
20 shred of paper referring to this work that you did.

MR MYENI: Ja.

ADV KATE HOFMEYR: Entitling you to 2 million rand on the top structures. Do you accept that that would be concerning?

MR MYENI: Yes, it will be concerning.

ADV KATE HOFMEYR: Mm. I would then like to move to the second

set of payments that we were going to look at today. And that is the payments that Premier makes to an entity called Isibonelo.

MR MYENI: Yes.

ADV KATE HOFMEYR: Just to get us right in the chronology Mr Myeni, you received the 2 million rand from VNA on the 19th of June 2015. Is that correct?

MR MYENI: Correct.

ADV KATE HOFMEYR: And thereafter Premier made three payments to Isibonelo. Do you recall the dates of those payments?

10 **MR MYENI:** No not- I know you send them to us but ... (intervenes)

ADV KATE HOFMEYR: We did send them to you.

MR MYENI: Yes.

ADV KATE HOFMEYR: I do not think it is contentious so I will just refresh your memory then. On the 24th of October 2015 Premier paid 1 million ... (intervenes)

CHAIRPERSON: From what page are you reading?

ADV KATE HOFMEYR: Chair I am reading from my notes.

CHAIRPERSON: Oh, is it your notes?

ADV KATE HOFMEYR: But it is in fact recorded. I can give it to you.

20 **CHAIRPERSON:** Yes okay.

ADV KATE HOFMEYR: It is recorded in the regulation 10 (6) that was issued to Mr Myeni.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: And so, both of you can follow. You can find it at Exhibit DD27 at page 234.

CHAIRPERSON: Yes mm-hmm.

ADV KATE HOFMEYR: You will see there Mr Myeni under paragraph 1.1 B we start to record there the payments ... (intervenes)

CHAIRPERSON: I sometimes hear like you are saying Ms Myeni.

ADV KATE HOFMEYR: Oh, I do apologise. I must be very clear that it is Mr Myeni.

CHAIRPERSON: Mr Myeni, am I hearing right? Do you hear the same thing?

MR MYENI: I was not really listening Chair. I am not sure.

10 **ADV KATE HOFMEYR:** I do apologise Chair.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: I will be very clear. And just for the transcribers, today's evidence is given by Mr Myeni so if I ever make an error in my pronunciation the transcript will reflect correctly.

Right so we pick it up at paragraph 1.1B on page 234 because that is where we deal with the three payments made out from Premier to Isibonelo?

MR MYENI: Yes.

20 **ADV KATE HOFMEYR:** The first of those it is recorded at B occurred on the 24 October 2015 and that was a R1 million paid to Isibonelo. The second payment was an amount of R1 150 000.00 and that was paid on the 11 December 2015 to Isibonelo. And the third payment was a payment made on the 2 February 2016 and that was an amount of R1 million to Isibonelo. Now you responded in your affidavit answering the directive received that we have just looked at about these payments

and I would like to take you there. It is at page 2 of the bundle in front of you Exhibit DD27. Could you please read into the record what you say at paragraph 8 on that page of your affidavit?

MR MYENI: Okay.

“In respect of – or in respect to Isibonelo Construction the transactions made by Premier Attraction 1016 were business transaction carried out in the normal course of Premier Attractions business activities. However I do not have any recollection of the nature of the said business transactions due to the fact that a significant period of time has passed since doing business with the said company.”

ADV KATE HOFMEYR: And at paragraph 9?

MR MYENI:

“I do not have any form of documentation relating to the business transactions made with the said company due to the significant period of time that has passed.”

ADV KATE HOFMEYR: Mr Myeni given the significant period of time why can you be sure that these transactions related to the business of Premier Attraction 1016?

MR MYENI: To business – to company and I was conducting it that way.

ADV KATE HOFMEYR: And...

MR MYENI: So I would assume that it is a business related

transactions.

ADV KATE HOFMEYR: What else can you assist us with in relation to the payment to Isibonelo Construction? What could it have related to in the course of Premier's business?

MR MYENI: Well nothing but business related transactions.

ADV KATE HOFMEYR: But I understood your evidence earlier to be the business related to property. I did not get many other specifics so what part of Premier's business would this payment have related to?

MR MYENI: So...

10 **CHAIRPERSON:** I think he said earlier that Premier Attraction does a lot of things.

ADV KATE HOFMEYR: Yes.

MR MYENI: It has over the years. Over the years Chair.

CHAIRPERSON: Oh over the years ja.

MR MYENI: Yes.

CHAIRPERSON: Okay alright.

ADV KATE HOFMEYR: So in 2015...

CHAIRPERSON: But ...

20 **ADV KATE HOFMEYR:** 2016 what part of Premier's business would have associated it with Isibonelo?

MR MYENI: I cannot say for sure because as I said we have done many things. I mean an opportunity can come today in energy I will go for it. So I cannot say what it was at that time. All I know is that Isibonelo was construction – as construction company or is a construction company so I would assume it would be around that I do

not know. I cannot say.

CHAIRPERSON: Does Premier Attraction – or did Premier Attraction over the years at some stage or another do construction as well?

MR MYENI: Yes we have done and attempted construction projects, yes.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: And I understood your evidence earlier to be, it must have had to do with Premier's business activities because Premier does not make payments other than payments associated with its
10 business. Is that correct?

MR MYENI: Ja I guess.

ADV KATE HOFMEYR: Hm. Mr Myeni the witness who seeks to give evidence in camera later today will say in his evidence that there has never been a business relationship between Premier and Isibonelo and that these payments had nothing to do with any services rendered to Premier. Do you have a response to that?

MR MYENI: I cannot comment on what the witness will be saying or has said.

CHAIRPERSON: When Ms Hofmeyr tells you what the witness will say
20 she is giving you're an opportunity to say what the witness will be saying will be true or what the witness will be saying is not – will not be true.

MR MYENI: Yes Chair.

CHAIRPERSON: Or it is not probable because of this and that. He is giving you a chance to deal with that.

MR MYENI: Oh yes Chair.

CHAIRPERSON: Witness' evidence because that evidence may be implicating you or your close Closed Corporation in some wrong doing.

MR MYENI: Oh. No it – thank you for clarifying Chair. It is just that it is a bit difficult to speak the way of some of these people because I have a lot of respect for them but what the witness will be saying is not truthful. Yes Chair.

ADV KATE HOFMEYR: Do you have any evidence or documents to support that his version is false and yours is true?

10 **MR MYENI:** Which version?

ADV KATE HOFMEYR: The version that – your version is I paid these three tranches of R1 million and a bit more in relation to the business activities of Premier, correct?

MR MYENI: Yes.

ADV KATE HOFMEYR: He will come and say there is and has never been a business relationship between Isibonelo and Premier and what you have indicated to the Chair is you say his version is false and so my follow up is, do you have a single document available to you to support your version that these amounts were paid pursuant to the
20 business activities of Premier?

MR MYENI: No I do not have a document Chair but you know it is quite difficult because he is not being truthful in saying what he is saying. And in actual fact to prove that there was a business relationship a more recent transaction which I have recollection of actually was a development and construction project in Esikhawini and although I have

not – I mean I had not thought about it so I had not been able to look for documents which could be there, could not be there but it went as far as him sending us quotations, designs and all of these things. So it is untrue that we have never had a business relationship. It is completely untrue.

CHAIRPERSON: Is it...

ADV KATE HOFMEYR: That is not his evidence. Let me be clear. His evidence is at the time of these transactions there was no business relationship.

10 **MR MYENI:** Oh. Okay that is fine. It is untrue but that is fine.

CHAIRPERSON: Would Isibonelo have sent Premier Attractions some invoice before Premier Attraction paid these amounts to them?

MR MYENI: They should have, they would have.

CHAIRPERSON: Yes.

MR MYENI: I assume so Chair but you know unfortunately I do not have it.

CHAIRPERSON: Especially if it was business?

MR MYENI: Yes, yes. They would have.

20 **CHAIRPERSON:** Yes. But you say you – you cannot remember what it is exactly that Isibonelo would have done for Premier Attraction to be entitled to payment of at least one the payments is about a million or more.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: To be paid such a lot of money.

MR MYENI: Ja Chair I – you know specifically with those payments I

cannot recall. As I said though what I can recall is that there was that Esikhawini project which we engaged on. How much or how far that went but...

CHAIRPERSON: But you say that is much later, is that correct?

MR MYENI: It would – ja I think that would have been ...

CHAIRPERSON: Much later?

MR MYENI: Ja because it is something that I have...

CHAIRPERSON: You can remember.

MR MYENI: There is a bit of a memory on.

10 **CHAIRPERSON**: Ja.

MR MYENI: But ja I do not know. I do not want to.

CHAIRPERSON: Would Premier Attraction not be a relatively small entity so that if it paid anybody a million rand it would be something to remember or is it not so small?

MR MYENI: I am not sure Chair.

CHAIRPERSON: I just think you told me that in terms of staff sometimes it is just you only.

MR MYENI: Yes.

CHAIRPERSON: Sometimes you and one person.

20 **MR MYENI**: Yes.

CHAIRPERSON: That gave me the impression it is a small entity.

MR MYENI: So what I was explaining.

CHAIRPERSON: And I would have thought that if a small entity pays anybody R1 million that would be something to remember.

MR MYENI: Yes.

CHAIRPERSON: What it was about?

MR MYENI: Yes Chair. So what I was explaining in regards to the staff issue. For instance if you go to my offices now you will find people there. They work. Some people are employed by Company X, other through Company Y etcetera depending on what they are there to do. So what I was specifically talking about was not that I do not have employees or I have never had employees. I was simply saying on the books of Premier Attraction you know I cannot recall how many there would have been or – but at the time there would have been just me as
10 a sole member which is the case now if I am – ja if I am correct. And then specifically relating to the payment of R1 million we have submitted some bank statements that were requested on these transactions and the amounts do go a bit higher than the R1 million in the – in those statements so I would not say it was a big company Chair but the amounts did go a bit higher than R1 million.

CHAIRPERSON: Would you protest if it was described as a small entity?

MR MYENI: No it is definitely a small entity Chair.

CHAIRPERSON: Oh okay. Okay.

20 **MR MYENI:** Definitely a small entity.

CHAIRPERSON: Okay.

MR MYENI: Ja but –

CHAIRPERSON: Yes.

MR MYENI: The amounts do go a bit higher than R1 million.

CHAIRPERSON: But it does – it does – it does handle larger

transactions than ...

MR MYENI: Than just R1 million ja.

CHAIRPERSON: R1 million.

MR MYENI: Yes Chair.

CHAIRPERSON: Ja okay.

ADV KATE HOFMEYR: Ms Myeni – Mr Myeni apologies it was not just R1 million. It was in excess of R3 million between October of 2015 and February of 2016. I just want to be clear as to your evidence today. Is it that despite the fact that Premier Attraction paid R3 million over that
10 period to Isibonelo as you sit here today you cannot tell us what that work was?

MR MYENI: Ja I cannot say.

ADV KATE HOFMEYR: And you have no records of any invoices from Isibonelo or any other documentary evidence of the work that you allege was done by Isibonelo to merit those payments.

MR MYENI: Yes.

ADV KATE HOFMEYR: Is that correct?

MR MYENI: Yes it is correct.

ADV KATE HOFMEYR: I would then like to just ask what your rela...

20 **CHAIRPERSON:** Well I just wanted to say that that comes across to me as quite extraordinary if an entity as – a small entity I think we agreed we can describe it as small entity.

MR MYENI: Yes Chair.

CHAIRPERSON: Pays to another company over a few months R3 million but the owner of the business cannot remember what work they

– was done for them to justify paying that amount.

MR MYENI: Yes.

CHAIRPERSON: Do you want to say something about that?

MR MYENI: Chair it was 2015 and as I have said...

CHAIRPERSON: Yes.

MR MYENI: Since then we have done a lot of transactions.

CHAIRPERSON: Yes okay.

MR MYENI: I cannot specifically recall.

CHAIRPERSON: Okay maybe with large amounts.

10 **MR MYENI:** Maybe if we are talking a very big amount then I would maybe recall but I really Chair recall.

CHAIRPERSON: Ja Okay.

MR MYENI: I cannot say.

CHAIRPERSON: So – so would it be correct to say that you are saying that payment of R3 million by Premier Attraction over those months at the time with everything that may have happened after which might have involved Premier Attraction being involved in large transactions – larger transactions is not something that you – you can remember what it was about?

20 **MR MYENI:** Well I cannot say whether it was involved in larger transactions or not but I am saying Chair from the information that we submitted.

CHAIRPERSON: Ja.

MR MYENI: You can clearly see that there were larger amounts.

CHAIRPERSON: Yes.

MR MYENI: That – that were moving in the account. So – I mean – and it is over five, six months or so these transactions.

CHAIRPERSON: Yes.

MR MYENI: It is not like it is a once off lump sum of R3 million. So it is very difficult to track back and say what it was.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Mr Myeni you have drawn attention to the state of the business at the time that these transactions were made from a sort of turnover or cash flow perspective. That is why I began the questioning today to ask you for an indication of the turnover of the business but you were not able to give me an indication of that, is that correct?

MR MYENI: Ja I cannot say.

ADV KATE HOFMEYR: Do you know that before the R2 million was paid from VNA to Premier the balance in the account was R1 449.79?

MR MYENI: Okay.

ADV KATE HOFMEYR: Do you accept that?

MR MYENI: I can accept it yes.

ADV KATE HOFMEYR: Yes. And then over the period where you paid the R3 million the higher amount in the account was R9 744 608.00. Do you accept that?

MR MYENI: Sure. Sure.

ADV KATE HOFMEYR: Do you accept that R3 million is quite a substantial proportion of that?

MR MYENI: Ja but you – you are looking at three bank statements that

are highlighting the specific transactions over a six month period. We do not know where the account was in between.

ADV KATE HOFMEYR: Yes I only have these documents to go with Mr Myeni because you will not tell this commission what your general turnover is in the business.

MR MYENI: It is not I will not. It is – I am saying I cannot say. I cannot really recall what we were making in 2015. I cannot say.

ADV KATE HOFMEYR: Okay. I will leave that question there. I would then like to know what your relationship is to Ms Duduzile Myeni.

10 **MR MYENI:** She is my mother.

ADV KATE HOFMEYR: Thank you. The witness who has applied to give evidence in camera later will say the following about the monies that were received into the account, the Isibonelo account which the witness says had nothing to do with any business relationship at the time with Premier.

MR MYENI: Hm.

ADV KATE HOFMEYR: And I am going to tell you this because I do need to know if you have any knowledge about these facts.

MR MYENI: Hm.

20 **ADV KATE HOFMEYR:** The witness will say that your mother Ms Myeni called him after those deposits were made and instructed him what to do with the money. For the first tranche there were a series of instructions that cash be withdrawn and made available to her and in relation to the second two payments that there was an instruction that those monies be paid less a VAT portion to the Jacob Zuma Foundation.

Do you have any knowledge of those facts?

MR MYENI: No I do not have any knowledge. It does not make sense.

ADV KATE HOFMEYR: And then one more point that will come up in his evidence. The commission first communicated with your lawyers on the 24 January this year, it was a Friday, do you recall that at all?

MR MYENI: It is possible, yes. Yes, sure.

ADV KATE HOFMEYR: And pursuant to the commission making contact with your lawyers and asking you questions about these transactions the witness will indicate that his daughter received a phone call from
10 your mother Ms Myeni. My question to you is, after you were alerted to the commission's questions did you relay that to your mother?

MR MYENI: Yes I did.

ADV KATE HOFMEYR: Ms Myeni.

MR MYENI: Yes I did.

ADV KATE HOFMEYR: Thank you. Chair those are our questions. I see that we have a few minutes before the tea break it may be appropriate subject to questions you may have for Mr Myeni that we move the application now formally. We have received the supplementary affidavit and then arrangements can be made over lunch
20 depending on your ruling?

CHAIRPERSON: Otherwise you are done with Mr Myeni?

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Yes. Mr Myeni thank you very much.

MR MYENI: Oh thank you Chair.

CHAIRPERSON: For coming to give evidence. You are excused. If a

need arises for the commission to ask you to come back we will ask you to come back.

MR MYENI: Thank you Chair.

CHAIRPERSON: Thank you very much. You are – you are excused. Yes let us deal with the application.

ADV KATE HOFMEYR: Thank you Chair. I indicated this morning that that supplementary affidavit was being prepared by the witness. I beg leave to hand that up if I may?

CHAIRPERSON: Hm.

10 **ADV KATE HOFMEYR:** Chair before I move to the supplementary affidavit if I may just highlight the essence of the basis upon which the person who I will now refer to as Mr X brings an application for his evidence to be given in such a way that neither his name nor his appearance be revealed. Chair that is the application supported by the main affidavit and supplemented by the affidavit that I have just handed up to you. Chair the essence of the application is as follows:

MR MYENI: Yes.

ADV KATE HOFMEYR: The witness indicates that he will give evidence that will implicate the persons to whom notice of today's application
20 has already been given. I indicated this morning that those persons included Mr Myeni who has just given evidence. Ms Myeni, Mr Majola who will give evidence tomorrow and former President Zuma. The witness explains in his application that on the afternoon of the 24 January – this is the point I picked up with Mr Myeni at the end of his evidence. The witness's daughter received a telephone call from Ms

Myeni and that occurred on the afternoon of that day and what Ms Myeni relayed to the witness's daughter on that call was two questions. She asked why her father was telling everyone about the funds that were facilitated through his company. And asked why her father was selling them out. That was a few hours after the commission had first made contact with Mr Myeni about the matters being investigated. Chair this is not in the witness's application but Mr Myeni has confirmed to us moments ago that he did relay to his mother Ms Myeni that he had been approached by the commission about these matters.

10 Chair Mr X further supports his application on the basis that Ms Myeni and Mr Majola whom he will implicate in serious wrong doing in his evidence are both influential members of their community. He does accept that it is likely that they will know his identity when he gives this evidence because he quite simply cannot give the evidence but for making clear his relationship to various entities and his engagements with both Ms Myeni and Mr Majola. However he still motivates for some measure of his identity not to be revealed because he indicates in his affidavit that there are many people in the community in which he finds himself who are dependent on Ms Myeni and Mr Majola and have been
20 assisted particularly by Ms Myeni economically over some period. And those people will not necessarily be able to identify him when he gives this evidence. But he is concerned about acts of retaliation by those individuals within the community if he is identified and publicly associated with quote "selling out" these important and influential persons. He therefore asks for a ruling that endeavours to be as

faithful to the public inquiry nature of these procedures but also give him that measure of protection over which he has any control and that is to not have his name or his appearance revealed while he gives his evidence here today. So Chair it is against that backdrop that the legal team of the commission moves the application on his behalf. I explained the only reason we do that is because he is not legally represented. We do however support the application and the basis given for it. We have prepared the draft order Chair along the lines that you described this morning. And I beg leave just to hand that up.

10 **CHAIRPERSON**: Well his affidavit should ask for leave to be referred to as Ms X.

ADV KATE HOFMEYR: It should indeed.

CHAIRPERSON: But it is okay we – it is okay. It is not – it is not a big thing.

ADV KATE HOFMEYR: Oh indeed.

CHAIRPERSON: Ja. Okay.

ADV KATE HOFMEYR: Oh I think – I think – it should be leave. He says he requests that he is referred to in that manner.

CHAIRPERSON: He requests.

20 **ADV KATE HOFMEYR**: No indeed but leave would have been appropriate.

CHAIRPERSON: Hm. Okay I think what – what we should do is I will – I will deal with it when I come back – when we come back.

ADV KATE HOFMEYR: Indeed Chair.

CHAIRPERSON: But I think the order must reflect that the applicant is

Mr. X.

ADV KATE HOFMEYR: Right.

CHAIRPERSON: Or Witness X.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: So – so the – the order must have a party. So that is the – that is what should be there.

ADV KATE HOFMEYR: We will make that amendment certainly.

CHAIRPERSON: But on the face of it the draft order appears to cover but I will look at it further during the lunch break.

10 **ADV KATE HOFMEYR**: Indeed Chair.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Just from a logistics point of view.

CHAIRPERSON: Hm.

ADV KATE HOFMEYR: The witness has requested that there be an interpreter for the purposes of his evidence.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: So we will...

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Make all of those arrangements.

20 **CHAIRPERSON**: Yes.

ADV KATE HOFMEYR: Over the lunch adjournment.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: And then we can deal with the request for the in-camera proceedings.

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: And then move straight into the evidence if that is convenient/

CHAIRPERSON: Ja no that – that is fine. And arrangements must be made to obtain the correct certificate for the interpreter.

ADV KATE HOFMEYR: Yes. I am encouraged by the fact that I am told the interpreter has previously interpreted in these proceedings.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: But we will make sure.

CHAIRPERSON: Ja.

10 **ADV KATE HOFMEYR:** All of the necessary documents are available.

CHAIRPERSON: I think your junior has dealt with that.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: And Reverend Stemela knows.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: What format the certificate must take.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: That I am comfortable with.

ADV KATE HOFMEYR: Certainly.

20 **CHAIRPERSON:** Yes. Okay alright. So I will deal with it when we resume.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: Otherwise we adjourn for lunch and we will resume at two.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

MEETING ADJOURNS

HEARING RESUMES

CHAIRPERSON: Do you have an order with the name of the applicant?

ADV KATE HOFMEYR: We do indeed Chair.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: I beg leave to hand that up.

CHAIRPERSON: Yes. Okay.

ADV KATE HOFMEYR: Chair other than the correction to accurately
10 reflect that it is Mr X who brings the application the document before
you is the same as the prior draft order that we had handed up.

CHAIRPERSON: Yes. And you have not picked up anything that is not
covered?

ADV KATE HOFMEYR: We have not.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: We did go over the indication that you gave us
this morning and there were one or two additions that we made just to
draw your attention to them.

CHAIRPERSON: Yes.

20 **ADV KATE HOFMEYR:** Your paragraph 6.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: The equivalent to paragraph 6 had not included
persons necessary to assist or protect the witness when he gives the
evidence.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: From the location. We did add that.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: So that persons in the room with him from the Protection Services who will just assist.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: In orientating him with the files and that can be accommodated.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: And beyond that I do not recall there being –
10 we did add the audio link, you will see at paragraph 7. And then in
paragraph 8 we sought to capture all possible necessary amendments
that may flow.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: To this order irrespective of – from whom they
come.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Whether it is necessary for the witness's
protection or indeed to ensure fairness to any implicated person.

CHAIRPERSON: Yes.

20 **ADV KATE HOFMEYR:** Those were the additions to what Chair you had
indicated this morning.

CHAIRPERSON: Okay alright. In respect of the application brought
this morning by Mr X I grant the following order.

1. The Applicant's non-compliance with a notice period provided for in terms of Rule 11.1 of the Rules governing proceedings of the commission is condoned.
2. The Applicant is to referred to during his evidence – the Applicant/Witness is to be referred to during his evidence to the commission and after his evidence insofar as the commission is concerned as Mr X.
3. The Applicant's name shall not be disclosed or published in any manner.
- 10 4. No person may take or publish any photograph, image or appearance of the Applicant nor have his photograph, image or appearance published in any way nor broadcast any video of the Applicant.
5. The Applicant need not be present at the commission's hearing venue when giving evidence and may give his evidence from a secret location.
6. No person other than the Chairperson, members of the commission's legal team, the commission's safety and security advisor, those necessary to assist or protect the witness when he
20 gives evidence or another person specifically designated by the Chairperson will be permitted to enter the secret location without the prior written permission of the Chairperson.
7. An audio link from the secret location will be provided so that the Applicant's evidence can be heard in the hearing room when he gives – gives it.

8. This order may be amended or supplemented by the Chairperson at any time if in his opinion that it is necessary to ensure the protection of the witness or any other person in connection with the witness' evidence or to ensure fairness to any implicated person.

That is the order.

ADV KATE HOFMEYR: Thank you Chair. We are now in a position subject to the interpreter being sworn in and subject to – I understand the oath needs to be administered.

10 **CHAIRPERSON:** Yes there was something that was missing in the wording.

ADV KATE HOFMEYR: Right.

CHAIRPERSON: Of the certificate.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: I had been told two minutes would be enough to do that.

ADV KATE HOFMEYR: I think that there was an issue with the printer. I had some message come to me of that order.

CHAIRPERSON: Ja.

20 **ADV KATE HOFMEYR:** So we are hoping that that will be resolved imminently.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair before we return the one issue is the swearing of the witness. My proposal is that takes places similarly before we return.

CHAIRPERSON: Oh yes. You remember – well maybe you were not involved. With regard to the other witness.

ADV KATE HOFMEYR: Yes

CHAIRPERSON: That was taken care of in a certain way.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: I just need to recall how that was dealt with.

ADV KATE HOFMEYR: Of course.

CHAIRPERSON: We do need to adjourn for a few minutes to get the certificate sorted out.

10 **ADV KATE HOFMEYR:** Certainly.

CHAIRPERSON: So I think we will adjourn and then once that has been taken care of then we will resume.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes Ms Hofmeyr.

20 **ADV KATE HOFMEYR:** Thank you Chair. I think we are finally in a position to proceed with the evidence of Mr X.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair, I understand that he has been sworn in and the next matter for me is just to ask that his affidavit be entered into the record of the evidence as EXHIBIT DD31. Chair, the file in front of you labelled DD31 comprises the witness' affidavit and its

annexures.

CHAIRPERSON: The affidavit of Mr X and the annexures will be marked EXHIBIT DD31 and admitted into the proceedings.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: And there is going to be an interpreter.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Yes. For the record Ms Khumalo will be the interpreter. She will interpret from isiZulu to English and from English to isiZulu and she has taken the required oath and she has previously
10 interpreted in proceedings of this Commission. Thank you Ms Khumalo.

INTERPRETER: Thanks Chair.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair if I may just begin with an audio check to the witness. Can - Ms Khumalo, could you communicate with Mr X as to whether he can hear us at the moment?

MR X (through interpreter): Yes. I can hear you.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: Okay. Alright. Mr X, do you confirm that you have taken the prescribed oath?

20 **MR X (through interpreter)**: Yes.

CHAIRPERSON: Yes. Thank you. (Intervenues).

ADV KATE HOFMEYR: Thank you Chair. Mr X, when you met with the legal team and investigator of the Commission yesterday. You said that it was not easy for you to give evidence today. Is that correct?

MR X (through interpreter): That is correct.

ADV KATE HOFMEYR: Can you please tell the Chair why it is not easy for you to give evidence today?

MR X (through interpreter): Yes. I can tell the Chairperson. Is that myself and my family we are not safe. I think my family and I we are not safe.

ADV KATE HOFMEYR: Why do you feel unsafe?

MR X (through interpreter): The truth that I am going to reveal today is not acceptable to the people who are implicated in it.

ADV KATE HOFMEYR: So why do you give the evidence today?

10 **MR X (through interpreter):** The manner in which I was approached by the investigators in this matter. There was no way I could change that. Whatever was brought forward to me I could not change that which was brought by the investigators.

ADV KATE HOFMEYR: How will your evidence today affect your relationship with Ms Myeni, Mr X?

MR X (through interpreter): I would say that the relationship between myself and her would be over, because her wish would be for me to say something that will favour her, but unfortunately what I have or what I am going to say is to the contrary of what she is expecting me to say.

20 **ADV KATE HOFMEYR:** Mr X, are you afraid about giving this evidence today?

MR X (through interpreter): I will give the evidence, because it is about time I do. Though it is not easy, but I will do it.

CHAIRPERSON: Ms Hofmeyr, I forgot to raise with you the question of whether there is no previous witness we have referred to as Mr X. So

maybe your junior could check.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: In the - in the meantime we continue using Mr X.

ADV KATE HOFMEYR: We will do that. Certainly Chair.

CHAIRPERSON: Just - because X is quite common.

ADV KATE HOFMEYR: Quite common. When identities are not to be disclosed. Indeed Chair.

CHAIRPERSON: *Ja. Ja.*

ADV KATE HOFMEYR: We - we must make that Chair.

10 **CHAIRPERSON:** Yes. *Ja.*

ADV KATE HOFMEYR: And as soon as I have an answer if necessary we will change the reference.

CHAIRPERSON: Yes. Okay. Alright.

ADV KATE HOFMEYR: Thank you. Mr X, I would like you to please look in the file that is marked EXHIBIT DD31 and if you could go to page 1 in that file.

MR X (through interpreter): Yes. I have - I am on page 1.

ADV KATE HOFMEYR: Thank you and if you can go to the last page of that affidavit. You will find that at page 28. Mr X, can you confirm that
20 this is the affidavit that you deposed to yesterday?

MR X (through interpreter): Yes. It is indeed.

ADV KATE HOFMEYR: And can you confirm under oath today that all of the facts set out in this affidavit are true and correct?

MR X (through interpreter): Yes. I confirm.

ADV KATE HOFMEYR: Thank you. I would then like to turn over to

page 2 and I would like to begin at paragraph 6 on that page.

CHAIRPERSON: I think before you do that Ms Hofmeyr. You might wish to ...

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: Deal with paragraph 5.

ADV KATE HOFMEYR: Indeed. I - I am indebted Chair.

CHAIRPERSON: Because he is - he is testifying in isiZulu, but his affidavit is in English.

ADV KATE HOFMEYR: Indeed. Indeed.

10 **CHAIRPERSON**: *Ja*.

ADV KATE HOFMEYR: Mr X ...

CHAIRPERSON: And then before you proceed let us make sure the interpreter has got the same pack ...

ADV KATE HOFMEYR: Hm.

CHAIRPERSON: Because when she interprets she might need to have a look at the pages.

ADV KATE HOFMEYR: We will make that available to her.

CHAIRPERSON: *Ja*.

ADV KATE HOFMEYR: Thank you.

20 **CHAIRPERSON**: Okay.

ADV KATE HOFMEYR: Mr X, at paragraph 5 on page 2 of your affidavit you explain why the affidavit is in English, but your evidence in isiZulu. Can you please explain that to the Chair?

MR X (through interpreter): My explanation is Chair. Is that I want to be comfortable in what I am going to say before this Commission. So

that I cannot think it twice in English, because I am not conversant in English.

ADV KATE HOFMEYR: You indicate in the affidavit that you can read and understand English. Is that correct?

MR X (through interpreter): That is correct.

CHAIRPERSON: Ms - Ms Interpreter, affidavit will be - statement is (isiZulu word).

INTERPRETER: Oh. Thanks Chair.

CHAIRPERSON: In isiZulu. Okay. Alright. Alright. Let us proceed.

10 **ADV KATE HOFMEYR:** Thank you Chair. Mr X, I would like to pick it up at paragraph 6 then on page 2. Can you please explain to the Chair what ...?

CHAIRPERSON: May - maybe - I am sorry. Maybe before he - you go there. Mr X, are you able to say - to confirm that although your affidavit is in English you understand everything that you - that is written in it?

20 **MR X (through interpreter):** Okay. I can read and understand English. The only problem is when I am supposed to speak English myself. That is where the problem is, but reading and understanding and hearing English Chair. I can understand.

CHAIRPERSON: Okay. Alright. Thank you.

ADV KATE HOFMEYR: Thank you Chair. Mr X, please can you tell us what Isibonelo Construction CC is?

MR X (through interpreter): May I clarify? You mean what work or what is it that is done in that company or that CC?

ADV KATE HOFMEYR: Yes.

MR X (through interpreter): It is a construction company that builds houses.

ADV KATE HOFMEYR: And what role do you play in that company - that Isibonelo?

MR X (through interpreter): I am not sure if I am right if I say I am the owner of the company and I further work on the site supplying skill - on the site.

ADV KATE HOFMEYR: Thank you and when was Isibonelo
10 established?

MR X (through interpreter): It was established in 1997.

ADV KATE HOFMEYR: And your evidence has been it is involved in the construction industry and particularly in housing. Is that correct?

MR X (through interpreter): That is correct.

ADV KATE HOFMEYR: Can you tell us about work that Isibonelo has done previously for Mhlathuze Water Board?

INTERPRETER: Can I get ...?

CHAIRPERSON: Water Board.

INTERPRETER: Chair, I did not hear properly.

20 **CHAIRPERSON:** Yes. Yes. Ask him to start afresh.

MR X (through interpreter): At Mhlathuze Water Board I got the work to supply - I am not sure if I am correct if I call it tank - water tank ...

CHAIRPERSON: It is - it is ...

INTERPRETER: But he referred to it as Jojo Tank.

CHAIRPERSON: I think they are referred to as Jojo Tanks, *ja*.

INTERPRETER: Okay.

MR X (through interpreter): Jojo Tanks at Nkandla.

ADV KATE HOFMEYR: And when was that?

MR X (through interpreter): If I am not mistaken 2007.

ADV KATE HOFMEYR: And then at paragraph 10 on page 2 of the affidavit you talk about a particular invoice dated 27 September 2014. What did that invoice relate to?

CHAIRPERSON: In paragraph 10 of your affidavit. Ms Interpreter you may well use paragraph ...

10 **INTERPRETER:** Okay.

CHAIRPERSON: Because I also do not know what the Zulu word is.

MR X (through interpreter): I was supplying water or Jojo Tanks.

ADV KATE HOFMEYR: And what was the value of that invoice - if you go over the page to page 3?

MR X (through interpreter): 250 151 including VAT.

ADV KATE HOFMEYR: And were - was Isibonelo paid for that invoice?

MR X (through interpreter): Indeed so. I was paid. Isibonelo was paid.

20 **ADV KATE HOFMEYR:** And if we look at that invoice. You will find it at page 30 of EXHIBIT DD27.

INTERPRETER: Page 30?

ADV KATE HOFMEYR: Indeed. 3-0.

MR X (through interpreter): I see it.

ADV KATE HOFMEYR: What was the work that Isibonelo did related to this invoice?

MR X (through interpreter): We supplied water tanks.

ADV KATE HOFMEYR: And where were they supplied?

MR X (through interpreter): At Nkandla under the Chieftain Shange.

ADV KATE HOFMEYR: Thank you and how did you come to be appointed by Mhlathuze Water to provide these Jojo Tanks?

MR X (through interpreter): I went and spoke to Ms Myeni. I told her that I do not have work that I was doing at that time. They can help me by being able to quote for work that I can do.

ADV KATE HOFMEYR: And just to be clear for the record is that
10 Ms Duduzile Myeni?

MR X (through interpreter): That is correct.

ADV KATE HOFMEYR: And what position did she hold at the time at the Water Board?

MR X (through interpreter): What I knew is that she was the Chairperson of the Water Board.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: Ms Hofmeyr. Did we overlook to have some legal representatives placed on record or not really?**ADV KATE HOFMEYR:**

Well the only ...

20 **CHAIRPERSON:** Not really.

ADV KATE HOFMEYR: No, because in - they are in a watching capacity ...

CHAIRPERSON: *Ja.* Okay.

ADV KATE HOFMEYR: Today as I understand it. Only for Stefanutti Stock.

CHAIRPERSON: Oh. Okay.

ADV KATE HOFMEYR: So in that capacity...

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: We have not generally put people on record.

CHAIRPERSON: Okay. Alright.

ADV KATE HOFMEYR: Thank you Chair. If I can then move to paragraph 13 Mr X, because you talk in that paragraph about your relationship with Ms Myeni at that time. Can you explain that to the Chair please?

10 **INTERPRETER:** Paragraph 13?

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: 1-3.

INTERPRETER: Okay.

MR X (through interpreter): I knew her for - from a very long time - for a while. The reason why I know her or we met. We met through working together.

ADV KATE HOFMEYR: Is there a relationship between your families?

MR X (through interpreter): We got very close to an extent that we sort of became related. Whenever there was an event or anything in
20 her family I would go there and vice versa. She would also come to my family. So our friendship grew very strong. That we ended up like relatives.

CHAIRPERSON: Is - is that the relationship between you and Ms Myeni as two people or is that the relationship between your family and Ms Myeni's family?

INTERPRETER: You mean between - sorry - Chair.

CHAIRPERSON: Between the two families.

MR X (through interpreter): Our relationship resulted in both our families getting close as if we were relatives. So we bonded - both families bonded as relatives.

ADV KATE HOFMEYR: Mr X, if you go over the page to page 4 of your affidavit. You will see at paragraph 15 you deal with the payment that you received from Mhlathuze and what you did with the proceeds of that payment. Can you please explain that to the Chair?

10 **MR X (through interpreter):** What happened is I placed an order and the money was paid into my account. With that money I then paid for the Jojo Tanks and then the remaining money was then left for me, but I paid for the Jojo Tanks. The little amount that was remaining was like remaining for me.

ADV KATE HOFMEYR: And did you share any of those proceeds with Ms Myeni?

MR X (through interpreter): No. She did not ask for anything.

ADV KATE HOFMEYR: Thank you. Then I would like to move to the next topic that appears in a heading on page 4. The heading is the
20 “Mhlathuze Water Funds”.

MR X (through interpreter): I see that.

ADV KATE HOFMEYR: At paragraph 16 on page 4 you talk about events that happened in early 15 - 2015. Can you please describe those for us?

INTERPRETER: Chair, may I ask for clarity when he says (isiZulu

word).

CHAIRPERSON: *Ja.*

MR X (through interpreter): Okay. 2015 there is a friend of mine. I know him all the way from - at Richards Bay. He approached me and he requested to partner with me. He mentioned that himself and his boss there are funds that they want to release.

ADV KATE HOFMEYR: And who was this person.

MR X (through interpreter): His name is Mboniseni Majola.

CHAIRPERSON: Just ...

10 **ADV KATE HOFMEYR:** Thank you.

CHAIRPERSON: Just repeat what he said to you. No. Just repeat what your friend said to you in - in early 2015 about monies or funds. I think maybe (isiZulu word).

MR X (through interpreter): What he said to me is that he is looking for a company and a person that can be trusted so that he and his boss that - but he did not mention the name of the boss - that there are funds that they want to release or invest in a company.

INTERPRETER: I am not sure if I left.

CHAIRPERSON: Okay. I am not sure about invest in.

20 **MR X:** (isiZulu).

CHAIRPERSON: *Ja.*

INTERPRETER: Hm.

CHAIRPERSON: Please just repeat what you - what ...

MR X (through interpreter): Okay.

CHAIRPERSON: Your friend said to you on that occasion.

MR X (through interpreter): Okay. According to what he says in terms of the language that is used in the construction company. Is that they have a construction company on site at Nsezi, but there are funds that they want to release through this company and then this company will pay those funds into my company.

CHAIRPERSON: Do you - did you understand what your friend was saying to mean that some money was go - they were going to pay some money to their company and their company would then pay that money into your company?

10 **INTERPRETER:** Meaning did you understand what he meant by ...?

MR X (through interpreter): No. The company is not their company.

CHAIRPERSON: Okay Mr X. Ms - Mr X, (isiZulu). I have just asked Mr X to please explain to me what his friend said to him. Okay. Okay. Alright. Stop there.

MR X: Okay.

CHAIRPERSON: Stop there. Are you able to translate that?

MR X (through interpreter): This gentleman approached me and he said he needs someone who is trustworthy. There is money that they want to release into a company that will be paid into my company.

20 **CHAIRPERSON:** Who did you understand was or where did you understand that money to come from - was going to come from?

MR X (through interpreter): He works for Mhlathuze. So my understanding was the company that was going to get work was going to work - get work at Mhlathuze. So what will happen is this company that got work at Mhlathuze and I place it on record Chair that this friend

of mine is an engineering – is an engineer at Mhlatuze, so this friend of mine is going to pay extra or more money to this company and then this company will give the money to me.

CHAIRPERSON: Okay did you understand that money would be paid by Mhlatuze Water Board to the company that he was talking to you about and that company would then pay the same money into your company or a portion of that money?

MR X (through Interpreter): From the way I understood him Your Worship I saw it that it was going to be easy because he was going to
10 be the one who is doing the transaction or doing that.

CHAIRPERSON: Ja but the question is what you understood, did you understand that Mhlatuze Water Board would pay certain funds to that company and that company was going to pay over the same amount to your company or that, that company was going to pay a portion of what it would have been paid over to your company?

MR X (through Interpreter): He just put a statement to me as to how much was going to be – or what money was going to be put into my account, I didn't know but he just made a statement that money will be paid into my account.

20 **CHAIRPERSON:** Okay, Mr Hofmeyr?

ADV KATE HOFMEYR: Did Mr Majola – oh Chair, just for the record I did want to spell the names in, it's Mbonisen Majola, Mr X when Mr Majola approached you about this, did he explain why he was approaching you...[intervenes].

CHAIRPERSON: Has he told us it was Mr Majola?

ADV KATE HOFMEYR: I think he did.

CHAIRPERSON: I didn't hear that.

ADV KATE HOFMEYR: I asked who the friend was.

MR X (through Interpreter): Yes.

CHAIRPERSON: Oh okay, okay.

ADV KATE HOFMEYR: Thank you Chair, so the question was, did he explain to you why he was approaching you?

MR X (through Interpreter): He is a respected man there in Richard's Bay and so I did not ask him the reason why he approached
10 me.

ADV KATE HOFMEYR: I understood your evidence previously, Mr X, to be that he did say that he trusted you, is that correct?

MR X (through Interpreter): Yes that is true.

ADV KATE HOFMEYR: And Mr X how did this scheme that Mr Majola discussed with you, how did he explain it was going to work?

MR X (through Interpreter): I did not ask him because he's more educated than me and his position as well that he's occupying at work, so I did not ask him.

ADV KATE HOFMEYR: If we go over the page, we were at page 4 Mr
20 X, if we go over the page – well let me pick it up first at paragraph 17 there, because you start to explain there how invoicing was going to be dealt with, what...[intervenes].

CHAIRPERSON: Maybe – just one sec Ms Hofmeyr, what was your understanding Mr X of why it was necessary that money paid to the particular company that Mr Majola talked to you about, should be paid

to your company, what was your understanding as to why it was necessary to have this arrangement?

MR X (through Interpreter): Honestly Chair I did not understand that.

CHAIRPERSON: Please repeat your answer, ask him to repeat his answer?

MR X (through Interpreter): He was requesting me to receive this money for him but it was not easy for me to ask him why was it necessary.

10 **CHAIRPERSON:** Did you ask him or you did not ask him why some money needed to be paid to your company from this other company with which you had nothing to do?

MR X (through Interpreter): Well I did ask him as to whether they would give me documents to go and upgrade my standard at CIBB so what actually made me happy about this money was to get the opportunity to go and upgrade the stage at CIBB.

CHAIRPERSON: Were you going to use that money to upgrade the status of your company?

20 **MR X (through Interpreter):** Not money as such but CIBB looked at the value of the work that you have done.

CHAIRPERSON: Ja but what I want to find out is, whether you had an understanding as to why Mr Majola was getting your company involved in this arrangement?

MR X (through Interpreter): Well it did not cross my mind that I ask him as to why is he involving me or my company in this.

CHAIRPERSON: Did he explain to you at that stage, when he spoke to you for the first time, about this arrangement what you were supposed to do with the money once it had been paid into your company?

MR X (through Interpreter): Yes I did ask him that question.

CHAIRPERSON: And what did he say?

MR X (through Interpreter): He then said to me he will give me another account number where I'm supposed to deposit this money to.

CHAIRPERSON: And was your understanding that you were going to
10 pass the whole amount that your company received over into the account that he would give you?

MR X (through Interpreter): Well what I asked him was about, if there's money deposited into a company's account there's VAT so I need to leave money for VAT in order to be able to pay for VAT. So that's the enquiry I made to him.

CHAIRPERSON: I think he said he asked him whether he knew that...[intervenes].

MR X (through Interpreter): Oh he knew whether there should be money for VAT payment yes.

20 **CHAIRPERSON:** Yes, thank you, Ms Hofmeyr I think at least there's been some clarification.

ADV KATE HOFMEYR: Indeed I'm indebted Chair. Mr X what was the arrangement about the VAT that you raised with Mr Majola?

MR X (through Interpreter): He did promise that as soon as the money is deposited into my account, we will then deduct the money for

VAT payment.

ADV KATE HOFMEYR: And was it the understanding that Isibonelo would then retain the VAT amount and the remainder would be paid over?

MR X (through Interpreter): Yes.

ADV KATE HOFMEYR: And did you know the companies from whom you were receiving the funds or the companies to whom you were paying the funds?

MR X (through Interpreter): No he did not mention who are the
10 owners of those companies.

ADV KATE HOFMEYR: And did Isibonelo ever render services to the companies from whom it received these payments?

MR X (through Interpreter): No I've never done any work for them.

ADV KATE HOFMEYR: And when Isibonelo paid monies to the companies that Mr Majola gave the details of, had those companies ever rendered services to Isibonelo?

MR X (through Interpreter): No they didn't.

ADV KATE HOFMEYR: Thank you, I'd then like to pick it up at page 4 again, because at the bottom of page 4 in paragraph 17 you explain
20 how the invoicing was going to work. Can you tell us how invoicing was handled?

MR X (through Interpreter): When time comes for us to submit or – ja put in the invoice, he would come to my offices together with my secretary he would then assist my secretary to create the invoice.

ADV KATE HOFMEYR: Was the invoice fictitious?

MR X (through Interpreter): Because I was not in the side I would not know what was happening there so he would bring the scope of work himself.

ADV KATE HOFMEYR: Was the scope of work that was included on the invoice work that Isibonelo actually did?

MR X (through Interpreter): No I've never done it.

ADV KATE HOFMEYR: If we then go to page 5 Mr X, in the first paragraph on that page you set out the concern you raised in relation to VAT but you've already testified about that.

10 **MR X (through Interpreter):** That is correct.

ADV KATE HOFMEYR: I'd like to ask about the discomfort that you describe in paragraph 19 that you conveyed to Mr Majola when he had this conversation with you, can you tell us about that concern you raised with him?

MR X (through Interpreter): You mean the issue that we are talking about right away...[intervenes].

CHAIRPERSON: Maybe let's put it this way, at some stage you would have – did you begin to implement the scheme that Mr Majola introduced to you?

20 **MR X (through Interpreter):** Would you please repeat the question?

CHAIRPERSON: Did you, at some stage, begin to implement the arrangement that Mr Majola introduced to you?

MR X (through Interpreter): Meaning receiving the money on his behalf?

CHAIRPERSON: Yes and paying it over to another company.

MR X (through Interpreter): Yes I did.

CHAIRPERSON: How did you feel about playing this role in regard to this arrangement?

MR X (through Interpreter): At that stage I wanted to see me as a person that can be trusted or can be trustworthy to him but it's different now.

CHAIRPERSON: From when to when did you participate in this arrangement?

MR X (through Interpreter): Though I don't remember the month and
10 the dates precisely but the year is between 2013 he further said 2014 to 2016.

CHAIRPERSON: Yes, throughout that period how did you feel about playing the role that Mr Majola had asked you to play in this arrangement?

MR X (through Interpreter): What happened is, when they were
dealing with these monies it will be between my secretary and himself
and it happened in my office and when there's money coming in – the
money would come in at the stage when I do not have money and I
would not have money still when I even saw that there was money that
20 came in.

CHAIRPERSON: Did you say you didn't feel good about it when this money came at a time when you were broke?

MR X (through Interpreter): Yes very much so.

CHAIRPERSON: But were you comfortable playing this role throughout the period from around 2013/2014 to 2016?

MR X (through Interpreter): I did not get the first part Chair. I decided to let it continue happening because should I raise any concern or discomfort about it to him it will be, like, I'm being jealous, like black people being jealous of each other.

CHAIRPERSON: Okay Ms Hofmeyr I was trying to make sure that we extract the information from him in relation to the first sentence.

ADV KATE HOFMEYR: Indeed Chair.

CHAIRPERSON: I'm not sure if I succeeded.

ADV KATE HOFMEYR: Well I'm certainly indebted to you for that. Mr
10 X, I know that the Chair has asked a few questions around this topic, I would like, just, one final question in relation to it. As I understand the arrangement that you've described, your company would be paid money for work it did not do and then it would pay out a portion of that money, less the VAT portion to companies with whom it did not have a relationship, is that correct?

MR X (through Interpreter): Yes I can hear him.

CHAIRPERSON: Let's start afresh, let Ms Hofmeyr start, I think he would like the question repeated.

ADV KATE HOFMEYR: Certainly, Mr X this arrangement with Mr
20 Majola, as I understand it, involved your company being paid monies for work it did not do and then your company being required to pay a portion of that monies to other companies that it had no relationship with, is that correct?

MR X (through Interpreter): That is correct.

CHAIRPERSON: There is an important part that you left off Ms

Interpreter, that is his company was being money for work it did not do.

INTERPRETER: I apologise sir.

MR X (through Interpreter): That is correct Chair it would be paid monies for the work that it did not do.

ADV KATE HOFMEYR: Did you regard it as wrong to receive those monies for work you did not do?

MR X (through Interpreter): Though I did not look at it the way you are putting it to me now, but to me I saw it as an opportunity to ask him to take me to the site for experience and he promised to take me there,
10 he kept on promising to take me to the site to get experience.

ADV KATE HOFMEYR: Did he ever do that?

MR X (through Interpreter): No he kept on postponing it that he will call me, he will call me.

ADV KATE HOFMEYR: Was there anyone else present with you when you had this discussion with Mr Majola?

MR X (through Interpreter): No it was just the two of us.

ADV KATE HOFMEYR: And did you tell anyone about it afterwards?

MR X (through Interpreter): No, no-one.

ADV KATE HOFMEYR: Why not?

20 **MR X (through Interpreter):** I'm a man who's able to keep secrets.

CHAIRPERSON: Was this arrangement a secret?

MR X (through Interpreter): It was just between the two of us.

CHAIRPERSON: Was it a secret?

MR X (through Interpreter): At that stage yes, it was a secret that I should not tell anyone else about it.

CHAIRPERSON: And are you able to say that Mr Majola also regarded this arrangement as a secret between the two of you?

MR X (through Interpreter): I think the two of us were involved in an activity that we did not know how it was going to end up.

CHAIRPERSON: No the question is, whether, as far as you know, Mr Majola also regarded it as a secret between the two of you, namely this arrangement?

MR X (through Interpreter): I think so, I think he was also regarding it as a secret.

10 **CHAIRPERSON:** Okay.

ADV KATE HOFMEYR: Mr X, I'd like to now go into the detail of one of these sets of transactions. Chair what I propose to do in the evidence is go to one or two of the transactions for which there are records but I do so bearing in mind that Mr X has confirmed the full contents of the affidavit under oath today and he's considered it prior to today. So it's not my intention to take him to every one but to take him to a few that will highlight the process that was being followed but I do so with your leave, if there's a need at any point to be more detailed I'm happy to do so.

20 **CHAIRPERSON:** I think we should mention all of them even if you don't elaborate.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: Because as I understand it, the basis of the transaction was the same.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: So it should go quite quick.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: What I propose to do is spend quite a bit of time on the first one, then we can just record all of the remaining with your leave.

CHAIRPERSON: Yes that will be in order but before you do that Mr X did you say that you didn't see this arrangement between yourself and Mr Majola as wrong?

10 **MR X (through Interpreter):** I did see it as something wrong.

CHAIRPERSON: Why did you see it as wrong?

MR X (through Interpreter): It was scary, though I did not know exactly how the transaction were going to take – or how it was going to happen, the transactions, but by just thinking or hearing about it, it was scary.

CHAIRPERSON: You said that when Mr Majola spoke to you for the first time about this arrangement, he told you that this arrangement was something that he and his boss wanted, is that right?

MR X (through interpreter): That is correct.

20 **CHAIRPERSON:** Before you started, before the arrangement was implemented did you get to know who his boss was?

MR X (through interpreter): No, I never got the opportunity to know who it was because there they would change, he referred to them as COO's every now and then so you would not know who exactly it was, so I did not get the opportunity to know.

CHAIRPERSON: Did you know the position that was occupied by the person that Mr Majola said was his boss?

MR X (through interpreter): He was not reporting directly to the COO. There was another person so there were two people that he was reporting to but not directly to the COO.

CHAIRPERSON: You have referred to COO or CEO? CEO or COO?

MR X (through interpreter): The one in the senior position, it is CEO.

CHAIRPERSON: Okay, now did you understand that the boss that Mr Majola was talking about was somebody who was occupying the
10 position of CEO? Was that your understanding?

MR X (through interpreter): He did not specify exactly who was the boss. I concluded that it was the CEO.

CHAIRPERSON: Yes, did you at any stage after the commencement of the implementation of this arrangement come to know who the boss was that Mr Majola was talking about?

MR X (through interpreter): No, I did not even bother to ask him.

CHAIRPERSON: As you testify today, do you know who that boss was that he was talking about?

MR X (through interpreter): No, I do not know.

20 **CHAIRPERSON:** Thank you Miss Hofmeyr.

ADV KATE HOFMEYR: Thank you Chair. Mr X at page 5 paragraph 19 you deal in the second half of that paragraph about something that Mr Majola said regarding the trust that they put in you to do this. Do you see that?

CHAIRPERSON: Maybe Miss Hofmeyr should just read the relevant

sentence or sentences and then she can interpret?

ADV KATE HOFMEYR: Yes, let me do that. I am reading now from the sixth line of paragraph 19 and what is recorded there is,

“He, that is a reference to Mr Majola, further indicated that I am the only person they can trust to pull this through.”

MR X (through interpreter): Yes, I see the paragraph.

ADV KATE HOFMEYR: Do you recall Mr Majola saying that specifically to you in your conversation?

10 **MR X (through interpreter):** Yes, I do.

ADV KATE HOFMEYR: Did you enquire at any point who the ‘they’ was who he was referring to?

MR X (through interpreter): From the way I understood him, he was not alone in this scheme, but he did not want to mention the other people’s names.

ADV KATE HOFMEYR: Thank you and at any point did you come to learn who they were?

MR X (through interpreter): Well, there was a time when things were getting like serious bad, then I was also like was insisting to get the
20 documents to this whole project. I was asking him to give me the documents and at that stage I do believe that you were now involved in this because he was saying there are or there is a group or a gang that is talking to some White people about this, and I was also insisting that he gives me documents to this project, but he would then, at that stage he would mention names.

INTERPRETER: Yes I interpreted correctly.

CHAIRPERSON: Ja okay.

ADV KATE HOFMEYR: Can I just clarify for my own purposes?

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Is that a reference to engagements with the Commission?

MR X (through interpreter): Correct.

CHAIRPERSON: So – so when you say you were asking Mr Majola for documents and you say you were already involved you mean the
10 Commission was involved in investigating this and you were aware of it?

MR X (through interpreter): That is exactly what I am explaining Chair.

ADV KATE HOFMEYR: Thank you, I then like to move over to page 6 if we can, subject to any further questions from the Chair, but this is where we start to get into the detail of the invoicing and the process. So Mr X if we go, first of all, to the invoice that the Commissions Investigator showed you on the 15 January, sorry he did not show it to you on the 15 January 2015, it is an invoice dated 15 January 2015, and that you will find at page 32, three two of Exhibit DD (31).

MR X (through interpreter): Yes, I am there.

20 **ADV KATE HOFMEYR:** What is this document?

MR X (through interpreter): It is the invoice from my office.

ADV KATE HOFMEYR: And who is it made out to?

MR X (through interpreter): It is an invoice from Isibonelo Construction, paid out to Clomax Engineering.

ADV KATE HOFMEYR: I – I think [intervenes].

CHAIRPERSON: Clomack, made to ja.

ADV KATE HOFMEYR: Thank you and what is the amount of the invoice?

MR X (through interpreter): R 294 000.00 [intervenes].

CHAIRPERSON: I think Miss Hofmeyr you just have to say the amount.

ADV KATE HOFMEYR: I can see it is not particularly clear on this page.

There appears to be an invoice amounts without VAT of 2.1 million rand.

. Then there is a taxes line which I read as R294 000.00 and then I think the total in the block at the bottom is reflected as R 2 394 000.00. Is that

10 correct Mr X?

MR X (through interpreter): Yes. I see those amounts.

ADV KATE HOFMEYR: And can you tell us what the description of the Works is on this invoice, what were you told to include? What was the description of the Works, let us start there.

MR X (through interpreter): Like I said initially the scope of work he would bring the scope of work with him.

ADV KATE HOFMEYR: And how would this invoice be generated?

MR X (through interpreter): He would come and fetch it from my office.

20 **ADV KATE HOFMEYR:** And how would you be told what work to include in it?

MR X (through interpreter): He would come with a piece of paper with the description of what is to be contained on the and give it, and then give it to my Secretary, then my Secretary will just have to copy what is on the piece of paper and write it on the invoice.

ADV KATE HOFMEYR: At the time of this invoice, which was the

15 January 2015, had you ever met anyone from Clomac Engineering?

MR X (through interpreter): No, I have never met anyone I do not even know them.

ADV KATE HOFMEYR: And the description that appears on this invoice seems to indicate there is a line item for P's and G's, there is a line item for Crane inst. And I think that is supposed to be short for installation and commission. There is a line item for road surfacing. A line item for Manholes and a line item for electrification. Did Isibonelo conduct any of the work

10 **MR X (through interpreter):** No, none of them.

ADV KATE HOFMEYR: And there appears to be a stamp on this page reflecting Mhlatuse Water, is that correct?

MR X (through interpreter): Yes, I see the stamp.

ADV KATE HOFMEYR: How would that stamp be applied to the invoice?

MR X (through interpreter): When this invoice left my office there was no stamp on it. The first time I saw that there is now a stamp on this invoice it was when I was approached by the Commission.

ADV KATE HOFMEYR: Do you know Mr Majola's signature?

MR X (through interpreter): No, I do not.

20 **ADV KATE HOFMEYR:** Thank you.

CHAIRPERSON: Is there any of those two signatures that are on that stamp at page 32 that you are able to identify?

MR X (through interpreter): No, none, I do not recognise any.

CHAIRPERSON: Okay, you obviously knew your Secretary's signature, but I am saying obviously, maybe I should not say obviously. Did you, do

you, are you able to identify your Secretaries signature?

MR X (through interpreter): Yes, I do, I know it.

CHAIRPERSON: Her signature is not one of these?

MR X (through interpreter): No, it is none of them.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Thank you, Mr X I would then like to understand precisely how this invoice would be generated. You indicated previously in your testimony there would be some interaction between Mr Majola and your Secretary. Is that correct?

10 **MR X (through interpreter):** Would you please repeat the question?

ADV KATE HOFMEYR: Yes, I am, it is a preface to understanding how the process worked and I understood from MR X's previous testimony that there would be some interaction between Mr Majola and his Secretary. Is that correct?

MR X (through interpreter): Correct.

ADV KATE HOFMEYR: And how did that work?

MR X (through interpreter): Mr Majola would then interact with my Secretary like I have said. He would come with a piece of paper with the amount and the scope of work, give it to my secretary and then my
20 secretary would then give the invoice the next number and generate it using the piece of paper that was given to her by Mr Majola, and Mr Majola will all the time stand next to my secretary as she is generating the invoice.

ADV KATE HOFMEYR: And what would happen after the invoice is generated?

MR X (through interpreter): He will then leave with the invoice.

ADV KATE HOFMEYR: And what do you understand he would then do with the invoice?

MR X (through interpreter): My understanding is that he was taking it to the people that he was working, the White people that he was working with from Clomac. That was my understanding of it.

CHAIRPERSON: I am sorry. Did you understand that there were, some people that he was working with in regard to this project, in regard to this arrangement?

10 **MR X (through interpreter):** That is correct. The arrangement was according to the way I understood it, it was between himself and Clomac Engineering.

CHAIRPERSON: So, are you saying that you understood that he was, he would take the invoice to Clomac?

MR X (through interpreter): Yes.

CHAIRPERSON: Maybe before Miss Hofmeyr proceeds, if you look at the invoice at page 32 there is a breakdown of what the various amounts are for on that page, do you see that?

MR X (through interpreter): Yes.

20 **CHAIRPERSON:** Now did you say that it would have been Mr Majola who wrote the amounts that are claimed in that invoice, individual amounts as well as the different items of the work that was put in the invoice as work that Isibonelo Construction had done?

MR X (through interpreter): That is correct.

CHAIRPERSON: Thank you.

ADV KATE HOFMEYR: Thank you, and then I would like to take you next to your bank statement, well at least the bank statement of Isibonelo, Mr X, and you will find that at page 34, Exhibit DD(31).

MR X (through interpreter): Yes, I am there.

ADV KATE HOFMEYR: Thank you, can you confirm that this is a bank statement from the account of Isibonelo?

MR X (through interpreter): Yes, it is.

ADV KATE HOFMEYR: And you will see there is a balance brought forward at the top line under the introductory part of that document that
10 seems to reflect R 22 168.02, do you see that?

MR X (through interpreter): Yes, I see it.

ADV KATE HOFMEYR: And what is the next line indicating on that page?

MR X (through interpreter): Where there is a highlight?

ADV KATE HOFMEYR: Yes, correct.

MR X (through interpreter): This is a very big number, amount so.

ADV KATE HOFMEYR: No, indeed, well first of all I am interested in the left hand side of the page, who it indicates there paid that amount into the account?

20 **MR X (through interpreter):** Clomac Engineering CC, ja.

ADV KATE HOFMEYR: And then that amount appears to accord with the amount of the invoice that we looked at – at page 32 because the invoice amount at page 32 is R2 394 000.00 and it appears next to Clomac Engineering on the left of your bank statement, and amount of R2 394 000.00 was paid, is that correct?

MR X (through interpreter): That is correct.

ADV KATE HOFMEYR: And what happened after Isibonelo received these amounts, these payments, what did you do?

MR X (through interpreter): I then waited for his instruction on what is to be done.

ADV KATE HOFMEYR: Who is he?

MR X (through interpreter): Ibonisela Majola.

ADV KATE HOFMEYR: We can return Mr X to your affidavit because at page 7 of that affidavit you detail what then transpired. You say at
10 paragraph 29 of that page that you informed Mr Majola that you have received the funds from Clomac Engineering and he gave me a bank account through a hand written note through which I had to pay the funds, is that correct?

MR X (through interpreter): Okay I omitted to mention that I phoned him to inform him that the money is now into my bank account. So that is the part Chair that I have omitted to mention, that I phoned him.

CHAIRPERSON: You mean as a practice phone him once the amount had come in to Isibonelo's account or do you mean you phoned him on this particular occasion?

20 **MR X (through interpreter):** It was a practice.

ADV KATE HOFMEYR: Chair I see we are close to the 4 o'clock break-time. There are a few remaining items on, well actually I need to go into the details of what then precisely happened. So, it may be a convenient time to take the adjournment.

CHAIRPERSON: Well I do not know whether you would like to, us to

stop here or whether depending on how much time you need with him, if we needed an hour maybe we could cover, go up to five [intervenes].

ADV KATE HOFMEYR: No, we should cover quite some substantial ground if it is convenient for us to continue.

CHAIRPERSON: Well we can go up to five from my point of view but doing that is also convenient for everybody including Mr X but also we have to look at what difference that would make as for tomorrow because if in the end it will not make any difference we may as well adjourn and then continue tomorrow.

10 **ADV KATE HOFMEYR:** Chair my view is that it will make quite an impact to be able to have a further hour. I really do think I could get through quite a bit of the detail of the transactions and it would be useful to get that out of the way even if we have to return for a short period tomorrow. Speaking for myself I – I might just request a short comfort break if we are going to go on for another hour, I will be indebted to that otherwise I think we could usefully use an hour.

CHAIRPERSON: Yes, Mr X would you be able to continue until about 5 o'clock?

MR X (through interpreter): Yes, we can try.

20 **CHAIRPERSON:** Miss Interpreter are you able? Or have you got a challenge?

INTERPRETER: Yes, because I did not have transport to get here, yes, I had a problem with my car.

CHAIRPERSON: Okay then we just have to adjourn.

ADV KATE HOFMEYR: We do, indeed. Chair I think we did discuss

possibly starting early tomorrow, is that still convenient?

CHAIRPERSON: The Witness for tomorrow how long do you think we will be with him? How many Witnesses do you have?

ADV KATE HOFMEYR: We only have Mr Majola scheduled for tomorrow so the idea would be to conclude with MR X and then move to Mr Majola, and I do envisage the day with Mr Majola

CHAIRPERSON: Ya, okay, okay, maybe if we and if Mr Majola will not be needing an interpreter, do you know?

ADV KATE HOFMEYR: No, we have not been alerted to any such need,
10 no.

CHAIRPERSON: If we are going to, or we cannot go up to five tomorrow because of the other commitment. So maybe we should then start early tomorrow, it is a pity we cannot continue and cover some more ground today. What time were you suggesting that we start tomorrow?

ADV KATE HOFMEYR: With hesitation I suggest nine, but even nine-thirty would give us a bit more time.

CHAIRPERSON: Ya – ya, shall we do nine thirty? I was going to do 9 o'clock but there is something else that I need to attend to. Let us say 9H30, let us say 9H30 and if need be, we will see where else we can
20 make some more time. I think maybe when we start tomorrow it would help if you have a better picture in terms of how much time you need in order to finish Mr Majola's evidence.

ADV KATE HOFMEYR: Of course.

CHAIRPERSON: Ya, No that is fine and then I do not know what was wrong today with the aircon, it is like a - it is hot, it is not making us cool

so somebody must please attend to that from tomorrow. Okay Mr X we are going to adjourn the proceedings for today. We are going to resume at 09h30 tomorrow morning.

MR X (through interpreter): Thank you.

CHAIRPERSON: Okay we adjourn.

INQUIRY ADJOURNS TO 18 FEBRUARY 2020