

STATE CAPTURE INQUIRY
PARKTOWN, JOHANNESBURG

DAY 3,

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SESSION 1 – 4.

Session 1

CHAIRPERSON: Yes Mr Pretorius?

ADV PAUL PRETORIUS SC: Mr Chair, as stated earlier this week, Advocate Mokoena will give a brief opening in relation to the evidence that we intend to lead at least for the present, in relation to terms of reference 1.1 to 1.3 and that will be followed by the evidence of Mr Jonas.

CHAIRPERSON: Thank you. Mr Mokwena?

ADV PHILLIP MOKOENA SC: Chairperson, in order to place this session of the proceedings in its proper context and for a sensible treatment of the issues to be canvassed during this phase, we deem it necessary and prudent to outline growth map for this session. We will be ventilating and canvassing the issues neatly captured in the Commission's terms of reference 1.1, 1.2 and 1.3 Mr Chair yourself and Mr Pretorius, in the most able manner, did traverse these terms of reference during your opening address. With your leave Mr Chair, may we remind ourselves of the content ambit and scope of those terms of reference and I do so by referring the Chairperson to the terms of reference.

Starting with term of reference 1.1, the Commission is called upon to enquire whether and to what extent and by whom, attempts were made through any form of inducement or for any gain of whatsoever nature, to influence members of the National Executive, including Deputy Ministers, office bearers and/or functionaries employed by, or office bearers of any State institution or organ of State or directors of the boards of SOE's.

In particular, the Commission must investigate the voracity of allegations that former Deputy Minister of Finance Mr Mcebisi Jonas and Ms Mentor were offered cabinet positions by the Gupta family and 1.2, whether the President, that is now the ex-

President, had any role in the alleged offers of cabinet positions to Mr Mcebisi Jonas and Ms Mentor by the Gupta family as alleged and term of reference 1.3, whether the appointment of any member of the National Executive, functionary and/or office bearer was disclosed to the Gupta family or any other unauthorised person before such appointments were formally made and/or announced and if so, whether the President or any member of the National Executive, is responsible for such conduct.

Mr Chair however, for the purpose of this session, we will be focusing and dedicating our attention to the following aspects of the terms of reference – we will interrogate and canvas the first portion of the term of reference 1.1, in as far as it relates to that conduct
10 of inducement and influence pertaining to National Executive and Deputy Ministers.

Then we also include in this session, reference to deal and investigate the voracity of the allegations that the former Deputy Minister of Finance Mr Mcebisi Jonas and Ms Mentor were offered cabinet positions by the Gupta family and then also, we will be dealing with term of reference 1.2 in its entirety.

When it comes to term of reference 1.3, we will also be focusing mainly on those appointments or removals of the National Executive and those Mr Chair, in as far as the terms of reference pertains to office bearers and/or functionaries and/or the boards of the SOE's, that term of reference in its nature, is very broad. Documents are still being collated and the investigations are still ongoing.

20 In essence Mr Chair, that aspect of the term of reference will receive and be addressed not in this session or phase, but it will be given the attention in due course. Mr Chair in order to proper lay the foundation to the evidence which will be adduced during this session, the witnesses which are called forward by the Commission, with your leave, we

seek to briefly deal with an interpretation issue which has a direct relevance to the testimony of the witnesses we intend calling.

We know Mr Chair what the terms of reference 1.1, 1.2 and 1.3 expressly provides, what these terms of reference do not expressly provide, is whether and/or to what extent and by whom attempts were made through any form of inducement or for any gain of whatsoever nature to influence the removal of the National Executive, the Deputy Ministers, office bearers and/or functionaries employed by or office bearers of any State institution or organ of State or directors of the boards of the SOE's.

Equally so Mr Chair, you will see that term 1.2 of the terms of reference does not
10 expressly provide for the investigation pertaining to whether the former President had played any role in the removal of any member of government or organ of State or office bearers and/or functionary employed by any State institution and/or SOE. The question therefore Mr Chairman is, whether terms of reference 1.1 and 1.2, should be interpreted literally, narrowly and limited only to the investigations pertaining to the unlawful and illegal inducement and influence made in the appointments without properly interrogating the obvious consequences being the removals.

It is our view Mr Chair, that the allegations in relation to the removal of government officials were directly investigated and dealt with in the report of the Public Protector. May we refer the Chair to the Public Protector's report and we find comfort on Page 29
20 with specific reference to Paragraph 2.5 under the heading Key Allegations the Public Protector recorded the following, it is on Page 29 Mr Chair – the complaints followed media reports alleging that the Deputy Minister of Finance Honourable Mr Mcebisi Jonas, was allegedly offered the post of Minister of Finance by the Gupta family long before his then colleague, Mr Nhlanhla Nene, was abruptly removed by the Gupta family, which has

a long-standing friendship with President Zuma's family and a business partnership with his son, Mr Duduzane Zuma. The offer took place at the Gupta residence in Saxonworld, City of Johannesburg, Gauteng. The allegation was that Atul Gupta, the oldest of the three Gupta brothers, who are business partners of President Zuma's son, Mr Duduzane Zuma, in a company called Oakbay, among others offered the position of Minister of Finance to Deputy Minister Jonas and must have influenced the subsequent removal of Mr Nene and his replacement with Mr Des van Rooyen on the 9th of December 2015, who was also abruptly shifted to the corporate governance and [indistinct] affairs portfolio four days later following a public outcry.

- 10 May we also invite the Chair to have regard to Page 34 of the Public Protector's report in support of our interpretation to the terms of reference that they must include the removals, with particular reference Mr Chair to Paragraph A to C under the heading Alleged Breach of Executive Member Ethics Act 1998, the following is recorded – (A) whether President Zuma improperly and in violation of the Executive Ethics Code, allowed members of the Gupta family and his son, to be involved in the process of removal and appointment of Minister of Finance in December 2015, (B) whether President Zuma improperly in violation of the Executive Ethics Code, allowed members of the Gupta family and his son, to engage or to be involved in the process of removal and appointing of various cabinet ministers, we also emphasise the word removal as recorded
- 20 by the Public Protector, (C) whether President Zuma improperly in violation of the Executive Ethics Code, allowed members of the Gupta family and his son, to be involved in the process of appointing members of the boards of directors of SOE.

We submit Mr Chair that the allegation of state capture pertaining to the appointment and removal of government officials, were indeed investigated upon by the Public Protector and recorded in various portions of the Public Protector's report.

CHAIRPERSON: Mr Mokoena, until somebody comes up and argues the contrary before me, my inclination is that it is logical that the dismissal also needs to be investigated, so unless you need to do so for the purposes of completeness in terms of your opening statement, you don't need to persuade me that the dismissal falls within my *prima facie* view is that it does, I remain open to anyone who might at any stage, want to argue that it doesn't, I will look at that and make a decision at that time, but as of now, I think you can take it that my *prima facie* view is that it does.

ADV PHILLIOP MOKOENA SC: Mr Chair we are then comfortable, we don't need to make any further submissions in that regard. We have prepared Mr Chair for ease of
10 reference, a bundle that we will be canvassing with Mr Jonas. We propose Chairperson that it should be marked Exhibit C1. We further propose that additional documents which will be filed in relation to term of reference 1.1, 1.2 and 1.3, should be marked chronologically from C2 until the last number. In that way Mr Chair, we would be able to navigate ourselves through the documents even at the stage whereby the record becomes voluminous. At least we will be, knowing that in relation to term reference 1.1, 1.2 and 1.3, we will be having that C number specifically allocated to the documents filed by different parties in respect of those terms of reference and I beg leave to – I am told that it is formally being handed, the bundle simply to be marked C1.

CHAIRPERSON: With reference to how other documents that will come under these
20 terms of reference will be marked, of course as and when they are being handed up, whoever does that, will bear in mind what you have just said, thank you.

ADV PHILLIP MOKOENA SC: Yes it will make it easier for all of us to be able to find the documents as and when they are required to do so. You will see Mr Chair, we have also prepared an index to the bundle and simply to assist you to navigate through that bundle,

from Page 1 to 20, it is the statement of Mr Jonas and Item 2 Page 21 to 89, is the transcript from the Public Protector and then Item 3 is a document that was prepared by Mr Jonas, a timeline which is contained on Page 90 to 94 and then Item 4 deals with different affidavits which were filed in the matter between the Minister of Finance versus the Oakbay where the issue, were issues that we are interrogating in this Commission were also raised therein and Item 5 is the affidavit of Mr Jonas in response to the allegations contained in the affidavit filed in the Minister of Finance versus Oakbay matter and then Annexure A, is a statement that was prepared on his behalf which he refused to sign by the officials which we will in due course refer to their names of the Hawks and
10 Item 7, is the GPRS records and Item 8 Mr Chair is the telephone records which we will deal with same to the extent that it becomes necessary.

Mr Chair we are ready to lead the evidence of Mr Jonas.

CHAIRPERSON: Your bundle, your index talks about Items 1 to 8, but when I look at how the bundle is divided, I see A B C D E, I would have thought that your dividers would have 1 2 3 4, so that if I want to go to Item 5, the divider tells me this is where Item 5 is.

ADV PHILLIP MOKOENA SC: We understand.

CHAIRPERSON: But am I missing something that I should be seeing?

ADV PHILLIP MOKOENA SC: You're not, the file dividers were put there for ease of reference, not referring to the item itself, but we take the point and during the
20 adjournment, instead of the C numberings, we will put the item numbers. However, for the purpose of following the evidence of Mr Jonas, it might be appropriate for us to refer to the page numbering. Then in that regard Mr Chair, we won't lose one another.

CHAIRPERSON: Okay thank you, you may proceed?

FEMALE SPEAKER: Do you have any objection to making the prescribed oath?

MR MCEBISI JONAS: No.

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

MR MCEBISI JONAS: Yes.

FEMALE SPEAKER: Please raise your right hand? Do you swear that the evidence you shall give today shall be the truth, the whole truth and nothing but the truth, so help you God?

MR MCEBISI JONAS: I do.

FEMALE SPEAKER: Thank you.

10 **ADV PHILLIP MOKOENA SC**: Mr Chair before proceeding with leading the evidence of Mr Jonas, Mr John Trengo is here to register his presence. He is part of the legal team of Mr Jonas.

CHAIRPERSON: Thank you.

MR TRENGO: May I confirm that Chair? My name is John Trengo, I appear for Mr Jonas, instructed by attorneys Bukwana Burns and Nortons.

CHAIRPERSON: Thank you very much Mr Trengo. You may proceed, Mr Mokwena?

ADV PHILLIP MOKOENA SC: Mr Jonas, during this phase of the hearings, the Commission will be addressing the terms of reference 1.1 1.2 and 1.3 and are you aware of that?

20 **MR MCEBISI JONAS**: Yes I am.

CHAIRPERSON: Before, you proceed, Mr Mokoena, I see somebody next to Mr Jonas, I don't know who he is, I don't know what he is doing there.

ADV PHILLIP MOKOENA SC: He might be sitting to wait for cross-examination Mr Chair, I am not sure.

CHAIRPERSON: You also don't know? Well maybe I should adjourn and you people sort this thing out. I am going to adjourn for 5 minutes.

Session 2

CHAIRPERSON: Thank you Mr Mokwena?

ADV PHILLIP MOKOENA SC: Mr Chair we did clarify the issue, it was Mr Jonas's attorney of records, he was merely sitting there to assist him to navigate through the documents, but he has since now joined the rest of us.

CHAIRPERSON: I think he has done the right thing, thank you, you may proceed?

ADV PHILLIP MOKOENA SC: Mr Jonas for your benefit, may I repeat the question that, are you aware that for this phase of the inquiry, we will be interrogating term of reference 1.1, 1.2 and 1.3?

10 **MR MCEBISI JONAS**: I do.

ADV PHILLIP MOKOENA SC: Thank you and we have placed the terms of reference next to you for your benefit. If you may go to Page 5 and that is where you will find term of reference 1 up until Page 6 and towards the middle of the page that is where you will find term of reference 1.3 and are you familiar with those terms of reference?

MR MCEBISI JONAS: With all respect, I do Chair.

ADV PHILLIP MOKOENA SC: In order to assist this Commission, you had provided and furnished us with a witness statement Mr Jonas?

MR MCEBISI JONAS: I did.

20 **ADV PHILLIP MOKOENA SC**: Yes may I refer you to the bundle C1 a document contained from Page 1 to Page 20 of the bundle may I refer you to Page 20? Is that your signature?

MR MCEBISI JONAS: It is.

ADV PHILLIP MOKOENA SC: Before confirming your statement under oath, are there any portions of the statement that you wish to correct?

MR MCEBISI JONAS: With respect Chair, there are a couple.

ADV PHILLIP MOKOENA SC: Could you please take us through those corrections, slowly as we also want to make notes?

MR MCEBISI JONAS: On Page 19, Paragraph 57 and sub-section 57.6, it says I was hired by Hlongwani, that is, incorrect. It reads in the actual statement signed, as by Mr Duduzane Zuma.

ADV PHILLIP MOKOENA SC: Is that the only correction on that page?

10 **MR MCEBISI JONAS**: Yes.

ADV PHILLIP MOKOENA SC: And then the next paragraph?

CHAIRPERSON: I'm sorry Mr Mokwena and Mr Jonas, so in Paragraph 57.6, what words should we delete and in which line?

MR MCEBISI JONAS: In Line 1 Chair, I was invited to the meeting at the Hyatt by, it says Mr Hlongwani. You delete by Mr Hlongwani and then you say by Mr Duduzane Zuma.

CHAIRPERSON: Okay I think we should delete Mr Hlongwani and, and then we leave by, so that it says by Mr Duduzane Zuma. Okay thank you, you may proceed?

ADV PHILLIP MOKOENA SC: Then where else?

20 **MR MCEBISI JONAS**: The second one is on Paragraph 37 and 38 on Page 10 it is just the order of the paragraph. 38 should be 37 and 37 should be 38.

ADV PHILLIP MOKOENA SC: In order for them to follow chronologically?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And where else Mr Jonas?

MR MCEBISI JONAS: At Page 4, Paragraph 14, the last line of that paragraph.

ADV PHILLIP MOKOENA SC: The one starting with the following "I had received a call from Mr Hlongwani?"

MR MCEBISI JONAS: And the rest should read "as Mr Duduzane was arriving".

ADV PHILLIP MOKOENA SC: So the words "while I was with" must be deleted?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And replaced with the word "as"?

10 **MR MCEBISI JONAS**: Yes.

ADV PHILLIP MOKOENA SC: And then we must add after Mr Duduzane Zuma was arriving?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Before the word "and"?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Any other place?

MR MCEBISI JONAS: I think that's it.

ADV PHILLIP MOKOENA SC: Other than that, you are happy with the rest of your statement?

20 **MR MCEBISI JONAS**: Yes I am.

ADV PHILLIP MOKOENA SC: Do you confirm the contents of your statement under oath?

MR MCEBISI JONAS: Yes I do.

CHAIRPERSON: I am sorry Mr Mokwena, the last portion of that line, says and I told him that I was with Mr Zuma. Now the earlier part is now saying, as Mr Duduzane Zuma was arriving, so it may or may not be that it's still fine, I don't know.

ADV PHILLIP MOKOENA SC: Its fine.

CHAIRPERSON: Okay thank you.

ADV PHILLIP MOKOENA SC: Mr Jonas I propose to relate your evidence by referring to
10 specific topics and things. I will deal with your evidence by addressing the following topics. The first one, I will ask you-

CHAIRPERSON: I am sorry Mr Mokwena, I don't know whether it might not be good for the sake of completeness, I think it is implied that if you are going to lead him on the basis of certain topics, whether he shouldn't at this stage, just confirm that other than the errors that he had picked up, which he has now corrected, he confirms that this statement is correct and he stands by it or something to that effect?

ADV PHILLIP MOKOENA SC: No he did confirm Mr Chair.

CHAIRPERSON: Okay thank you, I may have missed that.

ADV PHILLIP MOKOENA SC: Now the topics which I propose to canvas with you, are
20 the following Mr Jonas – firstly, I will request you to deal with the events leading up to the meeting of the 23rd of October 2015 and then secondly, we will deal with the events subsequent to the meeting of the 23rd of October 2015. Thirdly, we will deal or I will request you to address the period, between, October 2015, to December 2015. We will

then move on to canvas events which took place from January 2016 to March 2016. We will then also deal in detail with your media statement which was released on the 16th of March 2016. We will then move on to canvas with you and highlight your interaction with the officials of the Hawks. Thereafter, I will refer you to the portions of the transcripts of the Public Protector wherein your interview with the Public Protector is captured.

I will also deal with you with the document that you have prepared styled the timeline document and then we will also dedicate some time in dealing with those affidavits which were filed in the matter between the Minister of Finance and Oakbay. You would recall that Mr Gupta, A.J. Gupta, filed an affidavit in those proceedings in relation to the offer
 10 made to you at the Gupta residence and Mr Fana Hlongwani as well as Mr Duduzane Zuma filed confirmatory affidavits in support of that affidavit, but you also filed your own affidavit in order to respond to those allegations. We will in due course canvas those affidavits in more detail and finally, and to the extent that it becomes necessary, we will deal with the cell phone records. That is how I propose to deal with your evidence.

As a prelude to your evidence, may I request you to turn to Page 1 of your witness statement, that is the bundle Chair that I am referring to with specific reference to Paragraph 2 of your statement and if you can read same into the record?

MR MCEBISI JONAS: Thank you.

20 *["I was appointed as the Deputy Minister of Finance of South Africa on the 26th of May 2014 and I was relieved of my position of Deputy Minister of Finance on the 31st of March 2017. I was also during this period, a member of the South African Parliament I was appointed a Deputy Minister at the same time as Mr Nhlanhla Nene was appointed as the Minister of*

Finance. On the 9th of December 2015, it was announced that Mr Nene was removed as the Minister of Finance and replaced by Mr Des van Rooyen. It was announced on the 13th of December 2015 that Mr van Rooyen was in turn to be replaced by Mr Pravin as Minister of Finance. Mr Gordhan served as Minister of Finance until the evening of the 31st of March 2017, when he was removed as Minister of Finance and I was removed as Deputy Minister of Finance on the same day.”]

ADV PHILLIP MOKOENA SC: There are two important aspects arising from that
10 Paragraph 2 which would require clarification from you. The first one, could you share with us, the circumstances upon which you were appointed on 26 May 2014?

MR MCEBISI JONAS: Mr Chair, I received a call from the Office of the President, inviting me to his residence [indistinct] and formally informed that I have been appointed as Deputy Minister of Finance.

ADV PHILLIP MOKOENA SC: Then the second issue that arises, you are saying in your statement that you were removed as Deputy Minister of Finance on the same day when Minister Gordhan was removed. Can you also share with us the circumstances which led to your removal and how you were removed?

MR MCEBISI JONAS: Of course there was no formality around it from the President. I
20 actually saw it on TV and up until to-date I never received any formal information about my removal. I suspect the same for Mr Gordhan.

ADV PHILLIP MOKOENA SC: So you say that you only saw it on TV that you were removed?

MR MCEBISI JONAS: And then subsequent media statements.

ADV PHILLIP MOKOENA SC: Can you then deal or take us through very slowly, take us through the events leading up the meeting on the 23rd of October 2015?

MR MCEBISI JONAS: On approximately the 27th and 28th of August 2015, I was in Luanda at an African caucus of finance ministers. I recall being contacted by Mr Fana Hlongwani whom I knew relatively well, telling me that Mr Duduzane Zuma would like to speak to me, to invite me to an awards ceremony, which I will explain later.

I subsequently met Mr Hlongwani during 2015 in Johannesburg in the presence of Mr Bongani More and he told me that Mr Duduzane Zuma wanted to meet me.

ADV PHILLIP MOKOENA SC: Mr Jonas who is Mr Bongani More?

10 **MR MCEBISI JONAS:** It's a friend of mine. It was not a formal meeting, it was a casual meeting. During the course of the conversation, he mentioned that the Gupta's were important to him. I indicated that I would not want to be associated with the Gupta's.

ADV PHILLIP MOKOENA SC: What prompted that discussion?

MR MCEBISI JONAS: It was a general discussion on the politics of the country. I asked Mr Hlongwani to provide me with Mr Duduzane's number, I had not previously met Mr Duduzane, nor had any previous interaction with him. At approximately 5:30 PM, on the 17th of October 2015, arriving in Cape Town from Port Elizabeth, I sent Mr Duduzane a text stating Hi Comrade, I quote, I tried to call you, Mcebisi Jonas. Approximately at 5:36 PM, I had a short telephone conversation with Mr Duduzane Zuma. Mr Duduzane Zuma
20 requested me to attend what I recall to be the South African of the Year Awards hosted by ANN7 on Saturday the 17th of October 2015 in Johannesburg.

I ultimately indicated that I would not be able to attend, telling him that my schedule would not permit it. Mr Duduzane Zuma said that he would like to talk to me none the less and asked whether we could meet some time after the awards.

ADV PHILLIP MOKOENA SC: At that point, did he indicate to you why he wanted to talk you?

MR MCEBISI JONAS: There was no indication.

ADV PHILLIP MOKOENA SC: Okay, please proceed?

MR MCEBISI JONAS: On the Monday the 19th of October 2015, at approximately 12:38, I sent Mr Duduzane Zuma a text message which read "can we talk when I, when I in
10 response to a missed call, there was a missed call by Mr Duduzane and I responded to him by saying can, we talk? I was about to fly from Johannesburg to Cape Town. I received two missed calls from Mr Hlongwani that evening at approximately 9:37 PM and 9:38 PM. At approximately 9:43 PM, I sent Mr Duduzane a further text message which stated called. I then received a call from Mr Duduzane at 9:43 about arranging a meeting and I indicated to him, that I would be in Johannesburg later in the week and that it may be possible to meet then.

On the 22nd of October 2015, I flew from Cape Town to Johannesburg. On landing in Johannesburg, I noticed that I had received a text message from Mr Duduzane Zuma, which read "good morning Sir, I trust you made it out of the Parliament building
20 unscathed. I tried to call you, please return my call, kindest regards, Duduzane".

I also saw that I had received a missed call from Mr Duduzane. I received a call from Mr Duduzane Zuma at approximately 9:58 AM on the 23rd of October 2015. I told him that I would be attending a meeting in Rosebank that morning and that we could meet briefly before I flew to Port Elizabeth in the late afternoon of the 23rd of October 2015.

We agreed to meet at Hyatt Hotel in Rosebank before I left to the airport. On the 23rd of October 2015, I attended NEDLAC briefly and I left the meeting after that. I sent Mr Duduzane a text message at approximately 11:00 AM to change our agreed upon time which stated "can we make it 1:30 same place which is Hyatt". He responded with a text saying "agreed".

I arrived earlier at approximately 1:00 and I sent him a text message saying can you call me. I then received a short call from Mr Duduzane Zuma at approximately 1:03 PM and at 1:13. I sent a further message saying "here already" and he responded at 1:21 stating "I am on my way up Sir".

- 10 When Mr Duduzane arrived at the Hyatt Hotel, we had a brief discussion. He appeared pretty nervous and spoke in very vague terms. He said nothing of substance except to say that his father the then President Jacob Zuma liked me. After a while, I indicated that I was under time pressure. He said that the place was too crowded and that he had important matters to discuss, but that he wanted other people to join the discussion and that he wanted to drive to a more private place, which he said was close by.

ADV PHILLIP MOKOENA SC: But did he tell you who, are, these other people that he wanted to join the discussion?

- MR MCEBISI JONAS:** He didn't Mr Chair. I assumed we would be going to an office nearby, so I said let's go. I had received a call from Fana Hlongwani as Duduzane was
20 arriving, that is the correction that I made. We drove in Mr Duduzane's car which appeared to be a 2-door Mercedes Benz. I did not know the surrounding area very well and only gathered when we arrived at our destination, that we had driven into the Gupta residence in Saxonworld.

ADV PHILLIP MOKOENA SC: Did you know that residence before of the Gupta's?

MR MCEBISI JONAS: No I didn't.

ADV PHILLIP MOKOENA SC: Was that the first time?

MR MCEBISI JONAS: It was the first time yes. Mr Duduzane had not suggested to me when we left Hyatt, that we were going to the Gupta residence or that we had to meet Gupta's. As Mr Duduzane passed the car, I noticed that Mr Fana Hlongwani had also arrived at the Gupta residence. We went into the house and Mr Duduzane Zuma and Mr Hlongwani led me to a lounge where we sat down and started chatting.

Neither Mr Duduzane nor Mr Hlongwani suggested what the meeting would involve none of them suggested that the meeting would involve any of the Gupta family members. We had not spoken for a very long time when one of the Gupta brothers walked into the room and sat down. I had not previously met any of the Gupta brothers, but I recognised him as one of the Gupta brothers from media reports. At the time, I did not know his name as he did not introduce himself, but simply started talking. I have subsequently looked at press articles which depict the various Gupta brothers and based on these photographs, I am relatively certain that the Gupta brother at the meeting, was Ajay Gupta, but I cannot exclude based simply on the photograph, the possibility that it might have been Mr Rajesh Gupta.

Mr Duduzane Zuma and Mr Fana Hlongwani both remained silent while Mr Gupta spoke and they did not participate in the interaction which followed although they both remained in the room. Mr Gupta opened the conversation by stating that we know you and that he had been told that I was being blackmailed by Mr Hlongwani. I replied that that was not true. He responded by stating that that is not why he had called me anyway.

ADV PHILLIP MOKOENA SC: Did Mr Hlongwani at this stage, respond or reacted to these remarks by Mr Gupta?

MR MCEBISI JONAS: No he just shook his head and no response really, no words. He said that we have been gathering intelligence on you, including those closest to you, such as my friend Rasta Mahomed and my chief of staff Mr [Hlongwanizwa]. He described both as being poor and useless. He emphasised that they, which I understood to be the Gupta family, have the capability to gather such information and that they had gathered a lot of information on me which they could use against me. He said that as far as he was concerned, this meeting never happened and that one day if I were to suggest that this meeting had occurred, they would destroy my political career.

I understood him to be creating the impression that they had information on me that they
10 would use to destroy my political career if I reveal that the meeting had taken place.

ADV PHILLIP MOKOENA SC: Did you at that stage, interact with him, or say anything to him?

MR MCEBISI JONAS: No I listened he was talking like a radio. Furthermore, Mr Gupta said that they were well aware of my activities and that I was working with the ANC General Secretary Mr Gwede Mantashe, Treasurer General Doctor Zweli Mkhize, he also said that these activities were not good for me and these were bad guys.

He expressed the view that I was part of what he referred to as a thing within the ANC and government. I can only assume that I was suggesting that I form part of a faction or a process intended to undermine the then President Zuma. I must state in this regard that
20 my relationship with President Zuma at the time was pretty good.

I interjected and refuted his view and stated that I was nothing more or less than a part of ANC and that my activities within the ANC and my work in government had nothing to do with anything other than the interest of the country. I asked him directly what, was, the purpose of the meeting. Mr Gupta said the old man, referring to the President, seemed to

like me and that they have called me to check me out I quote that and I quote again, and to see whether you can work with us, I quote again. He also said that the President was going to fire Mr Nene because he could not work with him. I understood this again to be a reference to the Gupta family.

ADV PHILLIP MOKOENA SC: At that time, what portfolio was Mr Nene holding?

MR MCEBISI JONAS: Mr Chair, Mr Nene was the Minister of Finance.

CHAIRPERSON: I am sorry Mr Jonas and Mr Mokwena, it might be easier to deal with this here now than much later. In Paragraph 20 of Mr Jonas's statement where he refers to the ANC Secretary General Mr Gwede Mantashe, from what he has said, it seems to
10 me that it should not be saying Treasurer General and Doctor Zweli Mkhize. It should be saying Mr Gwede Mantashe and Treasurer General, [comma] Doctor Zweli Mkhize rather than "and".

ADV PHILLIP MOKOENA SC: It makes sense that way Mr Chair thank you.

CHAIRPERSON: Thank you.

MR MCEBISI JONAS: Mr Gupta said that the President was going to fire Mr Nene because he could not work with him, which I understood was in reference to the Gupta family. He said that "you must understand that we are in control of everything, the National Prosecuting Authority, the Hawks, the National Intelligence Agency and the old man will do anything we tell him to do."

20 He said that the old man intended appointing me as the Minister of Finance. I was at this stage shocked and angered by this statement and I said that I was not interested in becoming the Minister of Finance.

ADV PHILLIP MOKOENA SC: Now at this stage, where is Mr Fana Hlongwani and where is Mr Duduzane Zuma?

MR MCEBISI JONAS: They are in the room quiet as if they don't exist. Mr Gupta ignored what I said. He said emphatically that I must become the Minister of Finance because that is what we want and by that, I would have to work with them. He also said that if I worked with them, I would become very rich and that he could immediately offer me R600 Million. He pointed at Mr Duduzane and said that they have made a billionaire and that he had bought a house in Dubai. He said that they had worked closely with a number of people including Lynn Brown and Brian Molefe and as a result, they were
10 protected. In other words, those people who work for them are protected.

He said that Mr Molefe is very safe and that his career path is very clear and that nobody would touch him and I would be safe too.

ADV PHILLIP MOKOENA SC: Now I just want to make sure that your evidence is accurately captured when you refer to the offer, is that R600 Million that you were offered?

MR MCEBISI JONAS: R600 Million yes.

ADV PHILLIP MOKOENA SC: In Rand's?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Okay, you may proceed?

20 **CHAIRPERSON:** Before, he, proceeds, Mr Jonas, that last sentence of Paragraph 23, I seem to be hearing you to say touch him and not me, it is written me.

MR MCEBISI JONAS: Oh touch him yes.

CHAIRPERSON: Is it supposed to be me or is it supposed to be him?

MR MCEBISI JONAS: No, no it's me. He said assuming that I work with them, nobody would touch me and I would be safe.

CHAIRPERSON: I don't know whether I heard correctly earlier.

MR MCEBISI JONAS: It might be a slip of the tongue.

CHAIRPERSON: No I just want to make sure that what you say might be different from what is written here, you are aware of it and you can explain. You may proceed?

MR MCEBISI JONAS: I said that I was going to leave and stood up to leave. I said that I was not interested in being a Minister of Finance and if he thought I would work with
10 them, he would have to tell me precisely what it is that they do. At that point, he, Mr Zuma and Mr Hlongwani also stood up, I was angry at this stage and he was also emotional. He said something along the lines of "look, do you know who you are dealing with?" He was agitated and said "do you think it is illegal". He said that everything that they do, is legal and that they create jobs and contribute to the economy.

He said that at the moment, we, which I understood again to be the Gupta family, earn about R6 Billion from the fiscas through various entities, including Eskom, Transnet and government departments. He said that they wanted to increase this amount to R8 Billion and that they thought I could be helpful in this regard. Mr Gupta said that they had determined that the National Treasury was a stumbling block for their growth and that
20 they wanted to "clean up Treasury". He said that when I am appointed as Minister of Finance, I would have to remove the Director General Lungisa Fuzile, Head of Tax and Financial Sector Policy Mr Ismael Momoniat, the Deputy Director General Mr Andrew Donaldson and the then Chief of Procurement Kenneth Brown.

Further, he said that they would provide me with replacement of all of these people and that they would provide me with the necessary support including advisors.

CHAIRPERSON: Before, you, proceed, Mr Jonas, I noted that in that paragraph which you have just finished, when you came to the R6 Billion, you just said 6 Billion and I think when you read 600 Million, you also left out the Rand. I think try as much as possible to read it as is, except if you pick up that it is incorrect in which case you must just state that on record.

MR MCEBISI JONAS: I said that I was under time pressure and again encouraged him to set out precisely what they do, suggesting that this would allow me to take an informed decision. For the sake of clarity, my question was not intended for the purposes of seriously considering his offer, but it was intended as a provocation to seek to draw him out in the context of the unfolding state capture phenomenon that we were in at that point, trying to make sense of and to determine who was involved and it was in a sense, trying to flush them out.

ADV PHILLIP MOKOENA SC: Did he answer your question as to what were they doing?

MR MCEBISI JONAS: I am coming to that. I began to walk away and Mr Gupta motioned to both Mr Zuma and Mr Hlongwani to hang back and as I was walking to the door of the house, Mr Gupta directed me to a bar area and said that they were serious about offering me R600 Million and that it would be deposited into an account of my choice and that they could open an account for me, I could stash it in Dubai. He said that to show that they were serious “I can give you R600 000 now” and ask again “do you have a bag or can I give you something to put in”. He seemed to want to show the cash to me. I said to him that I did not want money and I thought that he was going to tell me what it is that they do. I said that I was in a rush to catch a plane, but I was returning

from the Eastern Cape on Sunday and he could provide me with a list of what they do on the Tuesday of the following week. Then he told Duduzane to arrange that I come back the following Tuesday and that he should tell me to bring a bag.

I asked Mr Zuma to take me back to my car. Mr Gupta said he wished to continue the meeting with Mr Zuma and another car would take me to the airport. At the end of the meeting, Mr Gupta repeated that they had information on me and if I suggested that the meeting had occurred, they would kill me.

ADV PHILLIP MOKOENA SC: Can I refer you back to Paragraph 28? Now at that stage, when Mr Gupta is talking to you and saying that I can give you R600 000 now, where was
10 Mr Duduzane Zuma and Mr Hlongwani standing?

MR MCEBISI JONAS: They were standing a bit back away from me.

ADV PHILLIP MOKOENA SC: Okay.

MR MCEBISI JONAS: I was then driven to the airport by what I assumed to be one of their vehicles, the Gupta vehicles.

ADV PHILLIP MOKOENA SC: Now as you say they were standing back, could they hear what he was saying?

MR MCEBISI JONAS: They were very close, so they heard.

ADV PHILLIP MOKOENA SC: Okay, now Mr Jonas, can we then move on to deal with the events subsequent to the meeting of the 23rd of October 2015, but before you do that,
20 may I enquire from the Chair, that now that we did begin with our hearing at 9:30, I am not sure when will be the opportune time to take a tea adjournment?

CHAIRPERSON: Maybe we should take it at 11:00, is that convenient to everybody?

ADV PHILLIP MOKOENA SC: Yes.

CHAIRPERSON: Okay we will take it at 11:00.

ADV PHILLIP MOKOENA SC: You, may proceed Mr Jonas to deal with the events subsequent to the meeting of the 23rd of October 2015?

MR MCEBISI JONAS: I was very shaken by what happened at the meeting, due to the sensitive and threatening nature of what had transpired at this meeting and because of uncertainty of events that were playing themselves out on the national basis. I decided I would initially discuss what had happened with people whom I felt I could trust. Later that day, I contacted Mr Nhlanhla Nene and advised him that I had something serious to tell
10 him. He was on his way to Kwazulu Natal so we agreed to meet on his return, on Sunday the 25th of October.

ADV MOKWENA: You are also referring there to uncertainty of events that were playing themselves out on a national basis. What were you referring to?

MR MCEBISI JONAS: It was probably the most turbulent time which I will deal with later. It was a very turbulent time and I will give details later if you will allow me.

ADV PHILLIP MOKOENA SC: Yes you may do that.

MR MCEBISI JONAS: Upon landing in PE, I spoke telephonically to Mr Hlongwani and expressed my disgust about what had transpired, particularly in respect of the manner in which he had deliberately misled me. I told him he should never again do what he had
20 done to me or to any other person. He suggested that we should have a meeting to discuss what I had raised. On Sunday 25th of October 2015, Mr Nene contacted me and suggested that we should meet the following day Monday the 26th of October. I returned to Johannesburg on Sunday the 25th of October 2015 at approximately 4:37. I spoke to

Mr Gordhan whom I trusted wholly and asked if I could see him to seek his advice and guidance. I went to his house in Pretoria and when I arrived, he was sitting with his wife. Given that his wife was present, I decided to provide him with a high level outline of what happened. I told him that I had been invited to a meeting and that the individuals present at the meeting, had told me that I would be made Minister of Finance and that they offered me money and that I had refused their offer.

I was still deeply shocked angered and dispirited and I told him that I thought I should submit my resignation the following day. Mr Gordhan suggested that I should not resign at that time, but should wait until we had some time to consider the matter further and get
 10 into more details and also to decide what would be in the best interests of the country. I told him that I would discuss the matter with Mr Nene which he said was important. We agreed to keep the matter confidential. I received three missed calls from Mr Hlongwani between 6:49 PM and 7:57 PM as well as one missed call from Mr Duduzane Zuma at 8:18 PM.

ADV PHILLIP MOKOENA SC: Do you know the date?

MR MCEBISI JONAS: I think it was on the 25th of October. On Monday the 26th of October-

ADV PHILLIP MOKOENA SC: Maybe here you might want to start with Paragraph 38?

MR MCEBISI JONAS: At 8:22 PM, on 25 October 2015, I received a text from Mr
 20 Duduzane Zuma in which he stated “good evening sir, I tried to call you, please return my call”. On Monday the 26th of October, at 6:58 AM, I sent Mr Duduzane Zuma a text message stating “hi broer, can we postpone today’s session to Thursday, did not realise how hectic my official schedule is, Jonas”. I did not meet him again.

ADV PHILLIP MOKOENA SC: But do you know why he wanted to talk to you?

MR MCEBISI JONAS: I assume that because I said they should give a list of what they do, maybe he was trying to arrange that.

CHAIRPERSON: Sorry Mr Jonas, this is important, you might not appreciate it's importance, I think in that paragraph, Paragraph 38 or the one starting at 8:22 PM, when you read the message from Mr Duduzane Zuma, I think you just said please return my call and you left out "when you can" or I don't know if you swallowed that part of the sentence? So it's important that if the quotation is written here the way it is, when you read it, you read it complete, otherwise it might create the impression that you are not agreeing that it was as is shown here and that you are saying it was different. So I just
10 want you to appreciate those things that may seem small.

MR MCEBISI JONAS: Thank you very much Mr Chair. The "please return my call when you can" was part of the quote. On the morning of the 26th of October 2015, I met and briefed Mr Nene. We met on the balcony of my national Treasury office, because we were concerned that our offices might be monitored. I told Mr Nene exactly what had happened at Saxonworld meeting, including that I had been told in clear terms, that he was to be removed from office. He suggested that he should resign because he was going to be fired in any event. Having considered Mr Gordhan's advice and in the face of the open hostility towards National Treasury in cabinet, especially from the then President and particularly in relation to the nuclear procurement programme, I told him that I
20 thought we should remain in our positions and fight on if only to hold the line for the Finance Department. He agreed with my proposal in this regard.

ADV PHILLIP MOKOENA SC: We are now moving to deal with those events that occurred, between, October 2015 to December 2015, if you may please take us through those events?

MR MCEBISI JONAS: At this point in time, I did not see any point in reporting the matter to either the police or the Hawks, as I believed that these institutions were seriously compromised and I saw no reasonable prospect of this matter being properly and fairly investigated. This was both at a general level by the then President Zuma at [indistinct] Intelligence and Security Apparatuses by winning out most of the experience and technical capability in the various institutions. At a personal level, given the threatening statements which had been made by Mr Gupta during the course of the meeting, I anticipated that reporting the matter, would simply result in reprisals against me. My concern in this regard, were subsequently [indistinct] underscored by my later interaction

10 with Major General Mnonopi in relation to the complaints which had been laid by David Maynier of the Democratic Alliance and Dennis Bloem of COPE.

ADV PHILLIP MOKOENA SC: And this interaction you are dealing with it later in your statement?

MR MCEBISI JONAS: I deal with it Mr Chair later. My experience was also to some extent, taken over by national events, which [indistinct] Mr Nene and me over the period leading to the firing of Mr Nene as Minister of Finance. This time, in my experience, was one of the most intense periods in South Africa's democratic history. As we in National Treasury were trying to hold the line without presidential or cabinet support, against an economy teetering on the edge of a recession whilst various crisis at State owned

20 enterprises unfolded.

Can I emphasise one point? I think it's important to state that National Treasury's role is defined in the constitution in part Mr Chair, but execution of that role, largely depends on the constitution in part, but also it depends on absolute support from the President and the cabinet, because some of the issues that we are dealing with, are regulatory issues

and you have to guide expenditure of the departments and sometimes you have to sanction departments for irregular expenditure and many other things, so it is a very critical part. You also have to manage fiscas broadly to ensure that it doesn't escalate into a fiscal crisis. So both political and the legal constitutional framework are important for that and what we were lacking at the time, was the political part, because it was clear that both the cabinet and the President, there was huge hostility towards National Treasury in general.

In retrospect, a number of these events appear to have been linked to the capture of various State institutions by the Gupta family. Simultaneously, the pressure on us from
 10 the former President and other members of cabinet to approve the nuclear deal was immense and was ultimately the trigger of Mr Nene's dismissal on the 9th of December 2015, after he again refused to back the deal at a cabinet meeting on that day.

ADV PHILLIP MOKOENA SC: Do you still recall which deal was that that he refused to back?

MR MCEBISI JONAS: I am saying the nuclear deal. The nuclear deal in this period was a big issue. It was a big issue Mr Chair at the time. I recall that we were in and out of meetings, we were making presentations and so on and so on and that was the big pressure. I was on a flight to Port Elizabeth when Mr Nene was removed from office. When I landed, I had a message from Mr Nene and also received a separate message
 20 indicating that the President had attempted to contact me. Mr Nene sent me a text message in which he said "the axe has fallen" and suggested that we should meet when I returned from the Eastern Cape.

When I spoke to the then President Zuma, he told me that he had removed Mr Nene as Minister of Finance and that he had appointed Mr Des van Rooyen. I asked him how he

thought Mr van Rooyen would be capable of performing the job and cope with the financial markets. President Zuma responded by saying that I was there to help him. After the brief tenure of Mr Des van Rooyen as Minister of Finance, Mr Gordhan was appointed as Minister of Finance and I remained Deputy Minister of Finance.

10 Shortly after Mr Gordhan was appointed as Minister of Finance, we met and discussed various pressure points that the Treasury was facing, particularly how we would deal with the aftermath of the removal of Mr Nene and the appointment of Mr van Rooyen and you will remember that the financial markets just plummeted at the time and that probably was the immediate task to kind of pacify the markets and give certainty on policy direction and a whole range of those issues.

We also discussed in detail, in this context, the events that had taken place at the Gupta residence on the 23rd of October 2015.

ADV PHILLIP MOKOENA SC: Now when you say you discussed them, did you, pave, any way forward as to how you are going to deal with that event that occurred on the 23rd of October 2015 at the Gupta residence?

MR MCEBISI JONAS: No we just discussed it and said let's continue the fight.

ADV PHILLIP MOKOENA SC: Now, can we, move on to deal with the period, between, January 2016 to March 2016?

20 **MR MCEBISI JONAS:** Subsequently, in January 2016, I had a meeting with Dr Zweli Mkhize in Johannesburg, then the ANC Treasury General about another matter. During the course of this meeting, he said that he had heard a rumour about the Gupta's offering me an inducement to take up the position of Finance Manager and he asked me whether this was true. I told him what occurred and I also mentioned the role played by Mr Hlongwani and Mr Duduzane Zuma in facilitating the meeting. Dr Mkhize indicated that

he was shocked and he advised that he noted my concerns regarding the matter including the role of Duduzane Zuma.

Subsequently, the Financial Times of London, published an article on Wednesday the 8th of March 2016, which reported “the family also denied a claim made to the Financial Times that weeks before Mr van Rooyen’s appointment, they had asked Mr Mcebisi Jonas Deputy Finance Manager, if he was interested in the Treasury’s top post at a meeting at the Gupta’s home”. “There have been an extraordinary number of allegations around the Gupta family in recent weeks, several of which involved the Finance Ministry a family spokesman says.” I continue with the quote “to be absolutely clear, there was no meeting at all.” The article did not immediately receive great attention in South Africa although News24 and some other online news sites, reported the story on Thursday 10 March 2016. On Friday 11 March 2016, I travelled to a SADEC meeting in Gabarone, Botswana which lasted until Monday the 14th of October 2016. Whilst I was in Gabarone, on the Sunday the 13th of March 2016, the Sunday Times carried a story which stated that I quote “President Jacob Zuma’s son Duduzane was present when members of the Gupta family offered Deputy Minister Mcebisi Jonas then Finance Manager’s Nene’s job.

The Sunday Times can reveal unquote, I arrived back in South Africa on Monday the 14th of October 2016 and noticed that I had calls from Mr Zizi Kodwa, then the spokesperson of the ANC. I went to Luthuli House to discuss the matter with him. He agreed that I should make a statement explaining what had happened. I released a statement on Wednesday 16 March 2016. Before doing so, I discussed what was contained, what I was going to do with the Secretary General of the ANC Mr Gwede Mantashe, who himself, supported my stance in this regard. For ease of reference, I have quoted the content of the statement below.

ADV PHILLIP MOKOENA SC: Mr Jonas for importance and centrality of the issues relevant to this Commission and with the indulgence from the Chair, could you please read the contents of that statement that you made into the record?

MR MCEBISI JONAS:

[Media statement by Deputy Minister of Finance Mr Mcebisi Jonas MP. I have decided to respond and clarify certain questions that have been in the public domain recently. I do so, in accordance with my conscience, my political values and the best traditions of my organisation, the African National Congress, of which I have been a member since my early teens. I regard our constitution as being sacrosanct and it embraces the values that South Africans struggled for and what we live by. I was appointed Deputy Minister in terms of the constitution by the President of the Republic of South Africa. Any practice that conflicts with the prescripts of the constitution must be challenged in the interests of democracy and the accountability we have to our people. The African National Congress that we have been and continue to be proud members of, has offered us an opportunity to serve our country, an honour that I do not take for granted. My historical commitment to the liberation of our people has not waned. My daily decisions and actions are informed by understanding that true political freedom will be achieved through deliberate and active management of a transformed, yet inclusive growing economy. The current economic climate presents many key risks for our country which requires responsible leadership to

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avoid a full blown crisis. We have to unite on the key issues relating to managing macro-economic risk while urgently unlocking new resources of growth and jobs, all hands on the deck. The extent to which we are able to navigate the current macro-economic challenges, restore investor confidence and [indistinct] stimulate growth, will depend on heightened levels of political leadership. The narrative that has grown around the issue of state capture should be of concern to all responsible and caring South Africans, particularly those of us who have accepted the task to lead our people. We cannot afford to ignore the obvious impact these sentiments may have on our country and the resultant potential of undermining our moral authority. Neither can we afford to allow the attempts to capture the State to divert us from dealing with the challenges that our country faces. We have made through our public pronouncement and private conduct, therefore let me state the facts on the matter of whether I was approached by non-governmental individuals in respect of the position of the Minister of Finance. Members of the Gupta family offered me the position of Minister of Finance to replace the then Minister Nene. I rejected this out of hand. The basis of my rejection of their offer is that it makes mockery of our hard-earned democracy, the trust of our people and no one apart from the President of the Republic, appoints Ministers. Let me also place it on record that there was no discussion between the Deputy Secretary General of the ANC Ms Jessie Duarte and

10 myself on this matter. I have hesitated to speak out publically on this matter until now, but I feel it is no longer possible to remain quiet. Of primary concern, to me, is that this issue has a real danger of diverting attention away from the real and urgent challenges we face. I am committed to good governance, abiding by the constitution of our country and being accountable to our people who repeatedly express their confidence and trust in us through election after election. It is this constant state of awareness and consciousness drummed into most of us throughout our service in the national democratic revolution led by the ANC that has provided us with the moral capital and tools to apply sound judgement, navigate challenges that emerge in the natural course of society and leadership. It is only through these values and moral governance, that I serve my organisation, my fellow countrymen and women and my beloved South Africa. Finally, I remain confident that the challenges that we face as a nation, will be overcome if we collectively use our efforts for the benefit of all. I am resonant in playing part in preserving the integrity of National Treasury as an institution in my capacity as
20 Deputy Minister. I am also committed to making my contribution towards building a prosperous South Africa led by our glorious movement the African National Congress.]

Issued on behalf of the Minister of Finance, date 16 March 2016.

ADV PHILLIP MOKOENA SC: Chairperson I see that it's 11:00.

CHAIRPERSON: Okay we will take the short adjournment for tea and we will be back at 11:15.

Session 3

ADV PHILLIP MOKOENA SC: Mr Chair, we apologise for the delay, the administrative staff was trying all their best to correct your file so that it must measure up to the Chairperson's standards.

CHAIRPERSON: Yes, no that's fine, I don't know whether they had finished or not but I didn't want us to delay longer than 5 minutes because I have said we would be back here, it's quarter past and I didn't want us to delay too long because when we say we are going to be back at quarter past, we must be back at quarter past unless we announce a further delay properly. So if they didn't finish then they can use the lunch break to try and
10 finish.

MR MCEBISI JONAS, you are still under oath, I won't be reminding you each time we have had a break but just do know the oath you have taken will apply until you have finished your evidence. Thank you, you may proceed Mr Mokoena.

ADV PHILLIP MOKOENA SC: Mr Chair, Mr Jonas, I am going to request you to please when you read the documents, read them slowly and then please also when you give your clarities on another issue, please do that slowly so that we can be able to follow your evidence.

At some point Mr Jonas, you did interact with the Hawks, is that correct?

MR MCEBISI JONAS: That's correct.

20 **ADV PHILLIP MOKOENA SC**: Could you please share with us your interaction and the circumstances that led to you interacting with the Hawks.

MR MCEBISI JONAS: Thank you Mr Chair. A further article appeared in the Sunday Times on the 3rd April, 2016 which reported that I had alleged that the Gupta family had

offered me the position of Minister of Finance in the place of Mr Nene on 2015. I was subsequently contacted by General Berning Ntlemeza of the Directorate of Priority Crime Investigations, the Hawks, pursuant to complaint which had been made by Mr Bloem and Mr Menu. He asked me to provide a statement and said that we need a statement from you to help us finalise this case. He told me that they were working on a statement for me and that Major General Malope would contact me in this regard.

ADV PHILLIP MOKOENA SC: Did you ask him at that stage what he meant by saying that to finalise the case?

MR MCEBISI JONAS: I didn't at the moment at that point. I was subsequently
10 approached by Major General Malope, also of the Hawks, she initially phoned on the 20th June, 2016 and informed me that she was investigating the complaints that have been laid by Mr Bloem and Mr Maynier, the spelling of Maynier is wrong, if you will allow me to.

ADV PHILLIP MOKOENA SC: Yes, could you please correct it, should it be spelled as the one in paragraph 52?

MR MCEBISI JONAS: Yes, it should be M-A-Y-N-I-E-R, and she said that the complaints related to allegations of corruption in that the complainant Mr Maynier referred to the Sunday Times article of the 3rd, 2016 and the complainant Mr Bloem referred to my media statement. She said she was coming to see me at Treasury with a prepared statement. At that point I called Mr Max Boqwana my attorney to ask him to be present at this meeting.
20 Major General Malope told us that this was (a), I quote: "A DA matter", and that I did not want to help at the DA and that they wanted to kill the case.

ADV PHILLIP MOKOENA SC: What is this matter that was referred to as "A DA matter"?

MR MCEBISI JONAS: I assumed that Maynier's complaint. She said that the statement had been settled by the Advocate who was Prosecutor I assumed within the National

Prosecution Authority who believed that it will kill the case. She said to us, but when I say “us”, I mean to me and my lawyer, that we need your statement as a matter of formality as there is no case. It is necessary in order for us to close the matter. Your statement must state that you are not a witness for anyone and that you do not want to make a statement as such.

A copy of the draft statement which she brought with her, is attached, marked “Annexure A.”

ADV PHILLIP MOKOENA SC: Mr Jonas, let me take you back to paragraph 84. When Major General Malope said all these things, was she aware that she was saying them in front of your attorney, Mr Max Boqwana.

MR MCEBISI JONAS: We were always up front when she came in and introduced Mr Max Boqwana as my attorney. In addition to that she apparently know Mr Boqwana from Western Cape so there was no unclarity about Mr Boqwana’s presence in the meeting.

ADV PHILLIP MOKOENA SC: You have paragraph 55?

MR MCEBISI JONAS: A copy of the draft which she brought with her is attached, marked “Annexure A” and the draft statement contained the following paragraph. I quote: *“During our engagement, she informed me that I am cited as a witness in both cases and for that reason, a detailed statement is required from me. I responded to her that I am not prepared to submit a statement as I never opened a case against anyone and I do not intend opening any case. Further, I am not a witness to any person. We, the investigating officer and myself, later made an agreement to meet as for such affidavit. Today I met with the investigating officer as arranged and I still maintain the position that I do not have any statement in this regard. That is all I wish to say.”* And that was the statement we were asked to sign.

ADV PHILLIP MOKOENA SC: Before you proceed, in that paragraph you are referring to the "Annexure A". If you may please turn with me to page 122 of the bundle Mr Chair. Are you there?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Is this the statement that you were required to sign that was brought by General Malope?

MR MCEBISI JONAS: Yes it is.

ADV PHILLIP MOKOENA SC: Now, if it is important, record the contents of that statement because this statement I take it was contracted by yourself or by your attorney,
10 am I correct?

MR MCEBISI JONAS: Yes it was.

ADV PHILLIP MOKOENA SC: You were simply meant to sign this statement?

MR MCEBISI JONAS: Yes I was.

ADV PHILLIP MOKOENA SC: And by signing it, it would have meant that you agreed to the contents of that statement?

MR MCEBISI JONAS: Now could you share with the Chairperson the contents of the statement which you were required to sign by General Malope. If you can start from paragraph 3.

MR MCEBISI JONAS: Is this, "during our engagement"?

20 **ADV PHILLIP MOKOENA SC**: Page 122.

MR MCEBISI JONAS: Yes, okay.

CHAIRPERSON: I am sorry Mr Mokoena. I am struggling with my bundle here as you know it hasn't been arranged in a way that is going to make things easy. Just help me again where that statement is?

ADV PHILLIP MOKOENA SC: It's on page 122, Mr Chair.

CHAIRPERSON: Well, there is a pagination that has been done with a marker, is that the one?

ADV PHILLIP MOKOENA SC: If you go towards the end of the bundle itself, Mr Chair, and follow the pagination on the top right-hand corner of the page.

CHAIRPERSON: You say the pagination that has been done by marker goes up to page
10 94 and after that on to 95. It's just that for a number of pages it was done on the right-hand corner.

ADV PHILLIP MOKOENA SC: It is yes, the pagination was rightly signed, it's there.

CHAIRPERSON: Then it went on the left-hand side so that's confusing.

ADV PHILLIP MOKOENA SC: I thought it was correct, Mr Chair.

CHAIRPERSON: Ja, not yet. You said 122?

ADV PHILLIP MOKOENA SC: 122 and that would be on the top right-hand corner of the page.

CHAIRPERSON: Maybe the pagination was written by a right-handed person and later on a left-handed person over (everyone laughs).

20 **ADV PHILLIP MOKOENA SC**: The old pagination reflects that the pagination is at the Court papers position.

CHAIRPERSON: Oh, okay, now I have got it, thank you.

ADV PHILLIP MOKOENA SC: Jonas is upset that, I hope that you are having a correct pagination, you have page 122?

MR MCEBISI JONAS: I have.

ADV PHILLIP MOKOENA SC: Yes, is that the statement which was brought by General Molope which you were required to sign?

MR MCEBISI JONAS: Yes, it is.

ADV PHILLIP MOKOENA SC: Can you please read on the record from paragraph 3 of the statement for us to appreciate what you were required to sign.

MR MCEBISI JONAS: *"I wish to state that on 2016-06-20, I had a telephone*
10 *conversation with Major General Malope of the Directorate of Priority Crime Investigation*
when phoned me that is investigating two cases opened by one Mr Dennis Victor Bloem
of the Congress of the People and Mr David John Maynier, who is a member of the
National Assembly of the Republic of South Africa. She further informed me that the
allegations out of corruption emanating from Sunday Times article dated the 10th April,
2016, as cited by Maynier where the Gupta family offered me a position of Minister of
Finance to replace the then Minister Nene when Mr Bloem made reference to the media
briefing made on the 16th March, 2016, on the same subject matter."

CHAIRPERSON: I am sorry Mr Jonas, before you proceed. I see that paragraph, the
article in the Sunday Times that they refer to is said to have been on the 13th April, 2016.
20 I think in your statement you may have referred to a Sunday Times article that appeared
on the 3rd April, do you know that? You are not sure?

MR MCEBISI JONAS: I think you might settle the date, I don't recall the date Mr Chair.

“During our engagement, she informed me that I am cited as a witness in both cases and for that reason, a detailed statement is required from me. I responded to her that I am not prepared to submit any statement as I never opened any case against anyone and I don’t intend opening any. Further, I am not a witness to any person. We (the investigating officer and myself) later made an agreement to meet for such an affidavit. Today I met with the investigating officer as I mentioned and I still maintain my position that I don’t have any statement in this regard. That is all I wish to say.”

ADV PHILLIP MOKOENA SC: And this is the statement that you refused to sign?

MR MCEBISI JONAS: Yes.

10 **ADV PHILLIP MOKOENA SC**: Yes. Now, if you may go back to paragraph 4, you have referred, she also informed you that the statement was settled by an Advocate. Was the identity of that Advocate revealed to you?

MR MCEBISI JONAS: It was but I don’t recall the name, it was an Afrikaans name.

ADV PHILLIP MOKOENA SC: Alright, you may proceed. Paragraph 86.

MR MCEBISI JONAS: *“I refused to sign the prepared statement which she brought with her. I was at that point not surprised by the approach adopted by the Hawks given the extent to which I believe the institution to be compromised. I did not accede to the request that I should not provide enough data. On the 19th July, 2016 I provided the Hawks with a short affidavit confirming the content of the media statement which I had made on the*
20 *16th. Then I must also state that in that affidavit we also stated up front that since the stated intention was to kill the case within the media statement was enough proof to that and it was still part of our view that we could not continue to interact with them. The Directorate of Priority Crime Investigations, the Hawks, through Major General Malope then subsequently requested me to respond to certain specific questions on the 5th*

September, 2016, followed up with an email on 20 September, 2016, I accordingly provided a subsequent affidavit which was signed.”

ADV PHILLIP MOKOENA SC: It’s “supplementary”, I think you meant to say.

MR MCEBISI JONAS: “...supplementary affidavit which was signed and contained the following statements:

5.7.1 The purpose of the offer was not communicated to me.

5.7.2 Mr Ajay Gupta was present in the meeting which was 23rd October.

5.7.3 The persons present at the meeting with Mr Duduzane Zuma and Mr Fana Hlongwane,

10 5.7.4 As stated in the statement submitted to the media, the only person who spoke was Ajay Gupta.

5.7.5 There was no records of the meeting of which I am aware.

5.7.6 I was invited to the meeting by Mr Duduzane Zuma and from there Mr Duduzane Zuma suggested a more quiet place which transpired to be the Gupta residence though I did not become aware of this until arriving at the premises.

5.7.7 I was contacted to the [indistinct] to arrange a meeting, and

5.7.8 The meeting was scheduled at Hyatt and moved to Gupta residence as stated.”

ADV PHILLIP MOKOENA SC: Now what you have just read into the record, where are the answers to the questions that is physically asked by the Hawks?

20 **MR MCEBISI JONAS**: Subsequent questions asked.

ADV PHILLIP MOKOENA SC: You were also interviewed by the previous Public Protector, Adv Thuli Madonsela, do you recall it?

MR MCEBISI JONAS: Yes I do.

ADV PHILLIP MOKOENA SC: I will be referring you to certain questions on the transcript of your interview to confirm some of the aspects of your testimony. May I refer you to the bundle, page 25, Mr Chair?

CHAIRPERSON: Yes, I do have it, is that the one at 21?

ADV PHILLIP MOKOENA SC: 25.

CHAIRPERSON: 25.

ADV PHILLIP MOKOENA SC: Yes.

CHAIRPERSON: Okay, thank you.

10 **ADV PHILLIP MOKOENA SC**: The interview Mr Jonas starts on page 21, can you see that and this is a transcript of your interview which was held between yourself and the previous Public Protector?

MR MCEBISI JONAS: Correct.

ADV PHILLIP MOKOENA SC: Yes. Now I was referring to page 25 with particular reference to line number 3 where, if you ignore the first sentence, the second sentence, the Public Protector pose a question to you to say: "The second question is the allegation that you had a meeting with the Gupta family, did you have any meeting with the Gupta family?" and if you turn to page 26, are you there?

MR MCEBISI JONAS: I am lost actually.

20 **ADV PHILLIP MOKOENA SC**: Are you lost?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Remember to look Sir.

CHAIRPERSON: Well I was lost too.

ADV PHILLIP MOKOENA SC: Let's go back to page 25.

MR MCEBISI JONAS: I am on page 25.

ADV PHILLIP MOKOENA SC: Let's go on the left-hand side, there is numbering, I was referring you to line 23, right at the bottom of the page. Are you there?

CHAIRPERSON: Okay, maybe it's going to help, maybe Mr Jonas has got something similar to what I have. You see, at page 25, at what appears to be page 25, on the top right-hand corner of the page you have 25 written there with a marker, on the right-hand side 25, on the left-hand side is something that seems to have been like page 26 but is not very clear. Next to 25 is written, you have got 5.

ADV PHILLIP MOKOENA SC: Attachment 5.

CHAIRPERSON: So, Mr Jonas, do we have the same thing, you and I?

MR MCEBISI JONAS: Okay, so is that where you are?

ADV PHILLIP MOKOENA SC: That's where I am Chair.

CHAIRPERSON: Okay, alright thank you and you are reading from the bottom of the page.

ADV PHILLIP MOKOENA SC: And the margins are on the left-hand side.

MR MCEBISI JONAS: I have got it.

ADV PHILLIP MOKOENA SC: And those are the photos and what I was referring to is photo no 23, 9.23, are you there MR JONAS and I have already read the question that was posed to you by the Public Protector and also, if you go to page 26, the next page, it's double-sided, on the top, what was your response?

MR MCEBISI JONAS: Yes I did.

ADV PHILLIP MOKOENA SC: Now, if I may refer you to the same page, page 26. Go to 9.12 and the Public Protector poses a question to you which were a benefit, I will read to you, it says that, *“Okay, we would appreciate it Sir, who was present at that meeting?”* Then on 9.13 – 18, you answered, what was your answer?

MR MCEBISI JONAS: *“I don’t know the names of these guys, the Gupta guys, but I mean the meeting was arranged by Duduzane Zuma and after a long messages and calls, requesting to see me, so I eventually agreed to see him. We were supposed to meet, I though it was a meeting with him on the message. When I arrived at the meeting*
10 *for a meeting which was at Hyatt Hotel.”*

ADV PHILLIP MOKOENA SC: Now you continue to answer that question on line no 23?

MR MCEBISI JONAS: *“At Hyatt he suggested that after almost like talking things that were not very clear and I was getting irritated, I said, I am rushing to the plane, so he said, no, there are other people that you have to meet. I said, where are they, he said, let’s go, so we jumped into his car and we went to this compound somewhere in that area, it is in an area which in that place then I found Fana Hlongwane and then it was Duduzane and another guy Tete, and I said, who is this?”*

ADV PHILLIP MOKOENA SC: And the compound that you are referring to, which compound is that?

20 **MR MCEBISI JONAS**: It’s the Saxonwold, the Gupta compound.

ADV PHILLIP MOKOENA SC: Now the Public Protector apparent from the transcript, did interview also in relation to what happened at the Gupta residence and I am referring also

to the content of the conversation that took place at that place. May I refer you to page 29 and if you go to the bottom of the page, from line no 18, are you there?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Could you please share with the Chair what was your responses in that regard up until page 32, I will tell you where to stop.

MR MCEBISI JONAS: *“So we visited Tete, this guy came in he was like, he just interrupted the discussion and started saying, we have been following you, we have been investigating you, we know everything about you and so on, he told me that the “old man” seems to like me and so on and so on, so we called you just to check you out.”*

10 **ADV PHILLIP MOKOENA SC**: And what was the reference to the “old man”, who is the “old man”?

MR MCEBISI JONAS: President Zuma.

ADV PHILLIP MOKOENA SC: Yes.

MR MCEBISI JONAS: *“The old man and they talked a little bit about the ANC politics, critical with this person and that person, he kind of went further, you must understand that we are in control of everything, we are in control of NPA, we are in control of the Hawks, we are in control of National Intelligence Agency, so I am in full control and the old man will do everything that we tell him to do. So I was actually a bit puzzled, taken aback and he said, so the old man wants to make you Minister of Finance, so I said, unfortunately I*
20 *do not want to be Minister of Finance.”*

ADV PHILLIP MOKOENA SC: And thus far, this is what you have consolidated to the Chairperson today. Please proceed?

MR MCEBISI JONAS: *“So he said, no-no, no-no, you have to be a Minister of Finance because we want that and you would have to work with us and if you work with us, you will be very rich and we can immediately offer you R600 million, he pointed to Duduzane, and then he said, he has a house now. We will build him a house in Dubai, he has already been there, the offer is safe, whatever happens to you is safe and he continues on that light, so he went on really in that kind of fashion. So I said to him, listen, I think I have to go but let me just assure you, I am not interested in working for you and he kind of became a bit emotional and I think at that point he said, listen, do you know whom you are dealing with? So he stood up and at that point and so he followed me, just as I took a*

10 *few steps he followed me and everybody stood up. It was like I must confess at the time, he was on the verge of punching me in the face but I took a few steps and then he says and instruct me that let me go back, let me tell. I said, listen, by the way, what do you do, maybe it’s easy to work with you but tell me what you do. So he said, at the moment, and this guy sold it very stupid, I must say, because he said, at the moment, we have about 6 billion from fiscus in different sources that we are getting from fiscus R6 billion. We want to push it to R8 billion and we think you can be helpful in that regard. So I said, can I suggest something I asked, I will come back only when I am not in a rush you know, break it down, what exactly do you do, that would be nice to look at what you do so that I can make a proper decision. And he said, no-no-no-no, it is not, you think it is illegal? He*

20 *raised his voice, he said, do you think it is illegal? Everything we do in this country, it is legal, we create jobs, bla-bla-bla, he went on, so I stood up and walked. So he followed me and pushed everybody to sit and then he said, everybody must sit down so he followed and dragged me into another, I felt it was a bar, he dragged me into this bar, he says, do you have a bag, I can give you 600,000 now. So I said, listen, I don’t want*

money, I don't want your money, I am leaving now and I am rushing for a plane. So let's talk when you are ready."

ADV PHILLIP MOKOENA SC: If I recall your evidence, we see that at that stage Duduzane Zuma and Fana Hlongwane were in the vicinity where they were able to hear what you were saying.

MR MCEBISI JONAS: They were hearing all of this but I was very bashfully loaded by the way, it was not a long [indistinct]. I said, *"Tuesday I am coming, I am coming back from Western Cape on Sunday, we can meet on Tuesday so that he can give me an outline of exactly, what to do. He said, okay, okay, okay because Duduzane now*
 10 *arranged that he comes back on Tuesday. Tell him to bring a bag. So I walked out and said, Duduzane can you take me back to my guys and so they gave me this, and they said no-no-no, Duduzane is still basically in the meeting. They are still having a meeting so I should jump into another car. So I left the place in that car but I phoned Nene immediately actually after that and I said hey, I want to talk to you man, there is something strange that happened. Unfortunately Nene had left for KZN, so I said I will see him here on Sunday but we eventually met on Monday. So I gave him the account, I said listen chief, these guys told me in no uncertain terms that we are going and I just gave him a rough outline. Just to go back on Sunday because I was thinking, let me test this thing with somebody because in my mind I was still not resigning at the time. So I*
 20 *went, I phoned Pravin, he wasn't at the time so I said, please can you quickly see me, so I went to see him, I just gave him a broad outline, saying something happened and then in broad terms, this is it and I am thinking about just tomorrow submitting my resignation and go out of this thing. So he said, no-no, you can't do that, you can't do that, let's just sit and wait and see what happens. So on Monday, he phoned Nene about the incident and so on and so on and he called and jumped and said, I want to resign. I said no-no-*

no, you can't resign. Let's stick around and see how these things go. So that is in a nutshell and I can give you the dates, I think you can see there are a couple of text from Duduzane."

ADV PHILLIP MOKOENA SC: Yes, and that's what you informed the Public Protector at the time during the interview. May I also refer you to some submissions of the transcript of your interview in order to clarify some aspects of your evidence so as to confirm what you have shared with the Chairperson today. May you please refer to page 41? You will see page 41, that is a typed page 21, are you there? Are you there Mr Jonas?

CHAIRPERSON: Page 41 or 21?

10 **ADV PHILLIP MOKOENA SC**: No 41, was simply making easy for him that there is also a typed page 21 and numbered typed page 21 but paginated 41.

CHAIRPERSON: I think is the same Mr Jonas, arraignment like a page 25.

MR MCEBISI JONAS: I have got it, I have got it Mr Chairman.

CHAIRPERSON: Thank you but before you proceed Mr Mokoena, to the extent that the witness said before the former Public Protector what he has already told us, if would there be any need for him to repeat, shouldn't you only ask him if there is something to clarify. I saw quite a substantial part of what he was reading earlier on is something that he had already told us in his statement.

20 **ADV PHILLIP MOKOENA SC**: Mr Chair, one is simply anticipating what would happen in the future when one is taken through his statement today and what he has said before the Public Protector but if we are comfortable that need those issues not arise, what we would have to deal with those paragraphs.

CHAIRPERSON: No, it is important that if he has a related history or he has related to different people on different occasions what happened to him in regard that meeting and what happened at that meeting, it is important that his attention be drawn all of those occasions but what I am suggesting is that it might not be necessary for him to read again exactly the same thing. What you might wish to do is to let him confirm that for example, the transcript relating to his interview with the Public Protector correctly reflects what he said before the Public Protector, save in the following respects if those have been picked up or you can pick them up and then ask him about those so that he can just clarify those.

10 **ADV PHILLIP MOKOENA SC**: That will short-circuit his evidence Mr Chair.

CHAIRPERSON: Ja thank you. Mr Jonas, if you can go to page 21, back to page 21.

MR MCEBISI JONAS: Page 21 of the transcript?

ADV PHILLIP MOKOENA SC: The documents that's from page 21. That's where your interview begins with the Public Protector and it goes up until page 89. Did you have an opportunity to read that transcript?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Did, I mean, does it actually captures you interview with, I know that there are places where it says [indistinct] we understand that the mind be typing errors but does it capture the essence of the interview between yourself...

20 **MR MCEBISI JONAS**: Okay, yes, broadly yes.

CHAIRPERSON: Maybe because one what happens with these things, if Mr Jonas hadn't had a chance to carefully go through that transcript and identify if there are areas that do not accurately reflect what he said, if he had not got that chance, maybe he should be

given a chance to do so at some stage that might not impart what we are doing just like that because if cross-examination is allowed he would be passed if there are discrepancies between what he has told this Commission and what he may have told the Public Protector. So he needs to be given a chance to look at it very carefully and be able to say it is correct in the following respects, it is not correct in the following respects but as I say, that need not derail what we are doing as long as he gets the chance at some stage.

ADV PHILLIP MOKOENA SC: Yes Mr Chair, he has already confirmed exception to what Mr Chair indicated that he be given the opportunity to deal with it comprehensively at
10 some point. May I refer you to page 90 Mr Jonas and if you go to page 93, you will see that it was the middle of page 93, it is written there on 93 Mr Jonas, is this a document which you have prepared?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: What was the purpose of preparing this document?

MR MCEBISI JONAS: It was meant to be a follow-up to the Public Protector's interview basically to just outline the timelines and the facts.

ADV PHILLIP MOKOENA SC: And you will see if I may refer you back to page 90, there are two cell phone numbers reflected therein to be belonging to Mr Fana Hlongwane, can you see that?

20 **MR MCEBISI JONAS**: Yes.

ADV PHILLIP MOKOENA SC: And if you go towards the middle of the page, there is another cell phone number which is indicated to be the one of Mr Duduzane Zuma.

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: We won't mention them into the record in order to respect their privacy. Are these the numbers which they used when they called you or when they sms you as you referred to in the statement?

MR MCEBISI JONAS: Yes they are the numbers.

ADV PHILLIP MOKOENA SC: Now, in that document, you are dealing with the events, you have seen that before the meeting. For clarity sake, which meeting are you referring to if you go to page 90. It says "before the meeting".

MR MCEBISI JONAS: That is before the 23rd meeting.

ADV PHILLIP MOKOENA SC: 23rd, which month?

10 **MR MCEBISI JONAS**: October.

ADV PHILLIP MOKOENA SC: 2015 meeting?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Then thereafter, if you go to page 91, you are saying, it's reflected there, "in content of the meeting", is that the same meeting?

MR MCEBISI JONAS: The same meeting, 23rd October, 2015, and you record that in what transpired at that meeting?

MR MCEBISI JONAS: Yes.

20 **ADV PHILLIP MOKOENA SC**: Now if you go to page 92 to avoid you having to read the statements but simply confirming what you did and if you go to page 92, you have a heading also that says, "post the meeting". This is the post the meeting which you have already testified before the Chairperson in terms of your statement?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And do you confirm also the contents?

MR MCEBISI JONAS: Yes I do.

ADV PHILLIP MOKOENA SC: Now, may I refer you to page 95 of the bundle Chair. On the left-hand side there are two numbers. The right-hand side numbering which you can ignore it, it was the pagination when the matter was before the High Court so we are now referring to the left-hand side pagination. Mr Jonas, do you follow?

MR MCEBISI JONAS: Yes I do.

ADV PHILLIP MOKOENA SC: For those affidavits Mr Jonas, they run from page 95 and they go up until page 121 and simply to familiarise yourself with them, those were the affidavits which are filed in the High Court matter between the Minister of Finance against Oakbay and other companies associated with the Gupta family. Now if you may turn to page 96 you would see that is the affidavit that was proposed to by Mr Ajay Gupta, are you there? I need to traverse with you some of the issues arising from these court papers which bears relevance to the sequel. Now, will you please turn to page 97. At page 97 could you please turn to paragraph 4 so as we can appreciate the context upon which these papers were filed.

MR MCEBISI JONAS: "It is a well knowned fact."

ADV PHILLIP MOKOENA SC: Page 97, paragraph 4.

MR MCEBISI JONAS: "Before I deal with this mischievous allegation raised and presented by Mr Gordhan"

ADV PHILLIP MOKOENA SC: Page 97.

CHAIRPERSON: You are at paragraph 6, according to my bundle.

ADV PHILLIP MOKOENA SC: Paragraph 4.

CHAIRPERSON: Ja, para 4.

MR MCEBISI JONAS: *"I have been informed by Ronica Ragavan, the acting CEO of Oakbay Group of Companies, that Minister of Finance, Mr Pravin Jammadas Gordhan, trotted wise to refer to the last incident with his Deputy Finance Minister, Mcebisi Jonas during October 2015."*

ADV PHILLIP MOKOENA SC: Before I deal with your affidavit as pointing to these affidavits, I need to capture the essence of Mr Gupta's in this Court papers, may I refer you to page 98 and then could you please read paragraph 10.

10 **MR MCEBISI JONAS**: *"It is a well known fact that I record that I employed all reasonable efforts to be afforded an opportunity to address the then Public Protector, Advocate Thuli Madonsela prior to the date of the issue of her report. I further submit that it was on my instance and my request that the then Public Protector afforded me a single opportunity to address her on or about 4 October 2016. That opportunity so afforded was insufficient and clearly rushed."*

ADV PHILLIP MOKOENA SC: Yes, before we deal with your answers can you also turn to page 98 and read in paragraph 11.

20 **MR MCEBISI JONAS**: *"Advocate Thuli Madonsela undertook to furnish me with copies of evidence given by relevant witnesses, I was indeed furnished with a transcribed version of evidence of Mr Mcebisi Jonas and his written statement regarding the alleged meeting at the house in Saxonwold."*

ADV PHILLIP MOKOENA SC: Yes, so he is raising the issues that we are conversing with the purpose of this inquiry. Now, can you go on the same page to paragraph 14 and read same into the record.

MR MCEBISI JONAS: *“Let me commence this portion of my affidavit by clearly and unambiguously state under oath, I have never met Mcebisi Jonas, not as alleged or at all.”*

ADV PHILLIP MOKOENA SC: Yes, and the next page?

MR MCEBISI JONAS: *“The fact of the matter is that Mr Jonas with respect blatantly dishonest when he suggest that he met with me or that I attended a meeting with him.”*

10 **ADV PHILLIP MOKOENA SC:** Now thus far that captures the gist of the essence of the allegations by Mr Gupta and how he is dealing with those allegations pertaining to the meeting of the 23rd October, 2015. May I refer you to page 13 and let’s deal with paragraph 27.

MR MCEBISI JONAS: *“In order to support that, I have sat here and I have approached Mr Duduzane Zuma to depose a confirmatory affidavit with regards to the involvement in the meeting conducted by Mr Jonas with Mr Jonas through his attorney, Mr Christo Stockenström. I contact Mr Fana Hlongwane to dispose a confirmatory affidavit regarding my involvement on the meeting I append hereto as Annexures HD1 and HD2. The said affidavits to which the Honourable Court is kindly referred.”*

20 **ADV PHILLIP MOKOENA SC:** Now in that paragraph, Mr Gupta places reliance on the confirmatory affidavit of Mr Hlongwane and Mr Duduzane Zuma, am I correct?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Before we deal with those confirmatory affidavits could you please again remind us the date of the meeting at Saxonwold?

MR MCEBISI JONAS: It was the 23rd of October in 2015.

ADV PHILLIP MOKOENA SC: Now, could you please turn to page 16. It goes up until 17, that is the confirmatory affidavit of Mr Fana Hlongwane in support of the affidavit of Mr Gupta as referred to in the paragraphs that I dealt with you, do you recall?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: Now, please read paragraph 3 and 4 into the record.

MR MCEBISI JONAS: *"I have read the affidavit posed to Mr Ajay Kuma Gupta and*
10 *confirm the contents thereof in as far as it refers to any acts of conducts which I have*
been involved in and confirm the correctness thereof."

Paragraph 4: *"Further to therefore sadly confirm that Mr Ajay Kuma Gupta was not present at any time during the meeting with Mr Jonas held on the 25th October, 2017."*

ADV PHILLIP MOKOENA SC: Now, that confirmatory affidavit refers to the 25th October, 2017. Did you hold any meeting with the Mr Hlongwane?

MR MCEBISI JONAS: No, I didn't.

ADV PHILLIP MOKOENA SC: On the 25th October, 2017. May I refer you to page 109. That is the confirmatory affidavit of Mr Duduzane Zuma. If you turn to page 110 Mr Chairperson, paragraph 3 and 4. Mr Jonas, do you agree that they are identical to that
20 one of Mr Hlongwane?

MR MCEBISI JONAS: They are identical yes.

ADV PHILLIP MOKOENA SC: Fundamentally paragraph 4 also refers to a meeting with Jonas held on the 25th October, 2017 and you have already testified that you have never referred to any meeting of the 25th October, 2017.

MR MCEBISI JONAS: Yes, it is correct.

ADV PHILLIP MOKOENA SC: Now, may I refer you to page 112.

CHAIRPERSON: I am sorry Mr Mokoena, before you move to another page. Paragraph 3 of the affidavit of Mr Duduzane Zuma and I think if I am correct, paragraph 3 of Mr Fana Hlongwane affidavit. They also both seem to be identical, is that correct?

MR MCEBISI JONAS: It's correct.

10 **CHAIRPERSON**: Now paragraph 3 of those two affidavits, in each one of them says they have read the affidavit deposed to by Mr Ajay Kuma Gupta and confirm the contents thereof and I quote: *"In so far as it refers to any acts or conduct which I have been involved in and confirm the correctness thereof,"* you may or may not be able to say this, but do you understand what they say they are confirming there having regard to the Courts involved Mr Gupta's affidavit doesn't make sense?

MR MCEBISI JONAS: It doesn't, it doesn't.

CHAIRPERSON: Because I didn't pick up, I may be mistaken, anything that Mr Gupta says in his affidavit they did maybe I have misread but they are saying in this para 3, what they are confirming is the context of his affidavit, *"in as far as it refers to any acts of*
20 *conduct which I have been involved in."* I don't know what at some stage in the life of this Commission you might wish to make of that but my eye caught that.

ADV PHILLIP MOKOENA SC: Yes, you would recall Mr Chair that, in introduction to this question we referred to the context actually mentioned these affidavits were made and

more importantly emphasize the meeting and the offer which was made at Saxonwold. Now Mr Hlongwane and Mr Duduzane Zuma seem to be confirming a date that does not support what is also supported by Mr Gupta in [indistinct]. That is the essence but it will become much more clearer because we are now going into specific answers I think by Mr Jonas in relation to those confirmatory affidavits and allegations in question.

CHAIRPERSON: Thank you.

ADV PHILLIP MOKOENA SC: May I refer you to page 112 Mr Jonas in order to clarify the issues for the Chair. Are you there?

MR MCEBISI JONAS: I am there.

10 **ADV PHILLIP MOKOENA SC**: And then prior to page 1 goes up to page 121 and go to page 121, the numbering its on the left-hand side this time. And is that your signature?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And is this affidavit that you filed in response to the affidavit of the said Ajay Gupta?

MR MCEBISI JONAS: I do.

ADV PHILLIP MOKOENA SC: Now may I refer you to page 113, if you will read for the Chair paragraph 3 and skip paragraph 4 and read paragraph 5.

20 **MR MCEBISI JONAS**: *"I have been referred to affidavits such to be filed by Oakbay respondents purportedly as fourth set of affidavits. I understand that this follow not only the closing of affidavits but also the Heads of Argument filed on behalf of the Minister and the Reserve Bank and the bank cited as further respondents. The affidavits purport to deal with the Minister's replying affidavit and the report on State Capture by Public*

Protector. The latter was published over 10 weeks ago but after the Founding Affidavit was filed.”

ADV PHILLIP MOKOENA SC: And then let's go to paragraph 5.

MR MCEBISI JONAS: *“Now in the Oakbay respondents purported forth setup affidavit, Mr Ajay Gupta criticizes the Public Protectors’ report for accepting my version or to use the words Mr Ajay himself chose in the 4th set of affidavits for having latched onto my version, paragraph 17. What Mr Gupta does not disclose however, let alone address, is that the Public Protector’s Report records evidence which contradicts Mr Gupta version, see paragraphs 5.24 and 5.25 of the report attached, marked MJ1. Mr Gupta purported affidavit does not deny or explain this, nor did it do so in his previous affidavit filed together with the Oakbay’s main answering affidavit yet Mr Gupta now, not only sticks to imply that the Public Protector was wrong but also seeks to call me blatantly dishonest in paragraph 15.”*

ADV PHILLIP MOKOENA SC: You also dealt with the confirmatory affidavits which were filed by Mr Hlongwane and Mr Duduzane Zuma. May I refer you to page 116 starting from paragraph 12 to page 118, paragraph 16, that would clarify some of the questions that it share where it's secure clarity of [indistinct].

MR MCEBISI JONAS: *“Mr Gupta does not suggest that the incident to which he refers, involving me was created by the applicant or me. It was not created by any of us. The incident certainly did occur. This is confirmed by the confirmatory affidavit by Mr Gupta’s own affidavit deposed by the two individuals who scheduled the meeting and took me to the Guptas residence. Both confirmatory affidavits confirm explicitly that the meeting indeed occurred. All that they seek to do is to confirm that Mr Ajay Gupta was not present during the 25th October, 2017. I refer in this respect to paragraph 4 of the identical*

confirmatory affidavit. Apart from confirming absence of Mr Ajay Gupta, they only confirm the contents of Mr Gupta's affidavit in as far as it refers to any conduct which I could have been involved in paragraph 3. The confirmatory affidavits do not suggest that any other member of the Gupta family was absent from the meeting. This is significant because the Public Protector's Report itself refers variously to Gupta brother in attendance Atul in paragraph 27, paragraph 26, paragraph 30, paragraph 26, attached marked MJ2 and Ajay amongst others in page 5, paragraph 4, attached marked MJ3. I did not previously encounter either of these two brothers. I am only able to identify the photos and footage in media. My own statement attached to some of the bank affidavits which as mentioned,

10 all the respondents elected not to address, only to refer to members of the Gupta family, see record volume 2, page 173, paragraph 6. Therefore where Mr Ajay Gupta's allegation which merely seek to absent himself from the meeting. But we can't explain why the meeting was held at the Gupta residence or suggesting that he was unaware that it would be held there or authorised that the Gupta residence be used for this purpose. To be truthful, which I deny, then the primary factor regarding the members of the Gupta family remains a common cause. The correct facts regarding Mr Ajay Gupta himself is in short as follows. Met him at Saxonwold residence on 23 October 2015 together with Mr Duduzane Zuma, Mr Hlongwane and Mr Gupta and to me, I understood clearly that the Gupta family had its interest had been gathering intelligence on me including those close

20 to me. They were aware of my activity and connections with senior member of the African National Congress. They were going to make me Minister of Finance collectively as the family. They make a lot of money from the State. That they intend to increase that to about R8 billion from R6 billion currently and that the bulk of their money is test in Dubai. They have determined that National Treasury is a stumbling block to their ambitions of making money from the South African Government. They have made Duduzane a

billionaire including a house he has in Dubai, Mr Gupta is offering him R600 million to be deposited in an account of his choice and if I had a bag that could carry R600,000 then I could get that amount there and then.”

ADV PHILLIP MOKOENA SC: And you also dealt with paragraph B7 of the Gupta’s affidavit. May you turn to page 120 and the last paragraph 26.

MR MCEBISI JONAS: *“This paragraph refers to the confirmatory affidavit of Messrs Duduzane Zuma and Hlongwane. They have been approached Mr Gupta states, to confirm his involvement at the meeting in October 2015. In turn this affidavit state that Mr Ajay Kuma Gupta was not present at any time in the meeting with Mr Jonas held on the*
 10 *25th October, 2017. Paragraph 4 of both confirmatory affidavit both identical in terms and both deposed Table Bay Harbour. Even if one is to understand the reference to B, 25th October, 2015 instead of 2017, then the confirmatory affidavit remain materially defective. This is because as I have stated in the Public Protector Report records, the relevant meeting occurred on the 23rd October, 2015, therefore the absence of Mr Ajay Gupta at a meeting two days later in October 2015, fails to confirm the necessary allegations. In any event as indicated above, as would be fully apparent to all three deponents, the key issue is that the meeting with the events I described took place at Saxonwold compound shared by the Gupta brothers and their families and that a Gupta brother was present.”*

ADV PHILLIP MOKOENA SC: Now, I want to take you back to your evidence that you
 20 adduced before the Chairperson earlier on and I tested that against the fact that you know, South Africa, it’s a democratic constitutional state. If you may turn back to your statement in paragraph 2, you referred to the removals and appointments of certain officials including yourself. What I want to know from you is there any protocol that has to be observed, you know, pertaining to the appointments of members of cabinet?

MR MCEBISI JONAS: Yes, there is. In the normal course, the normal process is a consultative process upon winning the elections of course Mr Chair. There is a consultative process between the ruling party leadership and the President of the ruling party and therefore the President of the country around who are there individuals who would be deployed in Government and out of that process normally you would get probably whatever number or list of names but then ultimately their responsibility lies with the President and he will choose from that and under normal circumstances the President will inform the individuals they have appointed in their positions. In the case of dismissal, normally the same procedure happens, I mean, you have to normally whether it's a
10 phone call sometimes and whether you are called to be told but there is some courtesy accorded to the persons appointed.

ADV PHILLIP MOKOENA SC: And you are now referring to what is expected or under normal circumstances.

MR MCEBISI JONAS: Under normal circumstances.

ADV PHILLIP MOKOENA SC: That's would should happen. And also you know, can you share with us whether is there any protocol in the announcement of the appointments.

MR MCEBISI JONAS: Really I don't think there is a strict protocol except that normally the announcement is made after the individuals would be known that they are not making it or they are making it into, it's normal, not a surprise, that's the whole point of [indistinct].

20 **ADV PHILLIP MOKOENA SC**: Now let's deal with the removals. Is there any protocol in relation to the removal.

MR MCEBISI JONAS: It's the same phenomenon, public opinion prevails that you have to be prone, that you are no longer in that position, you are being removed before the announcement is made.

ADV PHILLIP MOKOENA SC: I am asking these questions against the background whereby either the removals or the appointments would usually happen at midnight or at 2.00 am. The question is whether from your own experience, do you know if in relation to the ones that you have referred to in paragraph 2, whether such protocol was of that.

MR MCEBISI JONAS: Look I mean, probably in terms of appointments there were but in the dismissals my recollection is that probably Mr Nene was accorded the opportunity of being told after a cabinet meeting but my recollection is that the Minister Gordhan and myself were never informed so in the midnight in the comfort of our beds probably we were woken up by telephone call saying, watch TV.

10 **ADV PHILLIP MOKOENA SC**: Yes, now, may I refer you to paragraph, if I am not mistaken, it's paragraph 43 of your statement. In fact I need a paragraph where you are referring to the turbulence period in our country. You did not really specify to the Chairperson what you meant by that what was the country experiencing at the time. What was that, paragraph 45 if I am indebted to my colleague. Paragraph 45 you are saying that shortly after Mr Gordan was appointed as Minister, we met and discussed the various pressure points that the Treasury was facing, particularly how we would deal with the aftermath of the removal of Mr Nene and appointment of Mr van Rooyen. We also discussed in detail in this context the events which had taken place at the Gupta residence but I just want you to expand more as to what the country was experiencing at
20 the time.

MR MCEBISI JONAS: Look, I mean, in the first instance I think the big issue was clearly the removal of Minister Nene himself had dealt a blow to the credibility of South Africa and the State.

ADV PHILLIP MOKOENA SC: Then what of the response of the market to this.

MR MCEBISI JONAS: The markets tumbled, we lost billions of Rands as a country and in fact the economy and the business confidence in the country tumbled.

ADV PHILLIP MOKOENA SC: What was the performance of the rand at the time?

MR MCEBISI JONAS: It probably tumbled itself and it increased, I mean the rand weakened quite substantially and a whole range of things happened after that. Low confidence lead to low investment and, and, and.

ADV PHILLIP MOKOENA SC: And what was the effects, I mean that such a conduct had on the credit ratings of South Africa?

MR MCEBISI JONAS: It really dashed them actually badly. We were probably in the
10 worst state since the dawn of democracy in that period as it were but also more importantly it also created a downward path for the country economically from that period, I don't we have since recovered quite frankly from that.

ADV PHILLIP MOKOENA SC: And how did this now also affect the ability of South Africa to borrow on capital markets?

MR MCEBISI JONAS: It had a negative effect across the board on financial markets and I think what also aggravated it was that some of the factors that led to Nene's firing, which was the nuclear deal which was a big issue because essentially from we are sitting as Treasury, we felt that South Africa could just not afford the nuclear deal as it was structured but secondly there was also a moral ethical question about public finance
20 whether what kind of debt can you raise for future generations and is it justifiable, is it ethical and if from all view we thought that it was not justifiable or ethical to actual raise that amount debt for South Africa.

ADV PHILLIP MOKOENA SC: And how did these events play themselves out within the Treasury Department Sir, what was the moral of the staff of the Treasury when these things were happening.

MR MCEBISI JONAS: It really knocked the moral quite substantially. I think were it not for probably the imposition of the Minister Gordhan, we could have probably been in a worst situation in that time. But I also think the functionality of the Ministry of Finance was seriously affected in the sense that in that period Mr Chair, it was a piece that was tear, you didn't have to guess that confidence in the Minister of Finance was lost and the Ministry of Finance was increasingly isolated in Government business.

10 **ADV PHILLIP MOKOENA SC**: May I refer you to page 14 of the bundle just towards to clarify some of the issues. Page 14.

MR MCEBISI JONAS: The bundle seems to have collapsed now, erupted.

ADV PHILLIP MOKOENA SC: Don't collapse now Mr Jonas.

CHAIRPERSON: I am sorry, what page did you say Mr Mokoena.

ADV PHILLIP MOKOENA SC: 14 of the bundle Mr Chair. There is only number I hope on that page.

CHAIRPERSON: I think what may have happened with Mr Jonas's bundle is what may arise how the pages have been put together, it may well be that it might be more convenient if it was maybe a small lever arch file where it would be easy to page through
20 without papers coming out of the bundle.

ADV PHILLIP MOKOENA SC: We take note of that Mr Chair. Are you there Mr Jonas.

MR MCEBISI JONAS: Page 14.

ADV PHILLIP MOKOENA SC: Yes, 14. Are you there?

MR MCEBISI JONAS: 40.

ADV PHILLIP MOKOENA SC: No, one four, not four zero. You recall that when you testified, you informed the Chairperson you were made an offer on the 23rd October, 2015, you recall that?

MR MCEBISI JONAS: Yes I do.

ADV PHILLIP MOKOENA SC: We know also from your evidence that the first time that you released a media statement was around the 16th March, 2016 and the question is why did it take you such a long time before you went public with the offer and asking that
10 against your constitutional application at least to give you these things as quelling.

MR MCEBISI JONAS: Look in the first instance I think I stated earlier on that my confidence in the Criminal Justice System was very low at the time and it probably has improved much I may say but it was very low at the time, it was completely low, I was out of the Government, cases being given, charges being sent, nothing happening and so and so. I was very clear that what you have was a criminal justice system that was in a crisis actually. The second problem was that remember at the end of the day, I mean we were operating in a political environment so I had to kind of think of the tensions of the day, [indistinct] were there and so and so and try to ensure that I do not find myself being compromised. To be honest, if you record the way their reaction to the statement actually
20 still confirms that actually by the time the whole sphere politically was in favour of State Capture and corruption actually at a political level but in that cause we consulted lawyers and by the way is to ask them whether is the pressure to do this now at the [indistinct] point or whether we should kind of let them ride and eventually see and we got legal opinion to say there was no real obligation in terms of time when we do it and remember

that also there was a reality of possibility of appraisals around the State. So we have another problem.

ADV PHILLIP MOKOENA SC: Now may I refer you to page 134 of the bundle. Whenever I am referring to you page numbers I become nervous you might not be on the same page.

MR MCEBISI JONAS: I have got it.

ADV PHILLIP MOKOENA SC: You will see page 134, that document goes up until page 137. Is that your cell phone record Mr Jonas?

MR MCEBISI JONAS: Where is that now?

10 **ADV PHILLIP MOKOENA SC**: Page 134. That document is from 134 to 137, is that document your cell phone record?

CHAIRPERSON: I think it is the last document in the bundle.

MR MCEBISI JONAS: Ja, it is.

ADV PHILLIP MOKOENA SC: Now, you recall that there are certain numbers which you have identified to be the one's belonging to Mr Hlongwane and the one also belonging to Mr Duduzane Zuma, you recall with reference to page 90 which was your timeline document. I don't want to go through a laborious way of dealing with this thing. If you go to those pages you will see that we have taken the liberty through you as guarded by you that certain numbers were marked and there are markings in blue and there are markings
20 in orange, can you see that. The number in relation to that are marked in blue, would that be the one's of Mr Hlongwane?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And the one's that are marked in orange, would those be the one's of Mr Duduzane Zuma?

MR MCEBISI JONAS: Yes.

ADV PHILLIP MOKOENA SC: And they appear throughout these 4 pages that you have annexed to the bundle. Mr Chair, Mr Trengove has indicated that there might be some clarification questions that he wants to pose. We also intend to address the Chair in not closing the evidence of this witness, we will explain the reasons why. May this be an opportune time to offer Mr Trengove the opportunity.

CHAIRPERSON: Well, if Mr Trengove wishes to put some questions to the witness, he
10 would have to apply no 1. No 2, I am open to persuasion but I would be disinclined to allow witness counsel to just put clarificatory questions as I say that is my inclination and I am open to persuasion. I would think that probably the clarificatory questions could be passed on to counsel for the Commission's Legal Team to put through but as I say I am open to persuasion to the matter and maybe during the lunch break there might be a way to discuss the matter between the Commission's Legal Team and Mr Trengove. Let me also say that the Democratic Alliance had requested that they be allowed to as they put it, participate in the proceedings of this Commission and when they were asked exactly what they meant by participating in these proceedings, one of the things they said was that they wanted an opportunity or permission to examine witnesses who came before
20 the Commission to give evidence. I made a decision which I believe was made public and distributed where I said I didn't think that the grounds which they advanced conferred upon them the right to be able to examine witnesses who came before the Commission. Of course the ground that they advanced was that they had been one of the complainants who had lodged complaints with the Public Protector and basically that complaint that

they had lodged, this investigation had not been finalised and would continue to be investigated by this Commission. That of course is not the same ground on which Mr Trengove if he seeks to put certain questions to the witness would be advancing, it would be a different ground but I am mentioning these things to just let Mr Trengove and everyone concerned, 1, about a decision that was made, 2, about the facts, about what my information is, 3, about the fact that I am open to persuasion but it is much better I know as counsel when you know what the Judges thinking might be so my suggestion would be that during the lunch break maybe some discussion as may be necessary would be taken and then maybe when we resume, we can take it from there.

10 **ADV WIM TRENGOVE SC**: Chair, if I may just for clarification say that my client has been so thoroughly led that I don't have any further questions to ask him.

CHAIRPERSON: Well, Mr Trengove, after that statement by you, I think that really other counsel will realise that the Legal Team of the Commission is doing a good job. Thank you very much. We are thankful to you Mr Trengove for your co-operation. Thank you.

ADV WIM TRENGOVE SC: Thank you Mr Chairman.

ADV PHILLIP MOKOENA SC: Mr Chair that leaves us with one aspect and that is the issue pertaining to whether or not to close the evidence in chief of this witness. We would want to make submissions, either we can do them now or we can do them after lunch.

20 **CHAIRPERSON**: Well, we are on my watch we are at 12:51. 1, we want to use every time that we have to do the work that we have we are called upon to do but 2, it might not make in certain circumstances much sense to try and use 10 minutes if you are going to a new issue so I am quite happy to let you decide whether you want to deal with that now or whether we should take an early lunch break or continue after lunch.

ADV PHILLIP MOKOENA SC: We would refer to our Chair at this stage in order to see also that they canvass on the order they should speak.

CHAIRPERSON: Okay thank you very much. Mr Jonas, we are going to adjourn and return here at 2.00 so we will adjourn the proceedings until 2.00.

Session 4

CHAIRPERSON: Mr Mokoena, as I was trying to switch off my phone my wife decided to phone me.

ADV PHILLIP MOKOENA SC: Then Chair you must answer the phone.

CHAIRPERSON: I think if I am faced with a divorce summons I will have to get counsel from around counsel here. I did not answer the phone.

ADV PHILLIP MOKOENA SC: I would have answered it Chair.

CHAIRPERSON: Thank you very much. Okay, let me hear what you have to say.
...[intervened]

10 **ADV PHILLIP MOKOENA SC**: Chair prior to making submissions pertaining to why the evidence of Mr Jonas should be kept open and not be closed at this stage. That is only one issue which we need to with Mr Jonas. It a matter – O, it is a question which disturb us at a very different level, as members of the legal profession and members of the Bar. That is in relation of what Mr Jonas have informed the Chairperson that there was counsel who was involved in what appears to be a cover-up conduct by drafting an affidavit. Which goes against the values and you know the ethics of our profession and I want Mr Jonas to commit, to you, that he will ensure that he provide us with the name of the Advocate who have actually drafted the statement which was presented to you by Major-General Mnonopi [?]. Mr Jonas?

20 **CHAIRPERSON**: Well he previously said he could not remember the name it was an Afrikaans name – unless he has since remembered it.

MR MCEGISI JONAS: No, have not, Your Honour.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENA SC: But he – I am sure that he can take the necessary steps in order for him to establish the person who ...[indistinct]

MR MCEGISI JONAS: We will try. We will try Mr Chair. I am looking at my lawyer, because ...

CHAIRPERSON: Ja, I know. Well he can try, but you do have the name of the person from the Hawks. Who told him the name and of course apart from him trying I am sure that you can also see if you can find it for information. Maybe you will be told that no name was given or but at least you can also try. He can try – everybody can try. It is very important that it be established. The identity be established.

10 **ADV PHILLIP MOKOENA SC:** Thank you Mr Chair.

CHAIRPERSON: Of course apart from that it is a matter of concern if the evidence given evidence given by Mr Jonas is ultimately accepted to be correct. It is a matter of concern that members of the Hawks played the role that it would seem they play it in that regard, as well.

ADV PHILLIP MOKOENA SC: Yes, Mr Chair. Mr Chair other than that. We then wish to persuade, the Chairperson that the evidence of Chief Officer Jonas must not be closed and the reason is that Mr Jonas in his witness statement implicates a number of individuals. He implicates Mr Hlongwane, Mr Duduzane Zuma and Major General Mnonopi are the ones that I can remember for now. We know that Major General
20 Mnonopi has made an application through her legal team in terms of rule 34. It may be that there might be additional statements or affidavits that are going to be filed. It might be necessary for Mr Jonas also to react to those affidavits or statements or whatever that might be placed before the Chairperson. The same goes to the legal team of Mr Hlongwane that has reserved their right to bring an application in due course it will be

unfair for one to close the evidence of Mr Jonas without affording the opportunity to react to any allegations of fact which might be made in those affidavits and the other things that Mr Jonas was provided with an opportunity, Mr Chair but he must go and read the Public Protector's Report for him to be able to ...[intervened]

CHAIRPERSON: Have ...[indistinct] get the transcript of his statement of you.

ADV PHILLIP MOKOENA SC: Transcript of the interview, Mr Chair and those are the basis why we say that he may be temporarily excused without having to close his evidence-on-chief.

CHAIRPERSON: Okay well and I thank you. I do have some questions for him. So, I
10 guess I will ask some questions and then at the end of that we can take it from there.

ADV PHILLIP MOKOENA SC: Yes, Mr Chair.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENA SC: Mr Chair the other thing that you might also - we might also seek your guidance. Is that there might a legal representative of those implicated parties. They might want to put themselves on record and to indicate in order for us to be able to plan accordingly as to what choices have they made? Are they going to participate in this proceedings and in what manner they are going to participate or are they going bring a formal applications so that we know how to prepare for those applications or any eventuality and also for the Chair to give directions in order to save
20 time to indicate as to by when would the Chair be ready to hear those applications, because should we leave it in the hands of the lawyers we might hear those applications sometime next year.

CHAIRPERSON: Okay let me ask my questions to the witness and then at the end of that then we can attend to those matters. When I ask those question feel free to take a seat if you would like to do that.

ADV PHILLIP MOKOENA SC: I would seat Mr Chair but I am far much more younger than my colleague – who indicated that because of age he could not stand for that long time, but I will sit.

CHAIRPERSON: Exactly, thank you. Mr Jonas, some of the questions that I may ask you may be seeking information that you know nothing about. In which case you must say that you do not know. Some of them might be seeking information where you are not sure or all you need to do is to indicate that you are not sure. Some may be seeking information of which you are sure, in which case you can then respond in a manner that shows that you know about that part. Okay and this is quite important because if you do get cross-examined, you know attention would be given to what you said you know and what you said you did not know. Now, you were told at the beginning of your evidence about the terms of reference to which your evidence would relate, but apart from the clauses of the terms of reference to which your attention was drawn. There are others as well which require this commission to among other things investigate the nature and extent of corruption in the country. So there may be questions that are meant to look at the extent and nature of state capture, the extent and nature of corruption, but as I said what you know you say, you answer and you know. When you do not know you do not know. You gave evidence that at a certain time there was a hostility towards, as I understood your evidence, the Ministry of Finance in cabinet. Would you like to elaborate on that in the sense of telling us what form the hostility took and who, in the cabinet exhibited this hostility and your own understanding was – why that hostility was shown.

MR MCEGISI JONAS: Thank you very much, Mr Chair. I will deal with it in general terms, for now. Maybe I could deal in details later. I think the and I started off that explanation by saying that Treasury has a very unique role within the Government system generally. Part of it is the Constitutional legal role, so to speak, which is prescribed in law and in the Constitution, but in order to exercise that role there is a component that really relies on the extent of support that you get from the President. So, if you think about it successful period where Treasury was effective in doing and executing its role and for macroeconomic management, for managing fiscals and driving to development ...[indistinct] and regulatory role that is plays. It is moments when there is strong supports from the President. Now, we could go back in history and say if you look at South Africa from this year to that year and ...[indistinct] but in general it is the ...[indistinct]. Those two components are critical in defining and our insuring that the Treasury is effective in its role. Constitutional responsibility and legal responsibility.

Now the period that we are talking about is – was actually a very unique period and I am being subjective on this, in this point, in the sense that I think it is probably one of those rare moments where you would actually visibly see and I am sure officials from Treasury would testify palpable hostility towards Treasury on a whole range of issues, from budgets and then by the time we kind of – Mr Linde was there. There were attempts to even break down Treasury, aspects of Treasury take budget offers to the Presidency and so on and so on. Things that were not thinks of spaces that Treasury would be – probably have the full control of, like borrowing, for instance which is a very cridicial crucial component of fiscal management because if you do not manage your debt levels it means that you are creating chaos in your financial system and the reality of the matter if you look at where we are now, in terms of the debt level in South Africa, public debt in South Africa is like really big, I mean and from personally I believe that we cannot

continue in that tragic trait. Now you could really say that were moment when the borrowing authority, that is supposed to be in treasury, was literally undermined in some instances where you have departments thinking that they can just go China, walk to China and just borrow from China and implement programs that never grow that ... So, the whole reams of example that we can show and we can do that if I was given opportunity to do that later, but the point I am making is that it was increasingly becoming difficult to perform the Constitutional role precisely because one component of the performing that role was lessening over time and I think the culmination of it was the firing of Minister Nene and which was very in itself interesting I mean if you, I am sorry if

10 we could submit something around that too, because it actually ...[indistinct] and then when the Des came in another fiasco and then kind of a fiasco of incapability which was stopped three days or so and then Minister Pravin came. The hostility continues – continued. So, that is the context and this hostility is linked, in a sense, to what was happening in state owned enterprises and because then you have to monitor state owned enterprises because they are part of the fiscal system. If they are not reigned you are likely to have chaos in our economy and the state in which they are now, I am sorry but you will ...[indistinct] around is in part a reflection of the fact that you had a weakening Treasury that - a weakened Treasury that could not in fact reign in some of those exorcises in those areas, but the last point I think you had some of the most gifted and

20 talented members of staff in Treasury beginning to think about leaving treasury and some left, probably they say for greener pastures but the reality is that it was becoming untenable to actually sit in an environment where your Constitutional role is so constrained and there is hostility all the time against you.

CHAIRPERSON: Mcegesi, I want to - I want to hear a lot about that. I appreciate that you may not have been prepared for that and therefore for that reason at another stage

you know I would appreciate it if we could get evidence. You know the evidence is very important, because whatever may read in the newspapers – when I have to make findings. When I have to make recommendations I cannot base them on what I read in newspapers. I have got to base that on what I hear in evidence. Now, you are a member of the executive. You probably know a lot more than somebody like me and many people, members of the public in terms of what was happening and our terms of reference do require this Commission to look at how deep did this phenomenon of state capture go, if indeed there was state capture. I say if indeed there was state capture, because our terms of reference says these are allegations of state capture. We must

10 investigate them and establish whether there was state capture and in effect we must establish also how deep state capture went. Now, and so therefore and of course the legal team for the Commission is listening and I am sure the investigators will get to know, I really would like as much information as possible, as to that aspect because from what you have said it seems that the Ministry of Finance or Treasury was trying to have things done in a certain way, but they were not getting the support they expected from, among others the President and that was having a certain impact on National Treasury and the Minister of Finance. We need to know that if we are going to know how deep state capture went, in the country and of course one can also refer to what you said – you said that Mr Gupta said at that meeting, said that they controlled everything. Now at some

20 stage I will weigh up the evidence whether what you have said is true or not. Maybe other people will come and say that that was not said, but if that was said then we should also be looking, as a Commission, to saying if this statement was made Mr Gupta that they control everything. Does it include that they were saying they controlled the executive as well? We need to look into that and see how deep the problem was.

Then the other thing I wanted to ask are – so I will let you have time to look at that

aspect and in due course you could come back and give us more evidence. Mr Hlongwane and Mr Duduzane Zuma, you have given evidence that they were present at that meeting, but they were quiet throughout, but the person who had called to say he needed to have a meeting with you was Mr Duduzane Zuma. So, when you stood up and had to leave. He did not say anything like what he had really wanted to discuss with you. He had not had a chance to discuss yet or anything like.

MR MCEGISI JONAS: No, I did not. I only said I have to leave. They must take me back.

CHAIRPERSON: I guess it might have left the impression that what had been raised by
10 Mr Gupta may be is what he wanted to discuss with you.

MR MCEGISI JONAS: The was the assumption.

CHAIRPERSON: *Ja. Ja.* Since they media a statement that you made are aware that either Mr Duduzane Zuma or Mr Fanna Hlongwane or both have they ever put their version anywhere that talks about one admitting that this meeting of 23 October did take place and whether, in terms of content, they have anything to say about whether what was discussed at that meeting.

MR MCEGISI JONAS: There were various versions, I think in the letter to - the letter contained in the Public Protector's Report around that.

CHAIRPERSON: Yes. Yes. Okay. No thank you. I think my – a lot of my questions will
20 relate to the aspect on which you might wish to do some homework and then later on talk to us. Mr Mokoena will indicate whether there is anything that he still wants to ask.

ADV PHILLIP MOKOENA SC: Mr Chair, I do not have any further questions for now.

CHAIRPERSON: Yes.

ADV PHILLIP MOKOENA SC: With the *proviso* that we have made that he will have an opportunity to read his witness statement – is the transcript of the Public Protector and also having to - have regard to any other statements or applications or affidavit that might be filed in due course.

CHAIRPERSON: So, at this stage you have no idea when you might require him to come back?

ADV PHILLIP MOKOENA SC: Mr Chair, at this stage it is not yet clear, up until we finalise those application, but Mr Pretorius wanted to address you on those.

CHAIRPERSON: Okay. Let us do that then. Thank you.

10 **ADV PAUL PRETORIUS SC:** Thank you Mr Chair. We have received from various parties a number of applications. These applications have not yet been prepared for presentation to you, but they relate to responses in terms of the rules to notices to implicated persons. We will in due course, in fact during the course of the weekend or today even prepare these applications in proper format and then place them on record on Monday – during the course of Monday's proceedings and then ask you for directions as to when these applications may be heard. It may be appropriate for you, Mr Chairman now if we can place these before you today to allow us to give notice to the parties concerned and their legal representatives when you might hear those applications.

20 **CHAIRPERSON:** Maybe let us allow Mr Jonas to be excused. Mr Jonas your evidence is not finalised but you are excused and arrangements will be made with you as to when you are going to come back. We are sorry that we are going to ask you to come again. You have hoped that you would be done today, but I think circumstances are such that we will need you again. Arrangements will be made for you come back, but for today. Thank you very much.

MR MCEGISI JONAS: Thank you very much.

CHAIRPERSON: Yes, Mr Pretorius. Now we can talk about other things.

ADV PAUL PRETORIUS SC: Yes. Thank you Mr Chair. So, applications have been received.

CHAIRPERSON: *Ja*.

ADV PAUL PRETORIUS SC: They need to be properly prepared to be placed before you, for your consideration.

CHAIRPERSON: *Ja*.

ADV PAUL PRETORIUS SC: That will be done either during the course of today or over
10 the weekend and they will be formally placed on record on Monday.

CHAIRPERSON: *Ja*.

ADV PAUL PRETORIUS SC: Some of the legal representatives are however here, in court and it may be that you wish to direct a day next week that you will hear these applications. So, that they can have due notice to be prepared and present here before you.

CHAIRPERSON: Well I think I would be in a better position to make that direction when I know what the applications are about and when I have seen them. So, I think the procedure should be at some stage they must be given to me and once I have looked at them then I can direct when they can be dealt with.

20 **ADV PAUL PRETORIUS SC**: They will be placed before you on Monday morning..

CHAIRPERSON: On Monday morning.

following list of demand for your urgent, prompt and swift response:

- 10
- 1) Investigate corporate capture of the state without fear or favour and without prejudice. We appeal to your oath of office, moral and ethical conscience to uphold the fundamental values in our country's Constitution and to act within the profound principle of the rule of law to conduct the investigation, We are fully aware of the real dangers of intimidation and threats and untold pressure that you may face, including those of corporate capture of the commission itself. We however call on all of you as highly respected and trusted commissioner to conduct the investigation without fear, favour, or prejudice and with utmost integrity.

 - 20
 - 2) Defend the sovereignty of our country its economy and the working class and the poor. As fellow citizens of our country. We believe that you have a rare opportunity and are placed in a privilege position to make your contribution, to protect, defend and advance our Constitutional Democracy, our economy and national sovereignty. Our democracy did not come cheap and therefore may not be sold to the highest

bidder. Our economy is exposed to high risks in international financial markets and therefore effective and efficient governance of its state organs and state owned enterprises is critical to its growth, job creation, complete eradication of poverty and inequality. We therefore call on you to defend our Democracy it is the highly vulnerable people, the working-class and the poor who depend on the state and its organs for a better quality of life. Your work stands between defence of our country and its liquidation as a sovereign democratic state.

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3) Defend, sound and good governance of our state institutions – especially state owned entities. State owned institutions ...[indistinct] We call and appeal to your conscience to ensure a deeper robust and thorough investigation that will deter and send a clear message to corrupt elements and provide a solid and sustainable basis for sound and good governance of our state organs and SOE's. This we believe your investigation if conducted in good faith and with good intentions can certainly achieve. We believe that our state organs and in particular state owned enterprises constitute the key pillars upon which stands our heart won

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democracy. These institutions employ many of our people, provide critical and strategic services impact various sectors of the economy and therefore their management, governance, and full compliance with the laws of our country is critical. We therefore urge you to send a clear a message that our SOE's and entities are not playgrounds for corrupt and morally bankrupt looters and thieves.

- 10 4) Dismantle the parasitic network of corporate capture of the state, corruption, looting and maladministration. We urge you as investigators to leave no stone unturned to unearth, uproot and dismantled deep seated parasitic networks that are still lingering within organs of the democratic government and SOE's. We believe that your investigation has a great potential to empower the work of law enforcement agencies and the judiciary to ...[indistinct] hold accountable and clear out our state organs and SOE's of any
- 20 doggie..."

I presume that should read dodgy.

corrupt and looting thieves in state institutions. We therefore call on you to be professional and clinical in your work and not to sabotage the work of law

enforcement and judicial agencies to enforce the rule of law. We are aware of allegations that criminal cases are sometimes deliberately and consciously corrupted to ensure that they never come before a court of law this is apparently done to ensure that if finally they do, they are immediately thrown out of court for reasons that were clearly pre-determined and planned to undermine the profound principle of the rule of law. We hope this will not happen.

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- 5) Complete the investigation within a reasonable time and save taxpayer's limited financial resources that are desperately required for service delivery and social security for the working class and the poor. We deliver this memorandum demands based on the high level of trust and confidence our people have placed on you and the expectation that you will not fail them. We have every reason to believe that you will uphold the highest level of moral, ethical and honest leadership in line with your oath of office and discharging your obligations. We therefore appeal to your moral consciousness as citizens of our beloved country and hope you will take advantage of the privilege you have to save our country, its

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people and the economy. We will continue until completion of your to stage pickets and further protest to act as the vanguard of our constitutional democracy, the country's sovereignty and better quality of life through economic growth to fight poverty, inequality and unemployment.

We will appreciate your response within the next fourteen days. In you we trust. You dare not fail us.

10 Handed over and signed on behalf of the South African Communist Party in Gauteng Province to the Secretary of the Commission on the 24th of August 2018.”

Thank you Mr Chair.

CHAIRPERSON: Before we adjourn let me say something about the – demands and the petition in the memorandum.

20 One - We appreciate the support expressed – the support for the Commission expressed in the memorandum from the South African Communist Party, that Mr Pretorius has just read. I accept that it probably represents or some parts of it represent the sentiments shared by many people in our country. I have said before in media briefings that we have had and I will repeat today. That this Commission will do its job properly. Not that I needed to say this to the legal team and investigators, but I have said that the investigations must leave no stone unturned and then that it does not matter who you are if the evidence suggest or points towards you must be followed. It does not matter what your position is. It does not matter what your position may have been. This job must be done and must be done properly.

I have assembled a very strong legal team, people who have a track record of integrity. They are not going to start doing dirty things and they will do their work properly.

I have a team of investigators whose leaders I trust and they know exactly what is expected of them. No attempt must be made to try and implicate somebody who is not involved, but no attempt must be tried to avoid getting to somebody where the evidence suggest that that person is implicated. They understand that. All of us understand that.

10 `This is a very important national task we intend to do it properly to the best of our abilities. It does not mean we will not make mistakes, but if we do it would just be because we are human too. But we are very clear in terms of the job I heard. We see it as a privilege that we have been given this task to assist the country and we will do all we can to do it to the best of our ability and to do it properly and we appreciate the support we get from the public – ordinary South Africans give us support wherever we go. Whether I am in a mall or in the streets I get her support. People who say they support the work of this Commission. People who say they pray for this Commission they want us to do well.

So, I just want to assure the SACP and everyone again as I have done a few times before in media briefings. That we intend doing a proper job.

Thank you very much. We will adjourn and on Monday do we start at 10 or do we need to ...[intervened]

20 **ADV PAUL PRETORIUS SC:** 10 O'clock.

CHAIRPERSON: 10 O'clock. We will then adjourn this proceedings until Monday 10 O'clock.

COURT CLERK: All rise.

HEARING POSTPONED UNTIL MONDAY 27 AUGUST 2018

HEARING ADJOURNS

[End of recording]