

STATE CAPTURE INQUIRY
PARKTOWN, JOHANNESBURG

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SESSION 1 – 3.

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Session 1

CHAIRPERSON: Yes Mr Pretorius.

ADV PAUL PRETORIUS SC: Thank you Mr Chair. Just to place on record that during the course of the day's proceedings, perhaps at the end, Advocate Maleka will be placing on record certain applications received from implicated parties and their legal representatives. For the present, by your leave, Ms Mentor will be led by Advocate Sello.

CHAIRPERSON: Thank you Mr Pretorius. Ms Sello.

ADV MAHLAPE SELLO SC: Good morning Chair and thank you.

CHAIRPERSON: Good morning.

10 **ADV MAHLAPE SELLO SC**: Today we present the testimony of Ms Mabel Petronella Vytjie Mentor. Before the witness takes the oath Chair, I need to place on record that on Friday, Mr Mokoena delivered an opening address for this phase and this phase concerns Terms 1.1, 1.2 and 1.3. On Friday he led the evidence of Mr Jonas and in terms of 1.1, I am leading the evidence of Ms Mentor.

CHAIRPERSON: Okay, thank you.

ADV MAHLAPE SELLO SC: If I may just get some housekeeping issues out of the way as well. We had a discussion, i.e. Advocate Mokoena and myself and I think Advocate Maleka as well, we are going to submit Ms Mentor's statement and bundles. Now, for purposes of the Commissions record, I would like to have an indication of how do we
20 number them. Mr Jonas had the "C" Series, do we continue with the "C" or do we start the "D" series?

CHAIRPERSON: Well, I would rely on a suggestion from the Legal Team because they are the one's who are organising what comes first, what comes second and what would be more convenient in terms of finding the documents when we need them, when there are many documents before the Commission.

ADV MAHLAPE SELLO SC: The sense that it seems to accord with the general view is that prepared best Ms Mentor start the "D" series, thank you Chair.

The second issue I would like to raise is that Ms Mentor appears before you today Chair on a very narrow issue and that pertains only to 1.1, 1.2 and 1.3 of the Terms of Reference. Her statement is accordingly confined to the issues arising therein. She may
10 have other information that is relevant to this Commission and that pertains to other terms of reference and to the extent that she will be called as a witness in regard to those she shall make appropriate statements at that time. With your leave then Chair, I present Ms Mentor.

CHAIRPERSON: Thank you, Ms Sello, you can do the oath.

LEGAL OFFICIAL: Could you please state your full names for the record?

MS VYTJIE MENTOR: Mabel Petronella Vytjie Mentor.

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

MS VYTJIE MENTOR: No, I don't.

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

20 **MS VYTJIE MENTOR**: Yes, I do.

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

MS VYTJIE MENTOR: So help me God.

LEGAL OFFICIAL: So help me God.

ADV MAHLAPE SELLO SC: Thank you Chair.

CHAIRPERSON: Thank you, you may proceed.

ADV MAHLAPE SELLO SC: Ms Mentor, you should have files before you. Chair, I do apologise, the most important person in this room does not have her files before her.

10 **CHAIRPERSON**: How does that happen? Has somebody also told her what to press when she speaks?

ADV MAHLAPE SELLO SC: I will address that Chair. Ms Mentor, a third file has been obtained for you. In the meantime, as the Chair correctly points out, the mic in front of you on the extreme right has got a button. Each time you press that button, the light I think around the microphone should go on indicating that it is on. I listened to your oath and your voice is pretty soft. Apparently these microphones are not the best because the people at the back either struggle to hear us so I would request you bring the microphone closer to yourself and raise your voice. I know that with the passage of time, naturally your voice will drop so please permit me to remind you from time to time it does to raise
20 your voice. Now, I need to explain the different files before you. There is a first file, if you look at the spine of the files, it should be titled: Mentor Evidence Bundle. Do you locate it?

MS VYTJIE MENTOR: I do.

ADV MAHLAPE SELLO SC: Thank you. The second one should be labelled: Mentor Supplementary Bundle and the third one should be: Applications in terms of Rules of CSCC, you have the three? Chair, if I may confirm that the Chair has those?

CHAIRPERSON: Yes I do, thank you.

ADV MAHLAPE SELLO SC: Before I turn to the contents of these bundles Chair, there is another file but I am not submitting it into record. We call it internally a correspondence file. There is one for Ms Mentor. The purpose for that file is simply to collate all documentation relating to compliance with the rules. As such, that file will have correspondence between the Commission and various third parties. It will include all Rule
10 3.3 notices issues in respect of each statement received and it will also include all Returns of Service from notices sent on the implicated persons. I do not intend to refer to that file, I just want to place on record that compliance with Rules 3.3 and 3.4 to confirm compliance therewith but otherwise I will not be referring to that file. I would like Chair to draw your attention to the supplementary bundle. It has an index starting at page 1 to pages 227. If maybe the Chair's file is complete but I can confirm that the witness's file and the files that will be going onto the Commission's side, do not have pages 1 to 5 as per the index. That's the correspondence between Parliament and the Commission.

CHAIRPERSON: Mine starts at 6.

ADV MAHLAPE SELLO SC: Yes, then that is correct. The page before 6 explains that
20 these have been omitted because that's constitutors correspondence and that goes to what I call the correspondent's file.

CHAIRPERSON: Okay.

ADV MAHLAPE SELLO SC: So it would start at 6. For purposes of this supplementary we don't have pages 1 to 5. Thank you Chair. Ms Mentor, can we turn to what we call Mentor Evidence Bundle at page 1 thereof?

CHAIRPERSON: Is this bundle the one that you said you propose to be marked D?

ADV MAHLAPE SELLO SC: D, I apologise, thank you Mr Chair for the reminder.

CHAIRPERSON: Because it is better to refer it in that way otherwise whoever reads this transcript thinks it's something else.

ADV MAHLAPE SELLO SC: Indeed, I overlooked that part. Having asked the most pertinent question, I then I forget to place it on record. My apologies Chair. Mentor's
10 evidence bundle I propose be marked, D1.

CHAIRPERSON: So that will be Exhibit D1.

ADV MAHLAPE SELLO SC: The supplementary bundle to be marked, D2.

CHAIRPERSON: The Mentor Supplementary Bundle will be marked Exhibit D2.

ADV MAHLAPE SELLO SC: And the third bundle being the applications in terms of the Rules to be marked D3.

CHAIRPERSON: Do you need to have that marked. It is just applications.

ADV MAHLAPE SELLO SC: It's not just applications Chair. In both instances, in fact let me say, these are applications from two implicated persons, two notices were served, two have responded and in both instances, each has recorded a version to deal with
20 allegations made by Ms Mentor in respect of them and simultaneously makes application to cross-examine Ms Mentor so I need to deal with their aversions and put those versions to Ms Mentor.

CHAIRPERSON: Would it not be more convenient, I don't know if their aversion is in the same affidavit that is used to support an application for leave to cross-examine but if their aversion is contained in a separate affidavit, separate from the application, would it not be convenient to simply take out the affidavit that contains their aversion and mark that separately because when at the end, when I weigh evidence, I won't be needing the application but I will need the affidavit that has aversion.

ADV MAHLAPE SELLO SC: Unfortunately Chair, in both cases, the documents contain both the version and the application, they can't be separated.

CHAIRPERSON: Oh okay, alright. You propose that this be D3?

10 **ADV MAHLAPE SELLO SC**: D3. As Mr Pretorius indicated, Mr Maleka will be addressing you at the close of today's proceedings regarding the applications. Those applications will again be addressed by Mr Maleka and that will be dealing specifically with the application to cross-examine. By then I will have dealt with the content of the version.

CHAIRPERSON: Yes, okay alright.

ADV MAHLAPE SELLO SC: Thank you Chair.

CHAIRPERSON: Thank you, this bundle then relating to applications in terms of the Rules of the Commission will be marked Exhibit D3.

ADV MAHLAPE SELLO SC: Thank you Chair. Ms Mentor, we have taken care of the numbering of your bundles and I turn my attention now to you. Do you confirm that you
20 have submitted a statement to this Commission?

MS VYTJIE MENTOR: Yes I do.

ADV MAHLAPE SELLO SC: Please bring the mic closer to you still, thank you. Please refer to what we call D1, which is the Mentor Main Bundle, not the supplementary one at

page 1. That document runs until page 37. Do you confirm that that is the statement that you submitted to this Commission?

MS VYTJIE MENTOR: Yes, I do confirm.

ADV MAHLAPE SELLO SC: And is it correct that this statement you prepared with the assistance of your lawyers?

MS VYTJIE MENTOR: That's correct.

ADV MAHLAPE SELLO SC: Do you confirm the signature appearing at page 37, that that's your signature?

MS VYTJIE MENTOR: I do.

10 **ADV MAHLAPE SELLO SC**: Okay. You may leave the mic on, it doesn't interfere with mine or the Chair's. Chair, it just struck me when I posed the question to Ms Mentor. She is legally represented. I needed to place her representatives on record who are in attendance today having started.

CHAIRPERSON: Well I don't know whether it is necessary to place them on record as such but you have mentioned because it may or may not be that they will have something to say but if you want to mention names, you are free to do so.

ADV MAHLAPE SELLO SC: I will Sir. If I may Chair, with your leave, it's two Advocates. Advocate Nicole Lewis and Advocate Lucille Bachler. Both instructed by Ms Sekofa Sopala of Webber Wentzel Attorneys and they are in attendance today.

20 **CHAIRPERSON**: Thank you.

ADV MAHLAPE SELLO SC: Thank you Chair. Ms Mentor, having confirmed your signature and that that is your statement, are there any corrections you would like to make to the statement and if so, please indicate to the Chair where and to what extent?

CHAIRPERSON: Have you had a chance to read it lately?

MS VYTJIE MENTOR: I did Chairperson.

CHAIRPERSON: Okay.

MS VYTJIE MENTOR: I think I am too nervous to remember everything that I would like to correct at the moment.

CHAIRPERSON: Please relax, it's quite important if there are errors that you have picked
10 up, you mention them up front. If there aren't any that you have picked up then as soon as you do pick them up, let us know. Is the position that at this stage you don't remember any errors in this statement that you are able to tell us about?

MS VYTJIE MENTOR: Yes Chair, I would like to say that when I pick them up, I would point them out to you Chair.

CHAIRPERSON: Thank you.

ADV MAHLAPE SELLO SC: Thank you Ms Mentor. With that proviso then, can I enquire from you whether you stand by the averments made in this statement?

MS VYTJIE MENTOR: I do.

ADV MAHLAPE SELLO SC: Your statement instructed as follows. In the first chapter
20 you address the question of your political role and your political history. You follow that up with a China visit in 2010, that is followed by a chapter on author of position of Minister which in turn is followed by another chapter called, Disclosure of the Offer. That is an

offer of being made a Minister and in that regard you separate Disclosure to the Hawks and Disclosure to the PP, is that correct?

MS VYTJIE MENTOR: That's correct.

ADV MAHLAPE SELLO SC: I propose that we deal with your testimony today and the manner that it's reflected in your statement.

MS VYTJIE MENTOR: That's okay.

ADV MAHLAPE SELLO SC: You do indicate and in your statement about that you have a long history from your paragraph 9 at page 3, that you have a long history and involvement with the ANC and the UDF and you reference the various roles you have played and portfolios you have held in Government and within the political party, the
10 ANC. Would you care to take the Chairperson through that, thank you.

MS VYTJIE MENTOR: Thank you very much Advocate. I literally grew up in the master democratic movement and in the ANC. I occupied positions for the better part of my youthful days right into my adulthood. I served in various positions where I was elected. I participated both in overt and covert operations of the struggle for liberation. The history that I have put into my statement shows that I also occupied positions of responsibility in Government. I have been entrusted with many serious positions and there are strategic moments in which I provided leadership. There are moments in which I had a broke rank before when things were not right on the basis of what I believed was principle and on the
20 basis of what I believed in personally. The example I would like to raise is when historically it was never okay to wrap around the knuckles a senior official of the ruling party and a high ranking person in the political space of the ruling party when it had never been done before on the basis of principle and on the basis of believing in human rights and championing them, I took on a Chief Whip of the majority party in Parliament when

he sexually harassed a 21-year old. It was unpopular to do so. I faced a lot of pressure in the party to abandon the mission but I stood by it and at the end of two disciplinary processes, both the complainant that I supported and the efforts that I put into that process yielded results wherein it was proven that the young lady was sexually harassed and the result was that a Chief Whip had to vacate a post, not only his position in Parliament but his position as the Chief Whip. In my political history there are various occasions on which I diverted from the script. First includes particularly the example I want to raise is when it was not fashionable for the members of Parliament that are often referred to as back benches to hold the executive accountable, I made it a point when I

10 pursued my duties that I abide by the constitution and that I follow my conscience and that I live by the oath I took when I was sworn in. At the time when I did so to hold the executive accountable, it was often referred to as me having public spates or spates with the Minister but that was just performing my duties, I did not shy away from differing with the executive, holding them accountable as the constitution expected and I left a legacy as a Chair of the Caucus. That was one of my key operational principles and key issues on which I led the Caucus to say that it cannot be correct that member of the ruling party that are members of Parliament, only see their role as supporting the executive, protecting the executive, never asking them the hard questions. I would like to leave my history so in conclusion I want to say that I stand before you today Chairperson, difficult

20 as it is, in pursuant of the approach I took all my life of breaking ground and of differing when issues of principle I meddled with and when things that should not be done, are done. I thank you Advocate.

ADV MAHLAPE SELLO SC: Thank you ma'am, and you deal with these issues that you have summarised from your paragraph 9 until your paragraph 25 which should take you to page 8 of your statement. Now, if you go back to your page 6 at paragraph 21, you

make the following statement and I quote: *“In around November, 2010, I also seized being the Chairperson of the Portfolio Committee on Public Enterprises. However, I remained a member of Parliament. I believe I was removed because I refused to meet with Mr Zuma while in China on his state visit which I deal with in detail below. I also believe I was removed from this position because I refused to assist in the closure of the SAA Indian route which I also address below and I believe that the reason given for my removal that it was because of the allegation around Transnet having paid for my visit to China, was simply a ruse and attempt to discredit me.”* Do you see that? Do you confirm those are your words?

10 **MS VYTJIE MENTOR**: I do.

ADV MAHLAPE SELLO SC: Now, you deal, as you said, in paragraph 21 with your China visit starting at page 9 from paragraph 26. Now I would like you to explain to the Chairperson the circumstances leading to your being a part of the delegation and the trip to China as set out in your statement and permit me from time to time to possibly interject to seek clarification if and when necessary. With that in mind, please go ahead.

MS VYTJIE MENTOR: My trip to China, “my controversial trip to China” was preceded by plans for the committee and I had to go to China in any way.

ADV MAHLAPE SELLO SC: Sorry, when you say the committee, please be specific what committee you having reference to ?

20 **MS VYTJIE MENTOR**: The Public Enterprises Portfolio Committee of Parliament that I was a Chairperson of in 2010. There was a planned trip that was approved in Parliament for us to visit China and there was agreement in the Committee because of budgetary reasons and otherwise that I would go to China alone first and take a second visit with the entire portfolio committee once the budget permitted as according to the approval by

Parliament. So we had that approval, the plan was made. Parliament was in recess in the month of August. Parliament always goes on recess for the month of women, we would host a women's Parliament and then adjourn to go and participate in the processes of celebrating month of women on the ground in our constituencies. That period in that particular year flowed into the September holidays, so we had just reason as Parliament, I was not aware that there was going to be a Presidential state visit to China. When I was contacted by State Owned Enterprise of China to alert me of the state visit to China and with the suggestion that I hasten the trip that I was to undertake ahead of the Portfolio Committee to China to participate in the discussions there because they pointed out that
10 it would be desirable if, I must point out first that prior to the state visit, we had been seized with the matter of power outages.

CHAIRPERSON: I am sorry to interrupt you. When you say "we", will you just tell us who "we" is.

MS VYTJIE MENTOR: Thank you Chairperson. As the Portfolio Committee of Public Enterprises, we were seized with the power outages that were bedevilling the country at the time and we had had meetings with various SOE's that participated in ensuring that the lights remain on which is your Eskom and Transnet and we had had various meetings with them to understand what the problem was and together with them, we had made a public call to anyone and everyone, both nationally and internationally, to come to the
20 fore and work with the State Owned Enterprise to assist South Africa to emerge out of the crisis of power shortage. In that process of engagements, we had sat together with Telkom and Transnet in meetings in Cape Town, their meetings that I would attend as a chairperson with them and we would be sometimes discussing with people that are expressing facilitating that they come together, the will to work with them to ensure that the power outages are done away with. One of those entities that we were meeting is a

State Owned company of China, the very one that would have advised me of the pending state visit and suggest that I join it. They were saying from their side, if all the things that we had been discussing with their SOE's prior to the state visit, are brought under the umbrella of the state visit that would assist in shortening the red tape to facilitate their co-operation of Chinese SOE's and South African one's.

ADV MAHLAPE SELLO SC: Thank you. Now I understand the background to your going to China. At paragraph 26, most importantly, you say you undertook the trip as part of the Presidential state visit to that country. On what do you base that decision?

MS VYTJIE MENTOR: On the fact that whilst I knew about the state visit to China, I did
10 my homework and I contacted, until I arrived, all the relevant parties, that would be the DTI, that was the lead department for the Presidential visit and that would also be Transnet that eventually paid for my accommodation and travel.

ADV MAHLAPE SELLO SC: So is the Chairperson to understand that you went on that visit as part of the DTI delegation?

MS VYTJIE MENTOR: Yes, the DTI delegation was twofold. There was a Government/State contingency of the participants of the visit and I fell under that category and there was a contingency of business people that were brought together by BUSA together with DTI so I essentially became part of the state visit as an MP that was asserted by DTI.

20 **ADV MAHLAPE SELLO SC:** For the record Chair and will you confirm Ms Mentor that the Secretariat requested from you any telephone handsets and/or computers that you still have in your possession that you were using at the time. Do you confirm that?

MS VYTJIE MENTOR: I do.

ADV MAHLAPE SELLO SC: And for the record Chair, the Secretariat imaged the computer handed up by Ms Mentor, it was one laptop and from that extracted certain documentation I would like to refer the witness to. In your main bundle Ms Mentor, please go to page 217, 218 and 219.

CHAIRPERSON: The main bundle, D1?

ADV MAHLAPE SELLO SC: D1, I should remember to call it that. D1, I apologise Chair, D1.

MS VYTJIE MENTOR: 217?

ADV MAHLAPE SELLO SC: 217 to 219. Now please have regard to that 3 pages and
10 just briefly explain to the Chairperson what those are. Please have regard to pages 217, 218 and 219. I would like to place on record Chair that those documents were retrieved from Ms Mentor's laptop, handed to the Secretariat and I would invite Ms Mentor to explain to the Commission what those documents are.

MS VYTJIE MENTOR: The document on 217 is my letter to Transnet.

ADV MAHLAPE SELLO SC: Yes.

MS VYTJIE MENTOR: Requesting that they provide financial assistance for me to undergo the trip as Parliament was in recess at the moment and I could not access financial assistance from Parliament. Document 218 is an invitation letter from DTI that I received. Nobody could go on the state visit if they did not have this invitation.

20 **ADV MAHLAPE SELLO SC:** Okay, and is that the invitation you say you received from the DTI?

MS VYTJIE MENTOR: Yes, thank you.

ADV MAHLAPE SELLO SC: I would like to place on record that the Commission requested documentation from the DTI pertaining to this trip to China and these were received. Chair, they form part of D1 and appear from pages 168 to 216.

CHAIRPERSON: Thank you.

ADV MAHLAPE SELLO SC: Thank you Chair. Now Ms Mentor, when the Commission received these documents, we perused them and I would like to refer you to page 209, that is the list from 219 to 216. That is the list of confirmed guests or people who travelled on this trip provided by the DTI. They are numbered sequentially and if you go to page 212, and here I apologise for the small print, we couldn't enlarge it. Against item 180.

10 **MS VYTJIE MENTOR**: I beg your pardon?

ADV MAHLAPE SELLO SC: At page 212.

MS VYTJIE MENTOR: Yes.

ADV MAHLAPE SELLO SC: If you look at the extreme left column at the numbering of the items. Now against item 180, could you read into the record what is stated there?

MS VYTJIE MENTOR: Ms Mabel Petronella Mentor, Chair Public Enterprises, Parliament.

ADV MAHLAPE SELLO SC: Thank you. Do you propose to the Chairperson that accused, as far as the DTI is concerned, based on the documentation they have submitted, you were part of the confirmed list on the trip?

20 **MS VYTJIE MENTOR**: I do.

ADV MAHLAPE SELLO SC: We are then at a point where you are a confirmed delegate on the DTI list. In terms of your letter at page 217 of D1, you have requested funding from Transnet. Were you successful in that regard?

MS VYTJIE MENTOR: I was successful ma'am.

ADV MAHLAPE SELLO SC: From paragraph 31 of your statement at page 10, have you located it?

MS VYTJIE MENTOR: Yes ma'am.

ADV MAHLAPE SELLO SC: From that paragraph, you start with the actual trouble. Could you read into the record, paragraph 31.

10 **MS VYTJIE MENTOR:** *"I was required to fly via Dubai as I was a very late addition to the state visit. When I received my flight details from Transnet, I noticed that my ticket had been booked in First Class on Emirates Airline. When I enquired why this was so, I was informed that most flights were fully booked as there were many groupings from both business and Government going to China. I was informed that Transnet was only able to secure me a First Class ticket on Emirates."*

ADV MAHLAPE SELLO SC: And you did board that aeroplane, that Emirates flight to China on the allocated date?

MS VYTJIE MENTOR: Via Dubai, correct.

ADV MAHLAPE SELLO SC: Via Dubai. At paragraph 34 you deal with the contact
20 person at the DTI at the time.

MS VYTJIE MENTOR: Paragraph 34, not page 34?

ADV MAHLAPE SELLO SC: No paragraph, sorry, 33 actually, 33, page 11 of your statement. And that person, can you state on record the details of that person, the name?

MS VYTJIE MENTOR: Yes.

ADV MAHLAPE SELLO SC: Please do.

MS VYTJIE MENTOR: The contact person I was directed to was Igwar Sharma, who was a Deputy Director General, DDG, at Trade and Industry Department at the time.

ADV MAHLAPE SELLO SC: Starting from paragraph 34.

CHAIRPERSON: Ms Sello, you have asked the witness to tell us the name of the contact person reflected in paragraph 33 but I think that information of that evidence coming as it did it's without context, isn't there something that happened before paragraph 33 that's relevant to the significance of that contact person.

ADV MAHLAPE SELLO SC: Indeed so Chair and that will be set out in paragraph 32.

CHAIRPERSON: Okay. So let her cover that so that the listener understands the whole story. I know you have read the statement, she has read the statement, I have read the statement but a lot of people haven't read the statement, so they don't understand the context.

ADV MAHLAPE SELLO SC: It's quite correct Chair. I am indebted to the Chair. Ms Mentor you understand the Chair correctly points out that we skip certain important averments in your statement because I think we have become so familiar with that. You have read into the record paragraph 33, can you go back to paragraph 32 which as the Chair correctly points out is the context of what is stated in 33 and perhaps is only appropriate that you should read that paragraph into the record so that the reader or the listener can contextualise what's in paragraph 33. Thank you.

MS VYTJIE MENTOR: Thank you Chair, thank you Advocate. *“Once Transnet agreed to pay for my accommodation and travel, I made enquiries from the Department of International Relations as to the details of joining in the state visit as per my invitation from the Chinese. They explained the process to me and then directed me to seek accreditation with the Department of Trade and Industry as it was that Department that was the lead department in relation to the state visit.”*

ADV MAHLAPE SELLO SC: Thank you Ms Mentor. Then I think that properly contextualises what is in paragraph 33. From paragraph 34, in fact in 34 and 35, you deal with what transpired while you were in flight to China via Dubai and could you talk to what
10 transpired in that plane or in those planes?

MS VYTJIE MENTOR: When I was aboard the flight to Dubai, a certain young man who was accompanied, who was not alone, knocked at my cubicle and introduced himself as Duduzane. I must say that there was a time, at the time what I could remember very vividly was Zuma and there was a time when Duduzane Duzile was not important but what stuck with my mind was Zuma. I recognised him from media clips with his short dreadlocks at that time. He introduced himself to me and introduced another person, he was with two people. I recall the other person that he introduced to me. He said that I was doing a sterling job in Parliament, he was glad to meet me and he introduced me to, he was with two people that what stand out to me in my memory is the gentleman, the other
20 gentleman of the two, that he introduced to me. He later also requested me if he could go and introduce me to another person. There are two gentlemen that he was with were Indian looking and the other man that he took me to, the cubicle of, was a black man, an African man. He said to me, can I introduce you to my chairman. I took that to mean, chairman in the business field because having read in the media, I knew Mr young Zuma

to be in the business space. That person he introduced him to me as Mr Fana Hlongwane. I must say that sometimes I make a mistake of Hlongwa and Hlongwane.

ADV MAHLAPE SELLO SC: Okay, and on that score I would like to pose a question to you but before I do so, do you confirm that you have published a book in 2017, titled, “No holy cows”.

MS VYTJIE MENTOR: I do.

ADV MAHLAPE SELLO SC: Chair, I would like to make a reference on a very small aspect to that book and I don't necessarily turn that into evidence, In that book Ms Mentor, at page 137, I don't think you have the book before you, so with your permission I
10 will read the paragraph. It's page 137, last paragraph, on that page, it reads and I quote:
“The black man that the son of the President was introducing to me was Brian Hlongwa, (I already knew his name and his face from various newspaper reports previously)” Now, in your statement at 35 you say it was Mr Fana Hlongwane. Can you explain to the Chairperson why the discrepancy and now perhaps with hindsight and knowing people better, which is the correct name that you intend to refer to.

MS VYTJIE MENTOR: There is an inaccuracy in the book about Brian Hlongwane.

ADV MAHLAPE SELLO SC: Sorry, Brian Hlongwa to be precise.

MS VYTJIE MENTOR: Hlongwa, thank you. It comes as an issue of confusing Hlongwa and Hlongwane but I know for certain that that man was not the former MEC for Health in
20 Gauteng because I stand by what I wrote in the book that I recognised him from media reports so the mistake is not in the statement before the Commission, it is in the books and it arises from Hlongwa, Hlongwane confusion.

ADV MAHLAPE SELLO SC: I am sure the Chairperson has made a note of that. Now you confirm that you have appeared before the Public Protector.

CHAIRPERSON: Before you proceed Ms Sello. Aren't there two things in the statement you made about Mr Fana Hlongwane and what is in the book in the sense that as I understand the book also gives a name that's different from the name you gave, there is not just a surname, is both the name of the person and the surname that are different from the name and the surname that you have given. You have explained the surname part but you haven't explained the name part, Brian and Fana.

ADV MAHLAPE SELLO SC: Indeed Chair, thank you. Ms Mentor, would you care to?

10 **MS VYTJIE MENTOR**: Chairperson, I am a teacher by profession. In my career as a teacher, when I pull a surname from my memory, it might pull an associated name and it's a state that I cannot explain that I can only say that because when I wrote the book and also both Mr Fana Hlongwa and Hlongwane had been on the media a lot so for me Hlongwa always goes with Fana and Hlongwane always goes with Brian so I think that's how the mistake came about that once Hlongwane pulls out of the memory, it pulls together with the name Brian. I hope I am still not mixing the Hlongwa and Hlongwane.

ADV MAHLAPE SELLO SC: Please advance to page 11. Your paragraph 35. Last sentence of that paragraph, that's where you provide the name.

20 **MS VYTJIE MENTOR**: Oh yes. Whenever I pull, when my memory brings forward Hlongwa, that surname comes to my memory with a name and that name is Brian. When my memory pulls Hlongwane from the media reports, it pulls a name together with the saving. Why it is Brian Hlongwa in the book is because I mix up Hlongwa with Hlongwane but when Hlongwa pulls out of memory, it pulls together with Brian.

ADV MAHLAPE SELLO SC: Chair, does that answer the Chairperson's question?

CHAIRPERSON: Well, I don't think she can give anymore explanation than she has. I think just as long as she doesn't call me Zondi.

ADV MAHLAPE SELLO SC: I might Chair.

CHAIRPERSON: Please proceed Ms Sello.

ADV MAHLAPE SELLO SC: Thank you Chair and if I may add, Ms Mentor, for all our sakes, please don't make that error. I'll make a mental note. You testified before the Public Protector when the Public Protector was investigating or looking into the question of possible state capture, do you confirm that?

MS VYTJIE MENTOR: I do.

10 **ADV MAHLAPE SELLO SC**: We are making available Chair, the transcript of Ms Mentor's interview by the Public Protector, it's in bundle D1, starting at page 38, it's the bundle with your statement.

CHAIRPERSON: I am sorry Ms Sello.

ADV MAHLAPE SELLO SC: Yes Chair.

CHAIRPERSON: Having read the statement myself, is there nothing you are leaving that according to her, happened on the flight that is relevant?

ADV MAHLAPE SELLO SC: We are not done with the flight Chair, thank you. I just wanted to finish off the question of the identity of the person, yes. Now if you have regard to the transcript, it start at page 38. Have you located it?

20 **MS VYTJIE MENTOR**: Just didn't know the issues attached to 37.

ADV MAHLAPE SELLO SC: Okay, have you located it? And Chair, if I may just place on record probably where Ms Mentor is confused, the Chair will notice that Ms Mentor's

statement goes up to page 37. It is then followed by a service of documents numbered 37 (a) to 37 (v) for victory and the reason for that is when the bundles were being produced and paginated, Ms Mentor's annexures were erroneously left out. So because they were already paginated we needed to start a new series of 37 (a) to (v) so that the documents are together with your statement, you understand? Now the PP's transcript, it starts at page 38 and for the record, that is not part of your annexures, the PP's transcript is a document sourced by the Commission. Chair, just to note, from page 38, the transcript notes that is a meeting between the Public Protector South Africa and Ms Vytjie Mentor, dated 21st July, 2016. Now if I may inquire from Ms Mentor, Ms Mentor, do you recall how many times you had a meeting or interview with the Public Protector, was it once, was it more than once?

MS VYTJIE MENTOR: Once. That answer is important in this regard Chair, the Public Protector report itself, at page 70, states that, at page 70 states that this interview took place on the 22nd July so there is a discrepancy between the date on the actual transcript and what the PP indicates, however, that is in a view of no moment, one of them might just be a typo and the witness has indicated, she has had only one interview. Now in that interview, Ms Mentor, you deal with this issue about your flight to Dubai from page 61 and in particular from line 24 after you indicate that they booked you on the Emirates flight which flew via Dubai. The second last sentence, you see that? At page 61.

20 **MS VYTJIE MENTOR**: Yes ma'am.

ADV MAHLAPE SELLO SC: You have this conversation then with the Public Protector at pages 62 to 63. Now, if you have regards to page 64 at the top of page 64, you state and I quote: "So that was the end of it as far as the leg to Dubai was concerned." Do you see that?

MS VYTJIE MENTOR: Yes.

ADV MAHLAPE SELLO SC: Now with regard to pages 61 to 64, as I have pointed out to you and I do not see a reference to Mr Brian Hlongwa or a Mr Fana Hlongwane. Did you inform the Public Protector about this aspect and if not, why not?

MS VYTJIE MENTOR: If I did not inform the Public Protector, it would be just that an issue of memory at the time.

ADV MAHLAPE SELLO SC: So you say you simply forgot to bring it to the Public Protector's attention but you stand by your assertion in your statement that this introduction as you explain in page 35 to Mr Fana Hlongwane, it did take place?

10 **MS VYTJIE MENTOR**: Yes.

ADV MAHLAPE SELLO SC: Thank you. From your paragraph 36 you then arrive in China and you deal with your China stay.

MS VYTJIE MENTOR: Oh, I beg yours ma'am, paragraph 36 or page 36?

ADV MAHLAPE SELLO SC: Paragraph 36. Before I go there, the Chairperson had pointed out something I had forgotten, that there are other issues you deal with on the flight to Dubai that I haven't canvassed with you now in your oral testimony and this is set out in paragraph 34, page 11 of your statement, yes.

20 **CHAIRPERSON**: I must just say Ms Sello and Ms Mentor, that preferably you should give your evidence without too much reading. If you have had a chance to refresh your memory through your statement so that it can come across as you recall the events. Obviously if there is something you have forgotten, you can have regard to the statement but it is much better if you just speak to the Commission, tell the Commission what

happened, what you witnessed, what you were told. Tell a story in other words Ms Sello, thank you.

ADV MAHLAPE SELLO SC: Thank you Chair, you understand Ms Mentor? Then with that understanding, the Chair properly pointed out that in paragraphs 34 and 35 there are other aspects you deal with which you had not yet testified to. Do you confirm that? Please then inform the Chairperson what else you want the Chairperson to know about the flight to Dubai which is set out in your statement.

CHAIRPERSON: Maybe, don't say what else, maybe you must say whatever it is you haven't told me so far that happened on the flight, this is the chance for you to tell me so
10 then you can cover whatever you think you haven't told me, that's relevant for our purposes.

ADV MAHLAPE SELLO SC: Thank you Chair.

MS VYTJIE MENTOR: One of the two men that was with Duduzane and one that he introduced to me, had pointed out to me that his brother was already ahead of the state visit that he was already in China and that he was leading the advance team for the President. I actually did not know what the advance team is and it was explained to me that it is a team that goes ahead of the President's visit to do logistics, to check security and all those things so he said that to me with pride and so that's one of the things that's coming to my memory about that introduction.

20 **ADV MAHLAPE SELLO SC**: Do you know the names of the people you were introduced to on that flight?

MS VYTJIE MENTOR: At that time, it was not particularly important for me, it was not a significant thing for me to make an effort to remember the names but much later on because of events that occurred, both in China and events that were in the media and

reported things to protect you in the media, what I took note of was not the first name but the last name but I subsequently got to know much as I need not take cognisance of the first name that that person's name was Rajesh Gupta.

ADV MAHLAPE SELLO SC: And in your statement can you clarify who informed you that the other one was part of the President's advanced team?

MS VYTJIE MENTOR: The person that I later came to know the first name of being Rajesh.

ADV MAHLAPE SELLO SC: Okay, thank you.

CHAIRPERSON: So Mr Rajesh Gupta as you now understand, was on that flight or was
10 he on that flight with you?

MS VYTJIE MENTOR: Yes Chair.

CHAIRPERSON: But at that stage you did not know his name?

MS VYTJIE MENTOR: I did not pay particular attention to the name, neither did I memorise it, the first name.

CHAIRPERSON: Oh but you would have been told but you might not have...

MS VYTJIE MENTOR: Paid attention.

CHAIRPERSON: Yes okay and is he the one who told you that his brother was already ahead in China?

MS VYTJIE MENTOR: Yes Chair.

CHAIRPERSON: Did he give the name of his brother at that time or did he just say, my
20 brother is already ahead?

MS VYTJIE MENTOR: I recall him saying, my brother is already ahead.

CHAIRPERSON: And at that time you didn't know which brother?

MS VYTJIE MENTOR: Yes Chair.

CHAIRPERSON: But you subsequently got to know which brother he was talking about?

MS VYTJIE MENTOR: Yes Chair, it has been, initially when I was preparing myself for appearing before the Public Protector and even at the time when I appeared before the Public Protector, I was still mixing up the names of the other two brothers but not the name of Rajesh. I was always mixing up the name of Ajay and Atul so in the flight, I only recall that the person that I came to know as Rajesh told me that his brother leads the advance team of the President and is already in China.

10 **CHAIRPERSON**: And how did you get to attach the name to the person that Mr Rajesh Gupta said was his brother who was already ahead in China?

MS VYTJIE MENTOR: Because of what happened in China and because of my encounter in Sahara, subsequent to the China visit and in the Saxonwold and I later became able to distinguish who is who in terms of the names.

CHAIRPERSON: You were told on the flight by the person that you understood to be Mr Rajesh Gupta that my brother is already ahead in China so how soon after that did you come to be able to know which brother, was that during the China trip or was it after you had returned home, was it after you had been to Saxonwold?

20 **MS VYTJIE MENTOR**: An incident, two things that happened in China, when I got accredited, I was assisted by the person I later came to be as Rajesh with the accreditation because he is the first person I spotted when I tried to register myself and I had been assisted by another person for the banquet. Then another incident where somebody spoke to me through the telephone of the hotel, I knew that person was a

Gupta who spoke to me but I [indistinct] knew the difference between Atul and Ajay once I was back home and my trip to Saxonwold assisted me to distinguish them in terms of physique and then when I met the Public Protector, whereas I could separate physique, I could identify them. I later only became certainly aware because I had marked one of them that I met in Sahara with a ring and I also marked the difference in obesity in the size of the two and then I made a special note much later also to familiarise myself in terms of distinguishing the names because to me Ajay and Atul are two confusing Indian names.

ADV MAHLAPE SELLO SC: Chair, with your permission, that is the next chapter I am
10 going to move onto and perhaps it might assist her if Ms Mentor takes it sequentially because at this juncture we have about arrived in China and her next topic is to inform me what transpired in China, what contact she had with whom until she then comes back to South Africa, then we take the next step, with your permission.

CHAIRPERSON: Okay, you may proceed ja.

ADV MAHLAPE SELLO SC: I am ready to proceed Chair, I see it is 11.12, I think we are being charged for two days so should I start and stop at quarter past or?

CHAIRPERSON: Maybe let's use this four minutes, you will just ask her.

ADV MAHLAPE SELLO SC: I will let you know when it is quarter past. Ms Mentor, in
20 your statement, having dealt then with the introductions to the various people, you state, "*by the time I arrived in China, it was already the first day of the state visit*", so you are in China according to paragraph 36. Please inform the Chair what happened from the moment you landed in China.

MS VYTJIE MENTOR: I had to get accredited so I proceeded, I was on crutches, I proceeded to a hall where accreditations and things were done. Because I was late, the

hall was filled with people moving around that I think were late for registration or accreditation like I was and there were various tables so I looked around and I spotted the gentleman that Duduzane had introduced to me on the flight, then I summoned him, approached him and I asked him to assist me with accreditation. He led me to a table where I was accredited. During that day there was a breakaway session. Apart from the accreditation both for the business arrangement and for the state banquet that was going to take place that evening that I also got accredited for at a different table so from one table when I did the one accreditation, the person I came to know as Rajesh took me to another table where I got accredited for the banquet. Then from there I proceeded to a meeting place where the I would say, issues like households for the meetings were laid out. That is a separate hall from the accreditations and registrations were being done and in this place, Minister Rob Davies as the Minister of the lead department for the state visit, did the first remarks. There were other Ministers in the room, there were other people that I knew like I was seated next to Ms Lindiwe Zulu, at that time she was not yet a Minister. I think she had just seized being an envoy to Zimbabwe for the President, she was at that time if I am not wrong a Parliamentary, but she was not a Minister. Minister Nkoana Maite Mashabane was also there, there were these gentlemen, oh, I forgot to say that the three that I later came to firmly know in my mind that are the Gupta brothers, were seemingly in charge of the procedures and processes.

20 **CHAIRPERSON**: I am sorry Ms Mentor, we are going to take a short break at this stage, it is quarter past eleven, we are going to be back at half past eleven, we adjourn.

Session 2

CHAIRPERSON: Yes Ms Sello?

ADV MAHLAPE SELLO SC: Thank you Chair. Chair before I proceed with Ms Mentor, I would like to, with your leave, make a very brief application. Bundle D1, Ms Mentor's main Bundle, includes statements, copies of statements received from the Hawks. The Hawks in response to a subpoena issued on Friday, are delivering the originals of those statements and with your leave, I would request that they place themselves on record, hand them over and we take full custody of those statements, the originals.

CHAIRPERSON: Why must they place that on record? Why must they, that is, the
10 Hawks as I understand what you are saying?

ADV MAHLAPE SELLO SC: The concern had been because they are originals and it is in response to a subpoena that they deliver on record, those documents before we take custody. We are in your hands Chair if you advise us to sign for them without the necessity of them going on record, we are happy to do that.

CHAIRPERSON: Yes I think if they have given them to you and you make sure that they are safe and when I need them, they are made available, that should be fine. I don't see that there should be a problem.

ADV MAHLAPE SELLO SC: Thank you Chair, may I turn around and instruct Mr Mabunda the attorney accordingly?

20 **CHAIRPERSON**: Yes.

ADV MAHLAPE SELLO SC: Thank you Chair, coming back then to the testimony of Ms Mentor, Ms Mentor, when we broke for tea, you were still...[intervenens]

CHAIRPERSON: Actually I think probably it is the Secretary who should sign for them isn't it, the Secretary of the Commission for records?

ADV MAHLAPE SELLO SC: Mr Mabunda will attend to that.

CHAIRPERSON: Okay alright.

ADV MAHLAPE SELLO SC: Thank you Chair. When we broke for tea Ms Mentor, you were still addressing the Chair and telling him about the events of your first day of arriving in China. You were on the point of being assisted with accreditation and obtaining accreditation. Can you then take the story from there?

MS VYTJIE MENTOR: Advocate, am I allowed to take you back just slightly with the
10 Chair's permission?

CHAIRPERSON: Yes you may do so.

MS VYTJIE MENTOR: Thank you Chair, the question of how I came to know who is who of the brothers, it had never been a problem for me to identify them. If somebody shows me a picture or if they parade, I have always been able to point them out, but I had always had a challenge, especially the two – not Rajesh, Atul and Ajay, I had to later devise a means apart from having marked them with a ring and with a difference in physique, I had to learn their names by eventually creating a formula for myself in my mind that says there is Atul and there is Ajay. I know them in my mind, I can point them out, I can separate them, I know their physiques and their faces, but who is who in terms
20 of the names, I used the issue of who is elder and who is younger and I had to drill it into my mind to say in the alphabet, J comes before T and therefore, Ajay is the elder brother and Atul is the younger brother. So I had done a whole lot of exercises wanting to command the difference in their names, but I never had a challenge of separating them

out in terms of pointing them out or separating them out through their faces or through their physiques.

ADV MAHLAPE SELLO SC: Thank you Ms Mentor. Ms Mentor from your Paragraph 39, you are now in China and you deal with the roles played by the different Gupta brothers if I may refer to them in those terms. Can you take the Chair through that?

MS VYTJIE MENTOR: In the meeting room where the Minister of Trade and Industry Rob Davis, Dr Rob Davis opened the proceedings, he handed over to the person that I later came to know for sure is a Gupta brother. They were milling all over, they were in charge so to speak, because they wore tags around their necks that officialised them and
10 that officialised them as far as I am concerned, in a weightier manner than other people, in that a whole lot of people carried 1 or 2 tags, especially mostly carried 2 tags around their necks, 1 or 2, but they carried 3 tags.

I could never determine what the third tag was, but in my mind, that gave them a very, officialised important role that they were playing in the room and from time to time, Minister Davis would defer to one of them to explain the procedures to address the audience. The others, apart from the one who stood in front with Minister Rob Davis, the other ones were moving in and out and freely talking to and associating with other people in the hall and Ministers.

ADV MAHLAPE SELLO SC: If I may interject at this point, how many Gupta brothers in
20 all, are there in China firstly?

MS VYTJIE MENTOR: You mean at the time in the hall or for the duration of the visit?

ADV MAHLAPE SELLO SC: Just generally when you were in China on the first day?

MS VYTJIE MENTOR: Three of them.

ADV MAHLAPE SELLO SC: Okay and you indicated to the Chairperson, that the Minister deferred to one of them mostly. Are you able to distinguish which of the three the Minister deferred to?

MS VYTJIE MENTOR: My memory does not serve me very well, but it was not Rajesh.

ADV MAHLAPE SELLO SC: Okay, you may proceed?

MS VYTJIE MENTOR: Thank you. There were a few Ministers that were there. I have already quoted their name. Something happened that really hurt me and disturbed me in that hall, that I knew the Ministers fairly well, I have worked very closely with them before. Rob Davis in particular, served under me when I was Chair of Caucus, he was Chair of
10 Trade and Industry Portfolio Committee and we worked very closely together in a forum called Strategy Meetings for the ANC in Parliament.

Minister Maite Nkoana-Mashabane, I was very close to her, I previously travelled to Tunisia with her, but the reception to me, in that meeting hall, was extremely cold and that, unsettled me and that unnerved me. People were allowed to engage the chair, the chairing people, that were Minister Rob Davis and a Gupta brother that were in charge of the proceedings and people were allowed to raise their hands from the floor to speak.

My hand was raised from the beginning to the end and I was not recognised and that hurt me very badly. There are companies belonging to the Chinese government which are state owned entities that I was going to meet, because the purpose of that meeting in the
20 hall, was to facilitate that people become grouped into sectors, sectors and industries.

It was explained that you might be interested in one industry and one sector, but you may cross over to the other, or you may organise yourself and it was read out which sector, there were various halls, which sector would meet where this is, the housekeeping that I alluded to earlier on. The Chinese state owned enterprises that I had been in discussion

with together with Transnet and Eskom, back in South Africa and the ones that we were going to meet together alongside the state visit, subsequently converged around me. I was clearly hurt, I did not want them to pick up the vibe that I was kind of being isolated and treated badly and in my mind, I was wondering whether there has been a pre-discussion somewhere that I should be treated in this way, but at the end of the day, I did not attend the initial ceremony of the day. I ended up in that hall and we sat together as a sector or a cluster as we had planned because they converged around me.

Then I started to worry a lot about the treatment that I was receiving and immediately in that hall, I don't know if I say this in my statement, but I began to wonder if it was even
10 necessary to attend the banquet.

ADV MAHLAPE SELLO SC: Before we get to the banquet, for clarification, you state that you did not attend the initial ceremony. What ceremony are you referring to?

MS VYTJIE MENTOR: There was what I call the "pomp" ceremony which is a fanfare of – it's an outdoor ceremony with the necessary décor and fanfare and that's the part that I did not attend, because I arrived late.

ADV MAHLAPE SELLO SC: Okay thank you. You may proceed with your testimony?

MS VYTJIE MENTOR: So that is the gist of what happened in that hall.

ADV MAHLAPE SELLO SC: Did you attend the proceedings of the day in the hall until they ended on the day?

20 **MS VYTJIE MENTOR:** Yes I did not leave early I do not remember leaving the proceedings early.

ADV MAHLAPE SELLO SC: Then what happened for the rest of the day?

MS VYTJIE MENTOR: I began to toy with the idea of whether to attend the state banquet or not, already in that hall, because of the hostile treatment. Then at the end of the day, I retreated to my hotel room and I firmly decided whilst I was in my hotel room, that it would not be a good idea for me to go and mingle with people that are hostile towards me and I decided that I would skip the state banquet and I would sit in my room.

I took a shower and then I ordered room service.

CHAIRPERSON: Before you proceed to room service, am I right to think that you do not ascribe the way you say you were treated by some of the Ministers, you do not ascribe that to anything connected with what this Commission is investigating? It might be
10 something else that is unconnected?

MS VYTJIE MENTOR: Yes Chair.

CHAIRPERSON: Thank you.

MS VYTJIE MENTOR: I think the other issue that I considered, apart from the hostility, was also the issue of I toyed around with the issue of what I would get dressed in, but once I took a decision that I am not going, I took a shower and I ordered room service. I was watching a bit of television because the events of the day were being replayed, I watched China Central Television. Then suddenly my room phone rang and a lady from reception informed me that people were asking for my room number and that would like
20 to talk to me. Apparently they first wanted to come to my room, but they asked to speak to me on the phone. I asked her to describe them to me. She said there were two men and she said that they were Indian looking or Indian.

I eventually asked her to put one of them on the line to speak to me and the person on the telephone identified himself as a Gupta. He informed me that he has been sent...[intervenes]

CHAIRPERSON: I'm sorry, did he give his name and then the surname, or did he simply say I am Gupta or I am one of the Gupta brothers or what exactly did he say?

MS VYTJIE MENTOR: He may have said his name. What stuck to my mind was the surname.

CHAIRPERSON: Thank you.

MS VYTJIE MENTOR: He told me that he was sent by President who was President Zuma at the time to come and fetch me to drive me to meet President Zuma at the Chinese state guesthouse where the President was putting up and he told me that the President would like to meet me before he heads to the state banquet. I was concerned I
10 asked this person, how he know where I was putting up, the hotel that I was putting up in. I asked him a few questions that were meant to ascertain if he is truly South African.

Earlier on, these two men had said to the hotel receptionist that they are South African and they are part of the state visit and this person told me the same thing and that he is coming to pick me up at the behest of the President and I asked him a number of questions. I asked him how he knew my hotel. I told him that I was concerned that a person that I have never met before, I would not allow a man, foreign so to speak, foreign in that he is not my acquaintance, to purport to me that he is supposed to drive me to the President and I accept that and I render myself to being driven by a man or two men in a foreign country, just on the basis of what those people are telling me over a hotel
20 telephone line.

So he went on to give me information that was to convince me that indeed, he is part of the state visit, indeed he is South African, indeed he is sent by the President. He told me that he led the advanced team of the President and at that moment, the fact that his surname was already in my mind and the fact that another person on the Emirates flight,

had told me about a brother that was part of the advanced team. I must say that he said that he leads to the advanced team when he spoke to me on the phone, he didn't just say that he is part of the advanced team.

I said to him, I was not going to leave with him. I said this to him in no uncertain terms and he became, as we spoke, he became increasingly – at first, he became boastful in trying to convince me of his role and importance in the state visit and then as I stood my ground that I was not going with, he became a little bit aggressive in tone and at one point, he said to me he was going to call the President and inform the President that I am refusing to come with him, so he told me he is calling the President, he would call me
10 back in a few minutes time, which he did.

When he called me back, he said the President insists that you must come with me and then I told him that please tell the President that I am not coming. I raised the issues of my safety that I could not go with foreign people and also in my mind, because I had been wanting to see the President on South African soil and I had made several attempts to see the President, it was very strange for me and discomforting that I would get invited to see the President on foreign soil. So we had a bit of discussions on the phone.

Eventually I made it abundantly clear, that I was not going and later on, I put the receiver down and later on, I even unhooked it and we had met briefly during the day. As I said, the Chinese delegation had converged around me and after that encounter on the hotel
20 telephone line, I was very unnerved, I was very frightened. I must say that at that time, issues of my security frightened me a lot, but also in my mind, in addition, I was not going to, because the sun was setting, I was not going to as a woman, go to President Zuma who had then and had a reputation with women, so that was the number of factors that I considered, that I wanted to see him in my country and he did not avail himself and he

suddenly wants to see me there. At that time, I was not thinking about, other than my security, I was saying I cannot go and hand myself to a man who has got a reputation with women on a silver platter driven by strange people.

Before I slept, I was considering what next. I called the Chinese delegation, the leader of the Chinese delegation again on my cell phone because I was already pondering to cut the visit short, because I was frightened and I felt unsafe, but because the mission of making sure that the SOE's of China and South Africa memorandum of understanding falls under the umbrella of the state visit, was not completely accomplished, I had to touch base again with the leader to say that this mission must still be realised, because in
10 my mind, I had to find a way of making sure that that memorandum of understanding – I must say, what all the companies do in those sessions, the business sessions and the industry session and the sector session, they don't sign contracts per say or whatever, it's a ceremonial signing of memorandum of understanding or declaration of intent to cooperate, so these things begin at that level at various sectors and industry and groupings and at the end of the visit, they are all put together of the signature between the two presidents.

So my call to the Chinese leader of the delegation was to make sure that that ceremonial memorandum of understanding sees the light of day, because it would have been an abortion of my mission if that did not happen. I then decided firmly, that we will meet and
20 that I am heading home for my safety and for my security. I must point out that the next leg of the state visit was going to go to Shanghai so I decided that I am not going to undertake that leg. I first tried to get hold of my secretary, my PA to ask her to arrange for me to come back home as soon as she gets a flight back for me and I could not get her, because there is a time difference between China and South Africa, but because from my documents from DTI, I had the information of the travel agency. I directly

contacted the travel agency and asked them to put me on the next available flight to South Africa.

ADV MAHLAPE SELLO SC: Now you say you brought your return forward. I would like to refer you to Bundle D1 which is your main bundle and in particular Page 226 to 228. That document, I must explain to you, is a question and a reply in Parliament and the reply is by the then Minister of Public Enterprises Mr Gigaba. This was issued by Parliament on December 6th 2010 and we obtained it from the web. Now I would like you to have regard to Page 227 at which you will find a table and that table indicates the accommodation arrangement in Part (i) and under (ii) the itinerary for your travel from
10 Johannesburg to Beijing to Shanghai to Dubai and back to Johannesburg, do you see that?

Now from your recollection, does that accord with your itinerary as you left Johannesburg on that date on this China trip, what you have at 227?

MS VYTJIE MENTOR: You mean in totality?

ADV MAHLAPE SELLO SC: Yes, when you left Johannesburg to go to China, was that your itinerary to your recollection?

MS VYTJIE MENTOR: This was supposed to be my itinerary, but I did not fulfil it to completion, because I cut the visit short and in fact, that also means that the amount written there, is not the amount spent on my trip because I did not proceed to the
20 Shanghai leg and I didn't incur hotel accommodation in Shanghai.

ADV MAHLAPE SELLO SC: Now according to 227, you were scheduled to depart Beijing for Shanghai on the 25th of August 2010, do you see that?

MS VYTJIE MENTOR; Yes?

ADV MAHLAPE SELLO SC: Now based on what you stated to the Chairperson, you are suggesting that you did not take the Shanghai leg of the trip and instead elected to come back to South Africa.

MS VYTJIE MENTOR: Yes.

ADV MAHLAPE SELLO SC: Okay thanks for the clarity, you may then proceed?

MS VYTJIE MENTOR: I recall that I had an undertaking that our ceremonial MOE of the issues of Transnet and Eskom cooperating with those Chinese entities, would materialise in terms of becoming under the umbrella of the signature of the two presidents and I recall the Chinese hosting me in a form of an impromptu formal dinner at my hotel
10 because I was going back home ahead of time.

ADV MAHLAPE SELLO SC: Okay and the arrangements you then made with your secretary or your travel agent, how did you return back to South Africa?

MS VYTJIE MENTOR: I came back to South Africa via Hong Kong. I do not recall whether I came back via Emirates, but I did not fly via Dubai and I did not fly via Shanghai, I came through via Hong Kong.

ADV MAHLAPE SELLO SC: Okay now if I could just go back to something you stated, this notion of advanced team in your conversation with the Gupta brother, was there a discussion about what being part of an advanced team entails and what he was involved with in that context?

20 **MS VYTJIE MENTOR:** Yes already in the flight, I had teased out a little bit, but also because I was asking him questions and he was very boastful about his role, that also came out, but the summary and the gist of it, is that he is the person that deals with all the logistics and whatever it entails and therefore, I cannot kind of refuse to go with him

when he is the main guy, that deals with those kinds of things, the security of the President, the security of who sees the President, where the President goes to and logistics for the whole trip.

ADV MAHLAPE SELLO SC: Okay you are now coming back to South Africa as you state, via Hong Kong. Can you take the story from there, what then happened? You deal with that at Page 17 in Paragraph 58.

MS VYTJIE MENTOR: Without even looking at that, what stands in my mind is Hong Kong, is that I know that I should have taken two separate airlines from Beijing to South Africa, because I recall collecting my luggage in Hong Kong and checking in for the other
10 leg and I recall seeing a woman that was under the same circumstances as I was with a lot of luggage, with a lot of expensive baggage that I admired and envied, expensive branded stuff, a very confident and beautiful lady.

Later on, through media reports, because the face stuck, with me and I was seeing her for the first time there. Later on, I came to know that she is a woman that got wedded to the President. She must have been returning from the same trip but we met in Hong Kong and I spotted her, but later in the media, I could make out who she was.

ADV MAHLAPE SELLO SC: Okay are you suggesting that you were on the flight with her from Hong Kong to Johannesburg?

MS VYTJIE MENTOR: No, I am suggesting that I spotted her. What do you call this
20 thing that brings luggage?

ADV MAHLAPE SELLO SC: The carousel?

MS VYTJIE MENTOR: Yes whatever it is called.

ADV MAHLAPE SELLO SC: Where we pick up our suitcases?

MS VYTJIE MENTOR: Yes and you know when you are in Hong Kong, or when you are mainland China, a fellow African and a fellow South African, a Black face, I could figure out that she is South African, but only later, because what drew me to her, was the many luggage pieces, the beautiful branded luggage she was collecting, so I did not travel with her on the same flight from Hong Kong to South Africa.

ADV MAHLAPE SELLO SC: Okay, does she feature in any manner beyond this, in your statement?

MS VYTJIE MENTOR: No.

ADV MAHLAPE SELLO SC: Okay, now at Paragraph 58, you make certain conclusions
10 regarding the speaker of Parliament and the Public Protector.

MS VYTJIE MENTOR: Regarding the investigations around the China trip?

ADV MAHLAPE SELLO SC: Under the China trip, you say shortly after my return from China?

MS VYTJIE MENTOR: Yes, shortly when I came back from China, a journalist from the Sunday Times called me and shortly afterwards, there were these things in the media that I abused so to speak my authority by asking Transnet to pay for me. Subsequent to that, there was a complaint by Minister Barbara Hogan who was not part of the state visit, to the speaker and a DA member had also complained to the Public Protector, that resulted in the Public Protector and the Speaker of Parliament, separately doing an
20 inquiry into the circumstances around how Transnet got to pay for me and both of them, separately asked me to forward documents to explain myself. I forwarded all the documents I had to the Public Protector and I think I forwarded the letter of invitation to Parliament as well.

At the end of the process, those inquiries, not the Public Protector neither the Speaker of Parliament, concluded that I was guilty of any offence. In fact, I have seen for the first time, I did not even know that I saw from the information that came from Parliament that some committees were supposed to assist with the matter for about a year, but not the Public Protector nor the Speaker, found anything untoward, concluded that as far as I know, that there was anything untoward.

ADV MAHLAPE SELLO SC: Okay Chair, if I may address two issues. Ms Mentor makes reference to documents received from Parliament. These are part of the supplementary bundle, D2 if I recall we called it. Now, if I may refer Ms Mentor then to D2 which we call
10 the supplementary bundle and while Ms Mentor tries to locate that file, or her place in the file, the Commission, through the Secretariat, directed an inquiry to Parliament requesting all and any documents relating to this trip, any inquiries conducted by Parliament and any proceedings subsequently held in regard to that inquiry and any findings that Parliament made and the documents that we received, is what is in the supplementary bundle.

CHAIRPERSON: Thank you.

ADV MAHLAPE SELLO SC: Now Ms Mentor, you referred to a complaint by the Minister and by the Minister, we mean the Minister of Public Enterprises at the time. At the time of your visit to China, who was the Minister of Public Enterprises?

MS VYTJIE MENTOR: It was Minister Barbara Hogan.

20 **ADV MAHLAPE SELLO SC**: Do you know until when she held that position?

MS VYTJIE MENTOR: I think she was recalled or reshuffled at the end of October 2010.

ADV MAHLAPE SELLO SC: Okay, now with that in mind, please turn to Page 40 of Bundle D2? Do you recognise that? It's a letter addressed to the Speaker of the

National Assembly and if you turn overleaf, it is dated 29-09-2010 which is the 29th of September 2010, seemingly under the hand of Ms Barbara Hogan Minister of Public Enterprises, do you see that?

MS VYTJIE MENTOR: Yes I do.

ADV MAHLAPE SELLO SC: Have you ever seen this letter before?

MS VYTJIE MENTOR: I only saw it on Friday.

ADV MAHLAPE SELLO SC: Now, do you understand what that letter is?

MS VYTJIE MENTOR: As a whole, I understand it to claim that I undertook a trip on a personal capacity.

10 **ADV MAHLAPE SELLO SC**: Okay, now if you flip further to Page 42, it's a document dated the 6th of October 2010, do you recognise it?

MS VYTJIE MENTOR: Yes I do.

ADV MAHLAPE SELLO SC: Please tell the Chairperson what it is?

MS VYTJIE MENTOR: This is a letter written by me to the Speaker of Parliament. It was private and confidential at that time. I was responding to the issues that were raised by Minister Barbara Hogan when she complained to the Speaker about my trip that she termed personal capacity.

ADV MAHLAPE SELLO SC: Now if you go further on to Page 45, we are provided with a further letter. Can you identify for the record, what that letter is?

20 **MS VYTJIE MENTOR**: Yes it is a letter written to me by the Speaker of Parliament Mr Max Sisulu, informing me that he had forwarded Minister Barbara Hogan's complaint to be considered by a committee that was chaired by House Chair, Mr Obert Bapile.

ADV MAHLAPE SELLO SC: What is the date of that letter?

MS VYTJIE MENTOR: It is dated the 14th of October 2010.

ADV MAHLAPE SELLO SC: Thank you.

CHAIRPERSON: Ms Sello, this whole issue about the complaint against the witness, is not really relevant for our purposes is it? Isn't the position that maybe you are just getting the witness to talk to give evidence about it in anticipation of being cross-examined on it or something, but is it really relevant for our purposes?

ADV MAHLAPE SELLO SC: It is not relevant directly to our terms of reference. It is relevant based on the conclusion that the witness makes at 58.

10 **CHAIRPERSON**: I assume that conclusion is relevant to the terms of reference?

ADV MAHLAPE SELLO SC: Invariably it will be Chair, because of the conclusion that she draws at Paragraph 21 of her statement.

CHAIRPERSON: Okay alright.

ADV MAHLAPE SELLO SC: I would then like to refer you to the last document in that Bundle Ms Mentor, it appears at Page 216 of the same Bundle, the supplementary Bundle D2. This is a letter at 217, it shows that it is signed by M.V. Sisulu, MP Speaker of the National Assembly, it is the same letter right?

MS VYTJIE MENTOR: Correct.

20 **ADV MAHLAPE SELLO SC**: Could you just briefly state to the Chairperson what that letter indicates?

MS VYTJIE MENTOR: This letter which I only saw on Friday is written by the Speaker to Mr Johnny de Lange. It deals with Minister Barbara Hogan's complaint about my trip to

China and in the letter he refers the matter to the committee that Johnny de Lange MP was chairing at the time.

ADV MAHLAPE SELLO SC: What committee is that for the record?

MS VYTJIE MENTOR: I had concluded that ...[intervenes]

ADV MAHLAPE SELLO SC: On Page 216, the addressee, does not indicate?

MS VYTJIE MENTOR: Oh yes, it was forwarded to the Chairperson of Powers and Privileges Committee.

ADV MAHLAPE SELLO SC: Mr de Lange at the time?

MS VYTJIE MENTOR: Mr de Lange.

10 **ADV MAHLAPE SELLO SC**: Chair notwithstanding a direct request to Parliament that is the totality of documentation received in regard to the investigation pertaining to Ms Mentor's trip to China.

MS VYTJIE MENTOR: I would like to read the 3rd paragraph of that letter which I only got sight of now, because I was wondering why the Speaker would forward this matter to Powers and Privileges and the reason why I didn't even know, the 3rd paragraph it says-

ADV MAHLAPE SELLO SC: Let me just assist the Chairperson, it is the one at 216 Chair of D2.

MS VYTJIE MENTOR: As you are no doubt aware, the Cabinet reshuffle at the time resulted in Mr Bapela taking up the Executive post. I understand this to mean that the
20 Speaker had placed this matter on Mr Bapela's committee and then because he was promoted to a Deputy Minister position, because as a result, he and his committee did

not consider the matter, he forwarded it to another committee which is Powers and Privileges.

ADV MAHLAPE SELLO SC: Understood and maybe for completeness, there is an instruction at Page 217 of that letter to Mr de Lange.

MS VYTJIE MENTOR: I therefore refer the matter to the committee in terms of Rule 194 and kindly request to be kept informed of the committee's findings and recommendations.

ADV MAHLAPE SELLO SC: Now were you ever informed of any findings formally?

MS VYTJIE MENTOR: I had received a hand delivered letter from the Speaker, I think it was a hand written letter, that concluded by saying I now consider the matter closed. In
10 that letter, he outlined everything, recognising the letter the whole process, closing the matter without saying the process has found me guilty.

ADV MAHLAPE SELLO SC: Thank you and as I confirm Chair, the documents provided to us, did not include a finding contemplated in the last paragraph of that letter by the Speaker of Parliament. We are now at Paragraph 59 of your statement Ms Mentor and you deal with that at quite some length up to Paragraph 102 at Page 29 under the heading "the offer made of the position of Minister of Public Enterprises". Starting with what you have reflected in your Paragraph 59, could you tell the Chairperson about this offer of this position of Minister of Public Enterprises when it was made and how it came about?

20 **MS VYTJIE MENTOR:** Chairperson I had been trying to meet with President Zuma to discuss the matter of the pebble bed modular reactor which is abbreviated as PBMR, a nuclear research project of government that is situated at Pelindaba outside Pretoria. I must say that before making several attempts to meet President Zuma, I had also made successful attempts to discuss the same matter with the caretaker president who was Mr

Kgalema Motlanthe and I had discussed the matter also with the Minister of Energy at the time.

This was necessitated by several confusing pronouncements in the public space on the intention to close the pebble bed modular reactor. As a chair of Public Enterprises, I had even before this matter, when we were dealing with the electricity shortage issues, I would convene joint meetings between my committee of Public Enterprises and the committee of Energy and sometimes the Committee of Transport because Transnet fell under the portfolio committee on Transport.

10 My first port of call of understanding the pronouncements was with the chair of the portfolio committee on energy who was a certain Dr Ncaba who is a qualified nuclear scientist. He strongly felt that the PBMR should be closed and I held a different view, because we had already spent as government, R8 Billion on the project and we had trained a lot of human capital on the matter and the project was strategic and was yielding very good results, where it was at that stage already producing isotopes which are important in the field of nuclear medicine and we were exporting those isotopes, so for me, the announcements were reckless and were not taking into account the various sectors.

I was also concerned about the intellectual property rights of the project because that project was located under Eskom and Eskom had a partnership with an American energy
20 company called Westing House, so for me, there was a rush in pronouncements to close the project and in trying to understand, I scurried around, I put this matter before the committee, I even took the committee to Pelindaba.

CHAIRPERSON: Sorry Ms Mentor, Ms Sello do we really need all those details, or is it sufficient if we know that in her position as chair of the Portfolio Committee, that she was

chairing, she had issues that she wanted to raise with the President in regard to the project that she has mentioned, do we need the details?

ADV MAHLAPE SELLO SC: I would agree Chair we do not, I was loathe to interrupt the witness, when the witness is trying to share with the Chair what they consider important, but I agree with the Chair, that for purposes and particularly the heading under which these matters are canvassed, that detail is not necessary.

CHAIRPERSON: Maybe you are trying to strike a balance between letting her testify and not you testifying the bar and leading her, but maybe you should lead her more in terms of directing her to what exactly you are looking for.

10 **ADV MAHLAPE SELLO SC**: I am happy to Chair.

CHAIRPERSON: Thank you.

ADV MAHLAPE SELLO SC: Ms Mentor you have understood the point of Chair and you have made the point that you had tried to see the previous President and what it was about. You will recall that we now want to get the officer ostensibly made to you of a cabinet position, so then if we can get closer to the date on which this offer is made, I think it would be-

CHAIRPERSON: Maybe let's do it this way Ms Mentor, you were chair of what portfolio committee at the time?

MS VYTJIE MENTORENTOR: Public Enterprises.

20 **CHAIRPERSON**: In that capacity, did you have any issues that you wanted to raise with the former President?

MS VYTJIE MENTORENTOR: Yes Chairperson, it was particularly the issue of the pebble bed reactor and the intention of government or the State to shut it down and I

wanted to secure, amongst others, that the intellectual property rights pertaining to that project, are retained by South Africa.

CHAIRPERSON: Yes, did you ever get to meet the President?

MS VYTJIE MENTOR: Not until the day I had telephone contact, one particular Sunday.

CHAIRPERSON: Okay so you did ultimately meet the President?

MS VYTJIE MENTOR: But we did not even discuss the issue.

CHAIRPERSON: Yes, but do you want to tell us how it came about that you did meet him and then you can tell us about what transpired when you met him? Then you can tell us whether that meeting was what you were expecting when you wanted a meeting with
10 him and what transpired?

MS VYTJIE MENTOR: On the Sunday evening, I received a call from Ms Lakele Kaunda informing me that the meeting that I had been seeking to hold with the President, is going to happen the next day on a Monday.

CHAIRPERSON: Are you able to tell us the Sunday what date if you are able and you can look at your statement if that will remind you?

MS VYTJIE MENTOR: I am not sure of the exact date except that I know that it was post the China trip.

CHAIRPERSON: The month and the year?

MS VYTJIE MENTOR: It was post the China trip. The China trip was towards the end of
20 August and it was before the reshuffling of Minister Barbara Hogan and that happened at the end of October, so this was somewhere between mid-September and October, I would say mid-September and October because when I eventually met the President in

Saxonworld, amongst other things, I recall saying to the President, I apologise President for refusing to see you in China 2 weeks ago.

CHAIRPERSON: Okay so this was sometime between September or from September to sometime in October?

MS VYTJIE MENTOR: Yes Chair.

CHAIRPERSON: Okay thank you, you may proceed?

ADV MAHLAPE SELLO SC: On that note, may I enquire whether you have any written record of the actual travel that Monday? Would you still have it with you or not, although I do appreciate that it has been a passage of 8 years.

10 **MS VYTJIE MENTOR**: I wanted to say that, in that it is not a natural thing to keep boarding passes and stuff, I don't even have a diary of 8 years ago.

CHAIRPERSON: Well if there are those records in the bundle, you can direct her attention to them if there is anything that would help her remember?

ADV MAHLAPE SELLO SC: We do have certain records in the bundle Chair in these bundles, but may I refer to them at a later moment, but we will definitely be dealing with those records. I just wanted to confirm with the witness that she doesn't have her own personal records of this trip to assist the Chairperson in stating the actual date?

20 **CHAIRPERSON**: It is just that it is helpful for everybody to follow the story if one can have some dates. It doesn't have to be the exact date. Maybe in due course, you can deal with that, but what she has said is, it would have been some time from September to October somewhere there.

ADV MAHLAPE SELLO SC: I will deal with the records that we have managed to locate Chair.

CHAIRPERSON: Okay thank you.

MS VYTJIE MENTOR: If I may go back to the issue of the dates, if you allow me Chairperson, the state visit, was around the end of August and if I say to the President, forgive me for refusing to see you 2 weeks ago in China that places us almost in the middle of September. Not exactly in the middle, 2 weeks can mean 10 days, it can mean 14 days and also there is an intervening time that I am talking about between that trip and the recall of Barbara Hogan.

ADV MAHLAPE SELLO SC: For the record, when you say August, September, all this is the same year 2010?

10 **MS VYTJIE MENTOR**: Yes.

ADV MAHLAPE SELLO SC: Thank you. You had just testified that you had communicated with Ms Kaunda on the Sunday. Can you tell the Chairperson how that communication came about? Who initiated that communication?

MS VYTJIE MENTOR: It was a telephone call from Ms Kaunda.

ADV MAHLAPE SELLO SC: Yes?

MS VYTJIE MENTOR: I had two feelings, I was excited that all my efforts of wanting to see the President, was now producing a meeting, but I was concerned that the meeting is the following morning and the following morning, I was in Cape Town and the meeting was going to be, in my understanding, around Pretoria or the Union Building or in the
20 Gauteng Province.

ADV MAHLAPE SELLO SC: Can I just interject? I don't think that you have informed the Chairperson yet as to the content of your conversation with Ms Kaunda? Are you able to recount what was said?

MS VYTJIE MENTOR: Ms Kaunda said to me that the meeting that I have been seeking with the President will take place the next morning and in that conversation, there was somebody that was going to call me, a gentleman pertaining to the meeting. I know that in that conversation, I got a name of Atul. I also got a number for Atul, I do not recall if I asked her for the number, but I got Atul's number from her as the person that would be dealing with the logistics for my trip. I pointed out to her that if I was to travel the next morning, I was on crutches and I would need a passenger assistance unit and according to my knowledge then, you need to apply for a passenger assistance unit 2 days ahead of time and I offered that because I have tickets from Parliament, I could arrange the
10 ticket myself and see if I get the PA unit myself.

I also enquired from her, once I land, how do I proceed from the airport and I learnt from her, that the person whose name and number I got from her, would be addressing that concern of myself and she told me that Atul was going to phone me in the next few minutes. In the next few minutes, we did speak on the phone, myself and Atul and I had asked how would I travel from the airport and I was assured that arrangements would be made.

So also with Atul, it was confirmed that there would be 2 people waiting for me at the airport.

ADV MAHLAPE SELLO SC: Who made the confirmation about the 2 people waiting for
20 you at the airport? Is that Mr Atul Gupta, or is that Ms Kaunda?

MS VYTJIE MENTOR: Ms Kaunda I recall and I am relying on my memory now, I recall that she said I need not worry as Atul would address those issues and Atul assured me that I need not worry, because I asked do I rent a car I am on crutches and Atul assured me that I need not worry, there would be people picking me up.

ADV MAHLAPE SELLO SC: Okay.

MS VYTJIE MENTOR: So I took that flight. It was a South African Airways flight in my memory.

ADV MAHLAPE SELLO SC: And now it is which day?

MS VYTJIE MENTOR: It is a Monday morning it is a 6:00 flight, because according to Ms Kaunda, my meeting was going to be in the morning, I had to take the 6:00 flight. I have been trying to search my memory if I did get a passenger assistant unit for myself for that flight and I don't remember being wheeled on a wheelchair to meet the 2 gentlemen that were waiting for me at ORT. When I arrived, there were 2 gentlemen
10 waiting for me.

ADV MAHLAPE SELLO SC: Now when you say you have arrived, you have now landed at OR Tambo airport. Do you recall earlier in your testimony, the Chair wanted reference to your travel itinerary for that period to determine the date on which you flew to Johannesburg. Chair if I may refer you to D2 Bundle D2 that is what we call the supplementary Bundle Ms Mentor and particular to Page 226. That document goes from 226 to 227 Chair and to place it in its proper context, Ms Mentor signed a consent form that SAA should release all her travel details between the months of July and November 2010 and the document that appears at 226 to 227, is the document furnished by SAA in response to the request.

20 On a proper analysis, it would appear that this is not the list of travel, it actually is a duplication. The dates run from 1 July 2010 to 26 November 2010 and those dates appear in the left column under the heading Flight Date. Now if the Chairperson would have regard to about mid-way, that document, the Chairperson will realise the date of 26

November 2010 at Page 226. Immediately after that date, is the date of 1st July 2010 and I realise, that it is actually a repetition of what is above.

CHAIRPERSON: I am not sure if I follow. Are we at 226 and 227?

ADV MAHLAPE SELLO SC: 226 and 227 is one document. I am at 226 the first entry at the very top is 1 July 2010. The dates will go consecutively until the date of 26 November 2010 which is about mid-way of your document. Now if the Chair would just draw a line under that date, because that is followed by another 1st of July 2010 and if you compare the dates appearing thereunder with the ones above, this appears to be a duplication of what is at the top, the first half of 226, so I would recommend Chair that we draw a line
10 under the 26th of November 2010.

The second issue I should raise is that these are flights that Ms Mentor supposedly took on South African Airways between the dates of 1st July to the 26th of November. There are, a number of issues, that appear from these documents and in particular, if the Chair has regard to the date of the 17th of July 2010, Ms Mentor is meant to have left Cape Town for Johannesburg, but, there is no return to Cape Town and that, again, happens, on the 28th of August and the 2nd.

CHAIRPERSON: She might have used another airline to return.

ADV MAHLAPE SELLO SC: I was getting to that point. Ms Mentor insists to her recollection that it was an SAA flight hence the request was limited to SAA. When one
20 has regard to the dates listed there, the 2nd of September to the 31st of October, none of them follow on a Monday and none of them can be read to be a Monday flight arriving in Johannesburg in the morning and back to Cape Town in the evening. Much as Ms Mentor is confident that it is SAA, she has indicated that she might have made an error,

so what the Commission has done, is to request details from all airlines that service the Cape Town – Johannesburg route.

The second is we would require SAA or somebody from SAA to testify about this record. There are certain discrepancies, so in response to the question you posed Chair this is the best we have by way of record. I would like to place on record that on our analysis, it would appear incomplete and until SAA has testified before you under oath, as to its completeness and correctness, that this document is not conclusive of any fact and in fact, does not answer the question posed by the Chair as to the exact date on which Ms Mentor travelled. So I would request that that issue be kept open until we have received
10 the records of the other airlines and all other relevant documentation we may raise.

CHAIRPERSON: Okay thank you.

ADV MAHLAPE SELLO SC: So now I indicated that I wanted to deal with the record of your travel in response to the question posed by the Chair. From what you have testified to thus far, you now have landed at OR Tambo and can you take the conversation from there?

MS VYTJIE MENTOR: There are indeed 2 men holding a placard with my name and surname on and I approached them. I am having only my handbag and my crutches. The other one takes my handbag and the conversation goes like how are you Ms Mentor the normal stuff that when human beings meet do. The people were wearing, the 2 men
20 were, Indian looking and they were wearing dark suits, were wearing sunglasses, dark sunglasses and were having two-way communicators. They appeared to me that they could be [attachees] truly to the office of a president.

They lead me over an escalator and they pay for the ticket and we get into a black vehicle which is a twin cab. Before I even get into the vehicle, I would say that I may have recognised Rajesh, I don't recall if I recognised the other person from anywhere.

ADV MAHLAPE SELLO SC: Did they introduce themselves to you?

MS VYTJIE MENTOR: I think they did. It would be odd if they didn't, but I don't remember them introducing themselves to me with their first names. I would say that I was just comfortable with the fact that they were carrying my – let me say I don't recall.

ADV MAHLAPE SELLO SC: Okay that is fair enough. You say you recognised one of them as Rajesh Gupta? Did you know him on sight by then?

10 **MS VYTJIE MENTOR:** On sight meaning?

ADV MAHLAPE SELLO SC: Were you in a position to recognise him on the day you met him at the airport?

MS VYTJIE MENTOR: I must say at first, I was in this mode where I am being ferried by designated people to go and meet the President, the meeting with the President having been arranged by a person that I know to be part of the Presidency.

ADV MAHLAPE SELLO SC: Let me put the question slightly differently. I need for the Chairperson to understand whether you recognised whoever you recognised when you saw them, or you subsequently concluded that it was them, which is which?

MS VYTJIE MENTOR: I subsequently concluded that one of them was Rajesh.

20 **ADV MAHLAPE SELLO SC:** Thank you, you may proceed?

MS VYTJIE MENTOR: So they pay for the ticket and we get into this vehicle that is a black twin cab which is very luxurious and comfortable inside with leather seats with a

mini fridge, cold water, magazines, I am ushered to the back of the vehicle. There are glossy magazines, there are also newspapers that I glanced through to the extent that it's not the ones that I would have seen in the flight and I page through the glossy magazine. That was a cricket magazine and we leave the airport and initially, I don't recall having any concerns of the initial direction like if you drive from the airport, if you had to, Lenasia or Soweto, you would immediately get concerned, so I was not over concerned with the direction.

Up until the vehicle began to take a certain turn and up until the vehicle became stationery, at a place where when I looked outside, I saw that we have parked in an open parking and we are at a building that is written Sahara.

ADV MAHLAPE SELLO SC: On that score, you deal with that at your Paragraph 68 Page 20 of the statement and you have annexed pictures that you have marked MPM1, do you confirm that? You refer in that paragraph, to pictures of a building and you have marked those MPM1. Now if you turn to Page 37 (a) there are 2 pictures, 37 (b) as well and that is what you call your MPM1. Is that the building that you were taken to?

CHAIRPERSON: Ms Mentor you have to articulate your answer. If you nod, the record won't record that.

ADV MAHLAPE SELLO SC: Then Ms Mentor I re-pose my question, is that the building you were taken to that you refer to at your Paragraph 68, where you say that I notice that Sahara was written on the outside of the building?

MS VYTJIE MENTOR: Yes.

ADV MAHLAPE SELLO SC: Now can you tell the Chairperson when these pictures were taken and where they come from? Did you take them on the day?

MS VYTJIE MENTOR: No I didn't take pictures.

ADV MAHLAPE SELLO SC: You have annexed them to your statement. Where do you get them from?

MS VYTJIE MENTOR: I think they are from the media.

ADV MAHLAPE SELLO SC: Okay I just wanted that clarification. So then you say you were taken to this building appearing at MPM1?

MS VYTJIE MENTOR: Yes.

CHAIRPERSON: I'm sorry Ms Mentor, MPM1, so these are not photographs that were taken by you?

10 **MS VYTJIE MENTOR**: Yes Chair I did not take them.

CHAIRPERSON: And they are not photographs taken by anybody at your request?

MS VYTJIE MENTOR: Yes Chair.

CHAIRPERSON: Are you able to say that they represent a building that you saw on the day in question, or are you not able to say that?

MS VYTJIE MENTOR: Chair from where the building was parked, this Sahara on MPM1, is in line with the Sahara I saw on the building. The parking lot is also similar, so I think this is the place I was taken to.

ADV MAHLAPE SELLO SC: Thank you Chair. Chair I realise I think it is 12:59 might this be an opportune moment?

20 **CHAIRPERSON**: We will take the Lunch adjournment and we will be back at 2:00.

Session 3

CHAIRPERSON: Yes, Ms Sello.

ADV MAHLAPE SELLO SC: Thank you Chair.

CHAIRPERSON: Ms Mentor you continue to be under oath, thank you.

MS VYTJIE MENTOR: Thank you Chair.

ADV MAHLAPE SELLO SC: Ms Mentor when we parted before the lunch break, we were dealing with the paragraph 68 and by now you had been delivered to the offices of Sahara. You deal with that in the succeeding paragraphs. Could you very quickly take the Chair through what transpired at Sahara, where within Sahara you were and who you met with there and if you understood for what purpose? So if you could just be very brief and succinct but be very clear on these issues. Thank you.

10

MS VYTJIE MENTOR: I was lead down an L-shaped passage inside the Sahara Building... (intervenes)

ADV MAHLAPE SELLO SC: May I just interject Chair because now we've been to break, who lead you down this passage?

MS VYTJIE MENTOR: The people that brought me from the airport walked me through the L-shaped corridor and right at the end there was a window and a coffee table with some magazines, newspapers. Similar to magazines I saw in the vehicle. I was asked to wait there; there were two offices to my left where I sat. The coffee table and the chair I sat were fairly worn out, not fancy at all.

20

One of the people that led me from the airport went into the second office and came back to me and told me... when I had enquired in the vehicle why we had stopped there, I was told that there was somebody that they needed to introduce me to

and that when I enquired who that person was, they told me that it was their brother, elder brother.

So whilst I was seated there the one that was forever on the two-way radio all the way from the airport, is the one that entered the second office, it's the one that I later came to know as Atul entered the office, second office on the left and came out and told me that the person they were coming to introduce me to was still busy on phone.

He left and went away and sometime lapsed like 15 to 20 minutes, I got agitated and restless, because I felt that it was unnecessary because in my mind I
10 wasting time and I am supposed to go and see the President.

ADV MAHLAPE SELLO SC: Now were you informed as to why it was necessary to make this introduction.

MS VYTJIE MENTOR: No.

ADV MAHLAPE SELLO SC: Okay, you may continue.

MS VYTJIE MENTOR: As I was sitting there worried, I made two attempts to hasten up the process so that I am taken away again en route to going to see the President. I guy went past the passage and I beckoned him and I told him that two gentleman brought me there, he must please find them because I want them to... I was not happy that I am sitting there waiting.

20 The gentleman that I later came to know as Atul came having been called by the guy, I had said please call me the two gentlemen. I don't know how he knew who had brought me there but Atul came to me and he walked into the second office where he walked when we first arrived and he told me that I would soon be ushered in. I

was ushered into the office.

I found a man, and Indian looking man sitting on the other side of the office that is not so big, on a desk that's not very glamorous and on the other side there was a chair. I was... I greeted and I took the chair that was opposite him, he did not rise as I entered to greet me, as courtesy would at least on my standards, as courtesy would demand. He confirmed that he was the elder brother to the people, two people that picked me up from the airport.

We were having an exchange of pleasantries like when people meet and he asked me... it was difficult for us to actually strike a conversation, but eventually
10 he began to ask me about my family. He asked me about my daughter, I told him that my daughter was studying at UCT (*'University of Cape Town'*). He asked me about... I told him that... he asked me about my family and I told him about my children, one at UCT and my son, at whom he took an interest. I did not tell him that I have another daughter, my adoptive daughter that I adopted from my sister or that share with a sister of mine.

He took particular interest on my son, he asked me where he schooled. He asked me what sport, if he played any sport, I told him that he played cricket and that he belonged to the Western Province Junior Cricket Club. He said that he could offer a bat for son. I told him that I had just purchased my son an English Willow cricket bat, so it was not necessary for an new bat and then he said that we he outgrows
20 his bat, I should let him know so that he could offer the bat.

He also told me that they have suites at the Newland Cricket Stadium and said that if I wanted to, I could gain access to their suites when there is a cricket match playing there.

ADV MAHLAPE SELLO SC: Can I just seek clarity from you, you say he mentioned

they had suites at the... is it suit or suites?

MS VYTJIE MENTOR: A suite.

ADV MAHLAPE SELLO SC: A suite, one, okay now you say 'they' they who? Did you have an understanding of who owns the suite?

MS VYTJIE MENTOR: Before I answer your question, through your permission and permission of the Chair...

ADV MAHLAPE SELLO SC: Okay.

MS VYTJIE MENTOR: ...may I kindly go back slightly.

ADV MAHLAPE SELLO SC: By all means, I am sure the Chair will
10 permit.

CHAIRPERSON: Yes, you may.

MS VYTJIE MENTOR: Thank you. During our conversation after he asked me about my family after he asked me about my family, I had also asked him about his family. I asked him when they came to South Africa. He said they came around '94, the early nineties, just before, in fact not 94, before 94 just before 94.

20 He told me that, the gentleman I came to know as Atul, was his younger brother whom he had sent to the US ('*United States of America*') to go and study and that when he came from the US, he went back to their Saharanpur village, or whatever it is in India, so they made a bit of money, about a million rand, if my memory serves me well, and then they decided to come here just before 1994.

So when he said, we... he also spoke about, we the Gupta family, we came here, we established businesses, like Sahara etcetera, so when he said we

have a suite at the Western Province Cricket Stadium, it was then as the Gupta family that had come into the country to establish business interests in the country.

ADV MAHLAPE SELLO SC: Understood. Thank you for that clarification Madam.

You may continue.

MS VYTJIE MENTOR: Um, I told him that I don't really watch cricket, that the only time that I watch cricket, is when I am overseas, when I miss my son. He told me that the offer still stands... I rejected the offer and he, if I may take you back. The gentlemen that brought me from the airport, did know that I was going to have a meeting with the President, that was not odd for me, because they are picking me up, they know
10 where they are taking me to. But he too, knew that I was going to meet the President.

ADV MAHLAPE SELLO SC: And how, on what basis do you conclude that he too knew?

MS VYTJIE MENTOR: Because he told me that he knows, that I coming to see the President and he told me that the President is delayed, as he is busy consulting with COSATU (*"The Congress of South African Trade Unions"*) at Luthuli House, as at that time there was a strike going on that was a COSATU strike.

ADV MAHLAPE SELLO SC: Okay.

MS VYTJIE MENTOR: I began to protest again that I was running late and again if I may take you back through the permission of the Chairperson, whilst I was
20 seated down that window on the shabby chair and coffee table, I had called my friend, to tell her that I am actually around in Gauteng Province in Johannesburg and that I was en route to go and see the President. She had known obviously of my previous endeavours to try and meet the President, so I was astounded when he knew that I am meeting the President and when he knew that the President was held up at Luthuli House.

He was saying that to allay my agitation that I am getting delayed. When we... as I insisted to go, when we parted ways, he told me that we would meet again. At that time that didn't mean anything to me because, when you mean part ways, they sometimes just casually say, we will meet again, so it didn't ring any bells to me. The other thing that struck me is that not only did he know that I was meeting the President, he also knew about the agenda.

ADV MAHLAPE SELLO SC: Please expand on that, what do mean he knew about the agenda?

MS VYTJIE MENTOR: Yes, um that um unsettled me a little bit, but when I insisted then
10 he... the guys called and then we parted ways, he says we will meet again and then we get back into this vehicle that we had left parked on the parking lot and we drive away.

ADV MAHLAPE SELLO SC: Before we drive away, can I just get clarity on this: You state that the gentleman knew your agenda with the President, on what basis do you say that? Why do you say he knew the agenda?

MS VYTJIE MENTOR: Because he told me.

ADV MAHLAPE SELLO SC: Do you recall what in particular he said to you in that regard?

MS VYTJIE MENTOR: I particularly also recall that when... that's why I went to driving away, that when we arrived in certain house, he unbundled the agenda and he talked to it.

20 **ADV MAHLAPE SELLO SC:** Okay so this is not at Sahara where he gives you the detail of the agenda, i

MS VYTJIE MENTOR: Yes, the detail of the agenda is at Saxonwold.

ADV MAHLAPE SELLO SC: Okay. Now secondly, if you could just clarify this for me and the Chair: Wh

MS VYTJIE MENTOR:

Madam... (intervenes)

ADV MAHLAPE SELLO SC:

That you recall.

MS VYTJIE MENTOR: Advocate it's either my memory is deliberately was deliberately dropping their India that fetched me from the airport, were Gupta brothers.

ADV MAHLAPE SELLO SC:

Okay. I think that he wants to pose a question.

CHAIRPERSON: Just before this last question, the evidence you were giving was it relating to when you were still at Sahara or had you moved to the, or... there is Saxonwold and there Sahara. Okay, you started at Sahara is that correct?

MS VYTJIE MENTOR:

Yes, Chair.

10 **CHAIRPERSON:** Yes, so this evidence that you are giving where you were saying that you were effectively getting restless, feeling that you time was being wasted. Were you at Sahara or were you at Saxonwold?

MS VYTJIE MENTOR:

At first I got restless at Sahara.

CHAIRPERSON: But when you were giving evidence just before this question, you were talking about when you were at Sahara.

MS VYTJIE MENTOR:

Yes, Chairperson.

CHAIRPERSON: Okay right thank you.

ADV MAHLAPE SELLO SC: Thank you Chair for that clarification. In your statement you decide what you

20 **MS VYTJIE MENTOR:** Once I knew from him that he was the elder brother of the two that fetched from the elder brother, is a little stoutish than the one that I later came to know as Atul, the one that he said he sent to the US to go and study.

But I also realise that of the three brothers, because then I know

that they are three brothers now: The one that was taller, a little tall and more slender than the two, was Rajesh. I later came to firmly know that person Rajesh. I also, in the conversation while still at Sahara, when he asked me about my family and I asked him about his family, I found it odd that... I noticed that he was wearing a gold ring with a red ruby and the gold was... didn't look like 9 carat gold because it looked either like 18 or 24, it was very bright gold.

He was wearing it on the index finger which is, or which was odd for me, so I asked him why he was wearing a ring in the finger that he was wearing the ring on. He said that they are Hindu, the Gupta family and in their... that his father... in Hindu culture the father is the patriarch of the family and that the father had passed on, and when, in their culture, Hindu culture, when a patriarch passes on, the eldest brother takes the role of being the patriarch of the family and that that ring, used to belong to his father.

So when the father died, that ring was put on his finger as the new patriarch for the family and that ring also stood in my mind as a distinguishing feature between the two brothers that I came to know as Ajay and Atul. Ajay being the one, the elder one, that's wearing that ring. After my agitation and after realising that he knows my meeting with the President and hinting that he knows the agenda as well, I am taken away and he says we will meet again.

He says to me I am being transported to a place where I will... in my mind I concluded that saying, I am going to a holding place.

ADV MAHLAPE SELLO SC: Before you go past that point, you say he told you, you are going to a holding

MS VYTJIE MENTOR: Ajay.

ADV MAHLAPE SELLO SC: Okay.

MS VYTJIE MENTOR: That the two brothers that had brought me there, would take me to a place where I

CHAIRPERSON: I am sorry Ms Mentor, don't forget where I interrupted you. Earlier on you were asked how you knew that Mr Ajay Gupta knew the agenda for the meeting between yourself and the President and you said it's because he unpacked and I don't know if you finished that sentence. Can you just tell us exactly what he said that made you believe that he knew the agenda for your meeting with the President?

MS VYTJIE MENTOR: I recall that he hinted that he knew the agenda, but the unpacking of the agenda was

CHAIRPERSON: Okay its fine, whether it was Saxonwold whatever he said, that made you believe that he knew the agenda for your meeting with the President. Can you
10 just tell us this is what he said?

ADV MAHLAPE SELLO SC: Chair with your permission, it is in this statement and it happens at Saxonwold

CHAIRPERSON: Yes now.

ADV MAHLAPE SELLO SC: Now.

CHAIRPERSON: Now, ja.

ADV MAHLAPE SELLO SC: Please respond to the question Ms Mentor.

MS VYTJIE MENTOR: When he later came to meet me in Saxonwold... in Saxonwold he referred to me
nuclear bid and he, in that process said that the PBMR ('Pebble Bed Modular Reactor')
had to be closed. The issue that I was coming to, to, to see the President on, which was
the PBMR. It's going to be history, because it's not going to play any role in the nuclear
20 bid that he attested to, was forthcoming.

So he mentioned issues that the PBMR was burning money later on, he also said the
SAA ('South African Airways') was burning money too. So that showed me that he knew

that I was coming to see the President on the PBMR because he was saying... he said actually to me forget about saving the PBMR, not so directly, but to say that the PBMR does not have any role in the nuclear built and just like the SAA it was a money burner.

CHAIRPERSON: So in other words, he, he didn't say I know what you are going to be discussing with the President, but he discussed issues which happened to be the same issues that you were planning to discuss with the President.

MS VYTJIE MENTOR: He inferred and I deducted that he knows the agenda.

CHAIRPERSON: Yes, thank you.

ADV MAHLAPE SELLO SC: Thank you Chair. Thank you Chair. Ms Mentor you now at the point where y

10 **MS VYTJIE MENTOR:** I did not imagine that the holding place would be a private residence and I must s
from the airport to Pretoria on a rented car and back. That's the safest and... So I did not
initially pick up that we are not going to Pretoria but I knew I was going to holding area.
Up until we stopped outside a gate in a residential looking area, where there were two
securities.

ADV MAHLAPE SELLO SC: Did you know the place had stopped at?

MS VYTJIE MENTOR: No. I only knew when I asked when I was inside the house.

ADV MAHLAPE SELLO SC: You deal with this aspect at your paragraph 78 and with reference thereto yo

MS VYTJIE MENTOR: That gate... (intervenes)

ADV MAHLAPE SELLO SC: Please try and speak into the mic.

20 **MS VYTJIE MENTOR:** Sorry, thank you. The gate in 37(c) and 37(d)...

ADV MAHLAPE SELLO SC: Yes.

MS VYTJIE MENTOR: ...37(e), 37(f)...

ADV MAHLAPE SELLO SC: Yes.

MS VYTJIE MENTOR: ...look like the gates we went through.

ADV MAHLAPE SELLO SC: Okay. Now once again for the... if you could just explain to the Chair what is

MS VYTJIE MENTOR: I don't know when they were taken, I don't know who took them, I suppose they are

ADV MAHLAPE SELLO SC: Where did you source these particular pictures?

MS VYTJIE MENTOR: These... it's only from the media that it can be sourced.

ADV MAHLAPE SELLO SC: So you are saying these are public available pictures?

MS VYTJIE MENTOR: Yes.

CHAIRPERSON: How long after you had been to Sahara and Saxonwold did you see
10 these pictures?

MS VYTJIE MENTOR: Thank you Chair. I only saw these pictures when I was consulting with my attorney

CHAIRPERSON: And you had been to Saxonwold and Sahara in 20... is it 2010?

MS VYTJIE MENTOR: 2010.

CHAIRPERSON: 2010. So that was about over 7 years or 8 years later, okay.

ADV MAHLAPE SELLO SC: Thank you Chair. Now when you arrived at this gate that appears at MPM2

MS VYTJIE MENTOR: No.

ADV MAHLAPE SELLO SC: Did you enquire from those who drove you to the place, what that place was?

MS VYTJIE MENTOR: Not at the gate.

ADV MAHLAPE SELLO SC: Did you enquire from them the purpose of going to that address?

20 **MS VYTJIE MENTOR:** I did not at the gate.

ADV MAHLAPE SELLO SC:

You then... may I enquire why not?

MS VYTJIE MENTOR: Because I was going to a holding place and nondescript, holding place, but that I did

ADV MAHLAPE SELLO SC: At the time what did you understand the holding place to be and how does that

MS VYTJIE MENTOR: It... the President, the State, let me put it this way, the State does have residential

ADV MAHLAPE SELLO SC: Now, were you aware at this point that you are in Johannesburg and not Pretoria?

MS VYTJIE MENTOR: I am familiar with the Union Building, so I did know that it's not Union Building.

ADV MAHLAPE SELLO SC: But as far as towns are concerned, did you... Were you of the view that

MS VYTJIE MENTOR: I did not appreciate, but I may have thought that I am somewhere between Pretoria

ADV MAHLAPE SELLO SC: Okay. From 79 you then deal with your arrival at this residence in Saxonwold?

10 **MS VYTJIE MENTOR:**

Is this inside the house or outside the house?

ADV MAHLAPE SELLO SC:

No, as you arrive at the gate what then happens next?

MS VYTJIE MENTOR: They have brief chat with the two security people and then we make an entrance.

I am assisted out of the vehicle because I am on crutches and again somebody holds my handbag, somebody gives me my crutch, helps me out of the vehicle, gives me my crutches. I go over a few stairs. I think if my memory serves me well, they were marble stairs. Um, my daughter and I always have fight over what is granite and what is marble. I never know the distinction but in view they were marble.

ADV MAHLAPE SELLO SC:

Can you recall the colour?

MS VYTJIE MENTOR:

I think they were greyish or cream white that is greyish.

20 **ADV MAHLAPE SELLO SC:**

Okay.

MS VYTJIE MENTOR: There were about 5 or let me say, they were between 4 and 6 and they led into an

a 90 degree angle with a coffee table between them, in a manner that we put it between the two.

The house looked like it was work in progress because for me for that size of a lounge / reception it was so sparsely furnished, because it had only two couches and a coffee table. It had a giant pillar. I took one of the couches and to my slight adjacent right there was giant pillar. It was not neatly covered like... it looked like it was still to be elect, (inaudible). It lacked beauty, it was not properly covered. Behind it there was a very gigantic window. I appreciated it because it was massive and brought in a lot a light.

10 There was artwork on the murals and I remember looking at it and wondering because of the sparseness of the area and also because of the beauty of the artwork, trying to figure out if that was wallpaper or if that was actual painting by an artist.

ADV MAHLAPE SELLO SC: Now can I just take you back to the staircase. I don't think it was clear to the

MS VYTJIE MENTOR: The outside, the house...

ADV MAHLAPE SELLO SC: Okay.

MS VYTJIE MENTOR: ...the lead into the area where I was ushered in where I find the two couches perpe

ADV MAHLAPE SELLO SC: Thank you for that clarification. You are then now seated on one of the couch

MS VYTJIE MENTOR: The man that I know as Rajesh then disappears somewhere into the house and A
figured out what he meant when... only then when he said, we will meet again because it
20 was odd that we met at Sahara, we have no business together and yet I thought I was
coming to a holding place for the President. He also now tells me that the President will
also come there for meeting and he says to me... he asks me what he could offer me to
eat and drink.

He tells me that he will go and fetch... that they have a chef and that he will go and fetch the chef who would... through whom I could ask what to eat and drink. If I am seated this way, the pillar is to my right and the window... he goes in that direction and that's the direction of the kitchen and he comes back with a young Indian man, who is wearing a white vest, who is barefooted. This young man was almost bowing to kneel before me and I asked him to please, please let not the young man bow or kneel before me. I took exception to that because for me, nobody should... I don't mean to be rude to other people's cultures, but to me a person should not kneel before me.

10 So he instructed him to rise as I requested and then he could not speak English, he being the young man that he brought that he said was chef.

ADV MAHLAPE SELLO SC:

Okay.

MS VYTJIE MENTOR: And then... so we speak through him, myself and the chef. The chef tells him what I had chosen. I was also asked what I would drink. I was given a... I was told there is Chinese tea, there is Indian tea, there is what-what-what. I chose Thai tea.

So the food came. Before the food came, I had been ushered and showed the bathrooms or the restrooms. They also were to my right, the passage to my right leading further into the house. He said to me he is going to show me the ladies restrooms.

ADV MAHLAPE SELLO SC:

Just so we don't get confused by the 'he' you mean...?

20 **MS VYTJIE MENTOR:**

Atul.

ADV MAHLAPE SELLO SC:

Thank you.

MS VYTJIE MENTOR: Showed me the restrooms, they were quite beautiful. I remember the gold detail a don't know, but they were really beautiful. I know that all the mirrors that I love, are

French, so I remember that mirror because I really admired it, it was beautiful. After he showed me, I saw the expensive hand lotions and stuff.

After he showed me... then he said to me now let me go and show you the other bathrooms on the other side, then I said if these are ladies bathrooms, I don't need to see other bathrooms, presuming that they would be male and that I would not need to use them. So I didn't go, so I ended up sitting back on the couch where I was seated with my handbag on... I think I was seated on a two seater, or the three seater, I can't remember.

10 If my memory serves me well, those couches were kind of, what do you call... nude or pinkish or... (excuse me). Then the food comes and I pick on it, because I don't like it. I must say that I familiar to curry... In the Western Cape and in the Northern Cape and myself when I cook curry, I do a Malay flare of the curry. So that was Indian curry and I don't like... the people that love Indian curry, I didn't like it. just picked on it out of courtesy. I tried the Thai tea, I didn't like either and I ended up not really eating.

Then after... (intervenes)

ADV MAHLAPE SELLO SC: If I may just interject at this time that you are trying out your food and tea, are

MS VYTJIE MENTOR: Mr Atul had left after he showed me the bathrooms, after he told me now also... re

ADV MAHLAPE SELLO SC:

Yes, you did indicate.

20 **MS VYTJIE MENTOR:** So I made another call to my friend to the same friend, in this house when I sitting make it for my flight. If I miss my flight, could I please come and put up at your place, tonight, and she says to me, no problem.

ADV MAHLAPE SELLO SC:

Did you inform her as to where exactly you were?

MS VYTJIE MENTOR: Roughly because I could not describe where I was, but I said I am in a house... I d

ADV MAHLAPE SELLO SC: Did you at the time know that it was a Gupta house?

MS VYTJIE MENTOR: I asked where I was, and I was told that I am at Saxonwold.

ADV MAHLAPE SELLO SC: And you were told by who?

MS VYTJIE MENTOR: Atul.

ADV MAHLAPE SELLO SC: Yes, but in relation this particular property, did anybody tell you who owns the

MS VYTJIE MENTOR: Only later.

ADV MAHLAPE SELLO SC: When is later, can you give the Chairperson a sense?

MS VYTJIE MENTOR: After Ajay, I mean I could deduct that they owned the property because they have a

10 **ADV MAHLAPE SELLO SC:** Okay. Right you may continue. You are now having your lunch and your tea

MS VYTJIE MENTOR: I had it.

ADV MAHLAPE SELLO SC: Okay. What transpires next?

MS VYTJIE MENTOR: And the coffee table is cleared and I called my friend and Ajay comes in from the di

ADV MAHLAPE SELLO SC: Okay so to get our bearings, you were led down a corridor where you were s

MS VYTJIE MENTOR: Yes.

ADV MAHLAPE SELLO SC: And is it your testimony that Mr Ajay Gupta came into the room where you w

MS VYTJIE MENTOR: From that corridor.

ADV MAHLAPE SELLO SC: Okay. Understood.

20 **MS VYTJIE MENTOR:** And he says we meet again. That's when I already said when the Chairperson a
expantiates on my agenda of the PBMR with the President, that gives a clear impression

that he knows what my agenda with the President is.

He talks about that project then that I forget about it and then he talks about SAA's turnaround strategy that it was not working and it was not yielding results. He says to me SAA burns money. He had also said that PBMR burns money and then he suggested, if I facilitated the abolition of the South Africa... Johannesburg SAA route and back, that SAA stops travelling that route...

ADV MAHLAPE SELLO SC: Let's understand that route again... it's SAA route...?

MS VYTJIE MENTOR: It's Johannesburg, more by Johannesburg

ADV MAHLAPE SELLO SC: Okay.

10 **MS VYTJIE MENTOR:** If I facilitate... if I agree to facilitate its abolishment, that SAA does not travel that route

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO SC: Yes.

MS VYTJIE MENTOR: ...in the document.

CHAIRPERSON: In the statement.

MS VYTJIE MENTOR: May I please take you to 101 of my statement, page 101. I mean paragraph... clause

ADV MAHLAPE SELLO SC: Yes. That's page 29 Chair.

CHAIRPERSON: Thank you.

MS VYTJIE MENTOR: I think I had made a... let me see what I want to... I don't think that Mr.... Minister

ADV MAHLAPE SELLO SC: Before we leave that, currently there is approximately 1 week or so later, so v

20 **MS VYTJIE MENTOR:** Because I have since... every day I assist with these matters. I wake up at night and

ADV MAHLAPE SELLO SC: Yes.

MS VYTJIE MENTOR: ...and I said to the President pardon me for refusing to (inaudible) two weeks ago.

ADV MAHLAPE SELLO SC:

Okay.

CHAIRPERSON: So you would say it's about how long or you are not able to say?

MS VYTJIE MENTOR:

I would say a few weeks, 2 to 3, approximately.

CHAIRPERSON: Approximately three weeks.

MS VYTJIE MENTOR: Yes.

CHAIRPERSON: After your trip to Sahara and Saxonwold. Well I know the trip was not intended to go there, but after you had been there.

MS VYTJIE MENTOR: Yes, it is definitely not one week Chair. It is three weeks or so

10 ...[intervened]

CHAIRPERSON: But tell us what you are comfortable with in terms of your estimate. Are you comfortable with saying it was about three weeks after you had been to Saxonwold and Sahara or what are you comfortable to – what estimate are comfortable with?.

MS VYTJIE MENTOR: I would say approximately two to three weeks.

CHAIRPERSON: Okay. Alright. Thank you.

ADV MAHLAPE SELLO: Thank you. We shall effect that correction. You had actually jumped ahead of yourself. I think it crossed your mind that you wanted to make that amendment.

20 **MS VYTJIE MENTOR:** Yes I wanted to deal with it before I forget.

ADV MAHLAPE SELLO: Absolutely.

MS VYTJIE MENTOR: Okay.

ADV MAHLAPE SELLO: Now, we go back to where you were in the story. You are now – according to you having this conversation with Mr Ajay Gupta.

MS VYTJIE MENTOR: He says – if I agree that I would eventually facilitate that. I would – I could become the Minister of Public Enterprises. Not in a week's time in the near future – a few week's time, but that startled me and I said to him: How so? I must say also much as I initially was getting astounded, shocked. I also wanted to hear where this was heading to. He said I could be minister. I said: How so? He said the President was going to reshuffle his cabinet, in the recent future and Minister Barbara Hogan was going to be reshuffled and I could become the minister in her place when she is reshuffled, If I agree that once I become the minister I would abolish the SAA India – I mean South Africa – India – South Africa route.

ADV MAHLAPE SELLO: Now, before you go any further. Can I enquire from you. You testified that Mr Ajay Gupta raised a number of issues with you including the uranium deposits in the Northern Cape, including the PBMR and how it should be ditched. That you testified to and the airline issue or the route. Did you respond to him on any of those issues and if so what did you say?

MS VYTJIE MENTOR: As I said initially I wanted to hear where is this going to. When mentioned that I could become minister. Is then that I began to ask questions. On the Pebble Bed Modular Reactor. I did not agree with him.

ADV MAHLAPE SELLO: Did you express as much to him?

MS VYTJIE MENTOR: I think so.

ADV MAHLAPE SELLO: Okay, from what you recall. What conversations did you have around these issues that he had raised?

MS VYTJIE MENTOR: I particularly remember – What is standing out for me is the discussion of him having the capacity to make me a minister and the capacity – he claimed - Firstly that he knew that the President will reshuffle. – at that time there was no inkling whatsoever in the media – that knew of that there was going to be reshuffle.. You know, South Africans normally when there is going to be a reshuffle there would be speculations – speculations – speculations – speculations. There was none of those at that time. That he - then I asked him: how would you do this. How would this happen
10 that I become the Minister of Public Enterprises? He said that that they could. He did not say I could. He said they could put word in for me with the President and when I expressed shock. He said we normally do.

ADV MAHLAPE SELLO: When he speaks in the plural. “They” and “We” did you understand who he was referring to?

MS VYTJIE MENTOR: I was understand he mean the Gupta brothers or the Gupta family.

ADV MAHLAPE SELLO: Okay and what was your response to that?

MS VYTJIE MENTOR: I first said to him: You know Mr Gupta. There are goods there is human cargo and there is goods. I said: You know there are strong bilateral relations
20 between India and South Africa that comes a long way and as a result there is daily a number of people that travel between South Africa and India, using SAA, including goods, cargo. Now if an SAA has cargo. If SAA abolishes that route. What is going to happen to those people and those goods? Then he said that they are in partnership with an airline,

Jet Airways, that would see to that – the transportation of human beings and cargo continues.

ADV MAHLAPE SELLO: Did he provide any particularities as regard this – the airline he referred to.

MS VYTJIE MENTOR: Beg you/

ADV MAHLAPE SELLO: Did he provide any particularities about this airline that he was referring to?

MS VYTJIE MENTOR: No

ADV MAHLAPE SELLO: Name of anything?

10 **CHAIRPERSON**: I am sorry. I thought you were saying something like Jet Ways?

MS VYTJIE MENTOR: Know what, she is asking did he furnish any further particular details about the airline.

CHAIRPERSON: ...[inaudible]

MS VYTJIE MENTOR: O. I beg your pardon, Chairperson..

ADV MAHLAPE SELLO: It would appear, Chair, that I am the only one whose ears sort of went dead. Everybody seem to have heard Jet Airways. So, yes my question is answered, Ms Mentor.

CHAIRPERSON: Let her confirm. Is it Jet Airways that he said they were in partnership with?

20 **S VYTJIE MENTOR**: Yes Chairperson.

CHAIRPERSON: Thank you.

ADV MAHLAPE SELLO: Chair, I must place on record that I am not going to finish with this witness today. I require to – at least half a day with her tomorrow. I am advise that Mr Pretorius will address you about a possible application to be considered in this final hour of the day and if that meets with your approval, Chair. I would request that you excuse the witness for the day and from the stand and then I will hand over to Mr Pretorius.

CHAIRPERSON: Well one - the witness has a hand before I say anything let me hear what she has to say ...[intervened]

ADV MAHLAPE SELLO : I appologise.. I had missed that hand.

10 **CHAIRPERSON**: Yes, Ms Mentor.

MS VYTJIE MENTOR: Thank you Chair. I will like to make a correction ...

CHAIRPERSON: Yes.

MS VYTJIE MENTOR: On 122 of my statement.

CHAIRPERSON: Okay

MS VYTJIE MENTOR: I laid a charge of obstructing justice at the IP ...[intervened]

ADV MAHLAPE SELLO: Sorry, Ms Mentor please bring the file closer to you so that you speak into the record for transcription purposes.

MS VYTJIE MENTOR: At some point I went to ...[intervened]

CHAIRPERSON: That is paragraph 22 of your statement?

20 **ADV MAHLAPE SELLO**: No, 122

[indistinct – speaking simultaneously]

MS VYTJIE MENTOR: 1 – 2 – 2.

CHAIRPERSON: One twenty two?

MS VYTJIE MENTOR: Yes, Chairperson.

CHAIRPERSON: Page 34?

MS VYTJIE MENTOR: And page 34 Chairperson

CHAIRPERSON: Yes.

MS VYTJIE MENTOR: At some point I went to lay charges – to lay a charge against Mr Ntlemeza and Adv Mtolo. I laid a charge of obstructing justice at the IPD office in Bellville. I took picture of myself outside the police station and posted them on my face book page. I would like to make corrections there, please.

ADV PAUL PRETORIUS SC: Ja. Okay.

MS VYTJIE MENTOR: I complaint about Mr Ntlemeza and Mr Pahlad. Is it Pathlanie? Who was the acting commissioner?

ADV MAHLAPE SELLO: Okay.

MS VYTJIE MENTOR: And I also complained about the lady that I then believed was was second in command of the Hawks. Who I referred to also in the Public Protector transcript. When I spoke to the Public Protector I had forgotten her name, but I have recalled that she is Ms Mnonopi or something like that and I did say to the Public Protector she is second in command of the Hawks. She is an African lady. I did not complain about Mr Mtolo.

ADV MAHLAPE SELLO: Okay.

MS VYTJIE MENTOR: At IPD and that reference to police station – of me taking a picture outside the police station is also incorrect.

ADV MAHLAPE SELLO: How is that sentence to read?

MS VYTJIE MENTOR: Okay. Sorry. “At some point I went to lay charges against Mr Ntlemeza and Mr Pathlanie.. Is it Phala or Pathlanie? Forgive me. Delete Adv Mtolo

ADV PAUL PRETORIUS SC: Yes. We have.

MS VYTJIE MENTOR: And add the lady that was in second in command of the Hawks.

ADV MAHLAPE SELLO: Okay.

CHAIRPERSON: Did you lay a charge against three people or two people

10 **MS VYTJIE MENTOR:** I complained about three people.

CHAIRPERSON: Sorry it was Mr Ntlemeza, Mr Pathlanie and the lady that you are talking about?.

MS VYTJIE MENTOR: Yes. Yes Chairperson.

CHAIRPERSON: Okay. So after Mr Ntlemeza we put a comma. We delete and we say Mr Pathlanie and then we say and who? Who is the third I forgot the name.

MS VYTJIE MENTOR: I think it is Brigadier Mnonopi something like that. She was a Brigadier. But my statement to IPD can be sourced It will clarify the people I lay charges against.

20 **CHAIRPERSON:** Do you want to reflect and check where you need to check before we final I will put the name here. So, that when we put the name you are sure that is the name that you are talking about.

MS VYTJIE MENTOR: Yes. Thank you Chair, but I certainly want to remove Adv Mtolo.

CHAIRPERSON: Okay.

MS VYTJIE MENTOR: From there.

CHAIRPERSON: We have removed Adv Mtolo and on my page 34 I have got “at some point went to lay a charge against Mr Ntlemeza, and I have deleted and Pathlanie and I have deleted Mtolo and I have left a space for another person, that I will put in once you tell us you are sure.

MS VYTJIE MENTOR: Yes and I took my picture not outside but inside the IPD offices and not police station. So that outside was the inside and police station must be deleted and be replaced by IPD Offices.

10 **CHAIRPERSON**: Inside IPD Offices. So, we delete outside of the police station and put in inside IPD offices..

MS VYTJIE MENTOR:

CHAIRPERSON:

ADV PAUL PRETORIUS SC: Yes, Chair. One last thing, through you Chair. Adv Sello, if you can assist me to the place in my statement where I refer to the cancellation of the – the request for the to cancel the SA – I want to locate it in the statement.

ADV MAHLAPE SELLO: Okay. :You mean you want to locate it when you were having a discussion with Mr Gupta ...[indistinct] You deal with that – you start at paragraph 89, page 26.

20 **MS VYTJIE MENTOR**: Paragraph?

ADV MAHLAPE SELLO: 8 – 9, 89.

MS VYTJIE MENTOR: Yes.

ADV MAHLAPE SELLO: And you also deal with it at paragraph 90. That is the places I could find it.

MS VYTJIE MENTOR: I thank you.

ADV MAHLAPE SELLO: And add 91. So if you could consider from paragraphs 89 to 91. Then you can advise that chair what it is you want to draw his attention to.

MS VYTJIE MENTOR: I wanted to add that - I do not know how you do your numeric ordering, but I wanted to add that subsequent to me declining the offer - me rejecting the offer Minister Barbara Hogan being reshuffled as Ajay had told me in Saxonwold. The minister that was appointed was in that position was Minister Gigaba and that under his
10 watch that same route was cancelled and Jet Airways took – became active in the route as it had been suggested to me at Saxonwold.

ADV MAHLAPE SELLO: Okay.

CHAIRPERSON: Okay. I think maybe because that is something substantive. Maybe when you give your evidence in regard to that, you can just point out that there is something that – else that should have been here which is not here and you then just tell us what you should have included. Was that all that you wanted to ...

MS VYTJIE MENTOR: That was all. Thank you for indulging me Chairperson.

CHAIRPERSON: Thank you. Now Ms Sello you had said somethings to me?

ADV MAHLAPE SELLO: Yes, Chair.

20 **CHAIRPERSON:** You have said that you were proposing to stop with this witness, at this stage, because there was another plan. Mr Pretorius had mentioned that another plan to.

ADV MAHLAPE SELLO: Yes Chair.

CHAIRPERSON: But I see he has just whispered something to you. So, I do not know whether that means he wants to stand up or whether he was asking you tell me?

ADV MAHLAPE SELLO: As far as I can understand his whispers. He is not abandoning the plain ...[indistinct]

CHAIRPERSON: O, you want to talk to him a bit before ...[intervenes]

ADV MAHLAPE SELLO: No. I think we are clarified here. The part of my reason for requesting that perhaps we stop at this juncture, because Mr Pretorius would like to address you on the question of applications. As firstly I will not be done with this witness
10 today and secondly we received documentation, this morning, pertaining to some aspects of her statement she will deal with tomorrow. Which she has not had an opportunity to consider with her legal representative. So, this time we will give her the opportunity to do that. So I would request that I hand over to Mr Pretorius to deal with the application – the issue of applications, Chair.

CHAIRPERSON: Okay. Well at least the latter reason about her statements that have arrived late that does justify, because otherwise I wanted us to try and finish with the witness, but if what she must still testify about is affected by documents that she has not had a chance to see. That is fine.

ADV MAHLAPE SELLO: Indeed Chair and we handed it to you.

20 **CHAIRPERSON**: so, Ms Mentor you have heard what the request is. So, we will excuse you for today, but will appreciate it if you come back tomorrow so that you can continue with your evidence. Thank you.

MS VYTJIE MENTOR: Thank you Chair.

CHAIRPERSON: You are excused and then I will hear from Mr Pretorius.

ADV MAHLAPE SELLO: Thank you Chair.

ADV PAUL PRETORIUS SC: Thank you Mr Chair. The Commission has received a number of applications, by your leave Mr Maleka will deal with his.

ADV VINCENT MALEKA SC: Thank you. Chair, may I kindly ask you to go to EXHIBIT D3?

CHAIRPERSON: Yes.

ADV VINCENT MALEKA SC: You will recall that that is the third file of the set that was handed up to you, this morning, by my colleague Ms Sello.

10 **CHAIRPERSON**: Yes.

ADV VINCENT MALEKA SC: Just to place in context what that file comprises. You have now heard the evidence of Mr Mathebula.

CHAIRPERSON: Yes.

ADV VINCENT MALEKA SC: Which did not implicate any person but gave you a clear picture of the total Government spend – on public procurement which as I recall was to the order 800 Billion. Half of which was characterised by intentional abuse. You have heard the evidence of Jonas.

CHAIRPERSON: Mmh.

20 **ADV VINCENT MALEKA SC**: Who has implicated a number of persons and you are now in the ...[indistinct] in the evidence of Ms Mentor.

CHAIRPERSON: Yes.

ADV VINCENT MALEKA SC: Who too implicated a number of persons. We have done as best as we could by sending a number of notices to various parties who have been implicated. There will not be a debate before you about whether or not those persons have, as a matter of fact, received the relevant notices under rule 33 of the rules of the Commission's proceedings. Pursuant to those notices. Some of the implicated individuals have made applications – some formally in terms of rule 34, others informally and I would like to take you to a number of documents in EXHIBIT D3. You will see that the first page is an Index of the various applications that have been made. The first is an application by Ms **Lakhela** Kaunda, which you will find from page 1 of D3. I ask you for now to note the

10 terms of the Note of Motion, nê. Contained in paragraph 1 of page 1. All she seeks at this stage is a permission from you to confer upon her the privilege to cross-examine Ms Mentor with reference to paragraph 60 – 64 of hier statement. Let me, in that regard immediately draw your attention to page 9 of the same bundle and at page 9 you will find paragraph 18 and let me read it out to you. It is paragraph 18 the Founding Affidavit supporting the Ms Kaunda's application for the privilege to cross-examine. She says:

20 "I make this application to cross-examine Ms Mentor, subject to the contingency that the legal team confirms in writing that it is conceded and generally accepted by Ms Mentor that I have not spoken to her during 2010, as alleged."

That was the conditional basis on which she has made the application on the assumption that we would have talked to Ms Mentor to solicit the concession described in that paragraph. It is now clear from the evidence given, this afternoon, by Ms Mentor that the concession intimated therein has no factual or evidential basis because in her evidence Ms Mentor confirms that the calls she references emanated from Ms Kaunda and

therefore it will become important for Ms Kaunda to persist with her application to the extent that she requires the privilege of cross-examining Ms Mentor. Against the background, Chair. I ask you to return to page 1. What has concerns us about that application is that it does not deal with ...[intervened]

CHAIRPERSON: Well, Mr Maleka before you say what concerns you about the application that is Ms Kaunda represented here? Is somebody appearing.

MALE SPEAKER 1: Yes Chair ...[indistinct]

CHAIRPERSON: O. Okay. Alright. Thank you. I just wanted to make sure that we do not deal with a matter in the absence of...

10 **ADV VINCENT MALEKA SC**: Yes. I was going to indicate to you that Ms Kaunda is presently represented and I am glad that you have anticipated what I was going to say to you, but now that we know she his represented. Can I indicate to you that what concerns us about this application is that it does not deal with the all of the requirements ...[intervened]

CHAIRPERSON: But, hang on Mr Maleka. What do you want us to do with these applications, today? You see I do not know whether you are getting into their merits now or what are you doing.

ADV VINCENT MALEKA SC: Not at all. What I am trying to ...

CHAIRPERSON: What do you want us to do?

20 **ADV VINCENT MALEKA SC**: I would like to identify the applications for you. Ask those who are present, representing the applicants to come on record to the extent that they have not before and ultimately ask you for direction as to when these applications will be heard. I say so Chair in regards to some of the applications and I am not going to address

the merits, but let me take you to some of them – for instance if you go to page 46 you will see an application by Mr Mtolo, or Adv Mtolo.

CHAIRPERSON: Who might fall away now. Is that so?

ADV VINCENT MALEKA SC: Well, with respect not Chair.

CHAIRPERSON: O, I thought that ...

ADV VINCENT MALEKA SC: Because what Ms Mentor has done...

CHAIRPERSON: O, is he mentioned as elsewhere other than in the paragraph that ...[intervened]

ADV VINCENT MALEKA SC: Indeed.

10 **CHAIRPERSON**: O. .Okay.

ADV VINCENT MALEKA SC: Indeed and just to give it comfort Chair. If you can go to EXHIBIT D1 and go to page 34 of Ms Mentor's written statement. You will remember that she corrected paragraph 1 – 2..

CHAIRPERSON: Yes.

ADV VINCENT MALEKA SC: She stands by and still persist with her testimony in paragraphs 120 and 121

CHAIRPERSON: Okay.

ADV VINCENT MALEKA SC: Both of which seriously implicate Mr Mtolo/

CHAIRPERSON: Okay..

20 **ADV VINCENT MALEKA SC**: In a different context and it is the context of a suggestion that she should exclude from her draft reference to certain persons because their hands

were tied and that is a serious matter, because it goes to the heart of state capture – particularly the capture of law enforcement agents, to that extent Mr Mtolo is very much alive in the picture of being implicated in the evidence of Ms Mentor.

CHAIRPERSON: Jam

ADV VINCENT MALEKA SC: But going back to page 46 Chair. You will see that Mr Mtolo intended to make application before you by the previous Friday and Friday has come and gone and his application has not been dealt with.

CHAIRPERSON: Yes.

ADV VINCENT MALEKA SC: So that we would as you for direction as to when you
10 need to deal with it.

CHAIRPERSON: Ja.

ADV VINCENT MALEKA SC: The same is the case with the application of General Mnonopi. Which you will find on my file is the last tagged document numbered 4. It too intimated the date of 24 August 2018 and we know that that date has come and gone

CHAIRPERSON: Yes.

ADV VINCENT MALEKA SC: So we would ask for your directions, Chair, as to when
you would want to hear these applications. We think it important that this matter has
now become urgent, because if and to the extent that you afford these implicated
individuals the opportunity to cross-examine we would ask you to do so on some
20 directions. I am not going to mention those directions, at the moment, until we hear the
applications themselves., but generally chair. We would urge you, not only to afford this
persons the mere privilege of cross-examination, but that they must understand that the
privilege comes along with some responsibility and the responsibility is to undertake to

testify orally under oath and that they too become subjected to cross-examination to test their version to the extent that they want to test the version of the witnesses called by the Commission. But more importantly Chairman, the urgency has become very pronounced and acute, because we too want to prepare ourselves and to the extent necessary interrogate the versions of those implicated person by undertaking further investigations. Finally Chair, there have been some individuals who appeared before you on the 20th through counsel. The last of the debate we had with them is that they will consider their position and if necessary make applications of the same kind. We can no longer leave that issue to some ...[indistinct] moment of the future. We would ask for your guidance in
10 that regard, because we think it important that that matter should be dealt with quite quickly and to that extent we would invite you to issue some directions in relation to when those persons must make their applications. They have placed on record that they will be ready to cross-examine witnesses who have testified thus far by the first week of September, again we would like to be prepared in order to deal with that cross-examination.

CHAIRPERSON: Ja.

ADV VINCENT MALEKA SC: So, Chair I would urge you to consider issuing directions about when both types of applications ought to be ...[indistinct].

CHAIRPERSON: With regard to applications for leave to cross-examine. I expect that
20 when such an application is made the implicated person has already furnished the Commission's legal team with a statement in terms of the rules, in terms of which that implicated person specifies what parts of the witnesses' statement he or she disputes and puts up his or her own version. Now, in regard to these – Now, I expect that by the time the application for leave to cross-examine is lodged that would have happened, but it

may well be that it is to happen at the same time. In other words, the application for leave to cross-examine contains the statement from the implicated person. I am not sure and I cannot remember how the rules – what the rules require. So, on these applications – has that been done?

ADV VINCENT MALEKA SC: Yes Chair. The application – if you can go back to the index again.

CHAIRPERSON: Ja.

ADV VINCENT MALEKA SC: The application of Ms Kaunda is accompanied a statement setting out the respects in which disputes version of Ms Mentor.

10 **CHAIRPERSON:** Ja.

ADV VINCENT MALEKA SC: And setting out her version.

CHAIRPERSON: Ja.

ADV VINCENT MALEKA SC: We have some difficulty with regards to the relief sought in the Notice of Motion.

CHAIRPERSON: Ja.

ADV VINCENT MALEKA SC: When their application is motivated.

CHAIRPERSON: Mmh.

20 **ADV VINCENT MALEKA SC:** We would like to address you about the terms on which you may consider granting leave to cross-examine, because there is nothing in the Notice of Motion that I have taken you to and there is nothing in the accompanying affidavit which expressly commits Ms Kaunda to giving testimony orally, under oath, before you so that her version can be tested too.

CHAIRPERSON: Mmh.

ADV VINCENT MALEKA SC: To that extent would ask you to impose conditions to the extent that you grant her the permission and the privilege of cross-examination.

CHAIRPERSON: But remind me. Do the rules go that far? Do the rules say that they must commit themselves to taking the witness stand or do they simply say they must put up their version?

ADV VINCENT MALEKA SC: No, it goes to the extent of indicating what they must do.

CHAIRPERSON: Ja

ADV VINCENT MALEKA SC: When they apply for leave to cross-examine.

10 **CHAIRPERSON**: Yes.

ADV VINCENT MALEKA SC: And can I take you to the rules Chair. I hope that you have them before you.

CHAIRPERSON: Yes. I should have them. Yes I have got them.

ADV VINCENT MALEKA SC: Chair if you go to rule 336

“that person that is the implicated person. If he or she wishes to give evidence himself or herself. Call any witness to give evidence in his or her behalf or cross-examine a witness.” Next on page 6 “He or she must in two weeks from the date of the notice apply in writing to the Commission to do so.”

20

And 3.3.7 gives you the discretion on how you will deal with that application and then Chair if you go to 3.4...

10 “An implicate – an application on terms of rule 336 must be submitted in writing to the secretary of the Commission within fourteen days, from the date of the Notice referred to in 33. The application must be accompanied by a statement from the implicated person responding to the witness statement insofar as it implicates him or her that statement must make it clear what parts of the witness statements are disputed or denied and upon which those parts are disputed or denied. So that there is an obligation not merely to dispute it, but to give a written statement explaining how you dispute the statements and the grounds upon which it dispute..”

And Chair, I wanted to take you to a ...[intervened]

CHAIRPERSON: Well I want to go back to 33.61. I do not read that necessarily to go as far as saying you are not going to be allowed to cross-examine or you are not going to be granted permission to cross-examine unless you first undertake that you will take the witness stand. It maybe that it means that, but I want you think about this. I understand that to mean – If an implicated person wishes to give evidence, himself or herself, she must - he or she must within two weeks of - from the date of notice apply to the
20 Commission for leave to give evidence himself or herself. That is one scenario.

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: If he or she wants to call any witness to give evidence on his or her behalf he must within two weeks from the date of notice apply in writing to Commission for leave to do so.

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: If he or she wishes to cross-examine a witness, he or she must within two weeks from the date of notice apply, in writing, to the Commission for leave to do so. I do not necessarily say let us have a debate about it. I am simply saying that is the interpretation that comes to my mind when I read this. I may be that something that we can deal with tomorrow, if we are going to deal with the applications tomorrow. So that everybody can reflect on it.

ADV VINCENT MALEKA SC: Yes sir.

CHAIRPERSON: There can be no doubt about the desirability that if people are going to
10 cross-examine they should really be prepared to take the witness stand and give evidence.

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: But whether or not this goes as far as to compel that they must make that choice upfront. I am not sure, it might be something that needs argument.

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: But certainly if somebody is going to apply for leave to cross-examine a witness. They have got to put up their version and it is not going to be good enough to just give us a bad denial.

ADV VINCENT MALEKA SC: Yes

20 **CHAIRPERSON:** Unless it is one of those situations where a bad denial is all you can say like an alibi. You know. But we must know what their version is and so on. So, I am quite happy to say if these applications are ready to be dealt with tomorrow I can deal

with them tomorrow, but I may have seen one that might not be a substantive application that might be in the way of a letter.

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: I think the rules – I think the rules require a substantive application.

ADV VINCENT MALEKA SC: Indeed.

CHAIRPERSON: So, it would be necessary for that one to be – to take the form of a substantive application before it can be dealt with. So, but those that are substantive applications I am quite happy to deal with tomorrow if from the commissions legal team there is a nothing you want to file.

10 **ADV VINCENT MALEKA SC:** Chair we will definitely deal with these applications tomorrow and on the issue that you want us to think about and as we think through this and sleep over the issues you have raised. For your benefit and those of our learned who would be making also put in the applications before you. Please consider overnight paragraph 3.6 of the rules. It says:

“In deciding an application contemplated in 336 the Chairperson may in his discretion and on such terms and conditions as he may deem appropriate grant leave to implicated persons:

a) To give evidence;

20 b) Call witnesses to give evidence on their behalf and/or seek cross-examine.”

So, what we would persuade it to do ultimately – when these applications are made. Is to impose conditions upon which you will grant the privilege of cross-examination, because it

is senseless and not in the public interest simply to grant the right to cross-examine without the accompanying obligation to put your version so that it can be tested

CHAIRPERSON: Ja, that is in order. Now, may I confirm that – it is three applications well basically it is two substantive applications that I have here. Is it not.

ADV VINCENT MALEKA SC: Sorry, you have three.

CHAIRPERSON: Substantive ones.

ADV VINCENT MALEKA SC: Indeed and ...

CHAIRPERSON: Or the one that is not substantive is the fourth.

ADV VINCENT MALEKA SC: It is the fourth Chair. So again if you go to the Index....

10 **CHAIRPERSON**: Let me just make sure that the one – the first one is that of Ms Kaunda.

ADV VINCENT MALEKA SC: It is substantive application.

CHAIRPERSON: And then there is one for Mr Mtolo.

ADV VINCENT MALEKA SC: Substantive application.

CHAIRPERSON: And then there is one for Hlongwane.

ADV VINCENT MALEKA SC: It is not a substantive application.

CHAIRPERSON: And then it is Mnonopi.

ADV VINCENT MALEKA SC: It is a substantive application.

CHAIRPERSON: Yes. Okay. So I will deal with those that are substantive applications.

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: And then with regard to Mr Hlongwane's one. His lawyers will have to put in a substantive application.

ADV VINCENT MALEKA SC: Indeed and Chair ...[indistinct] through them. You will see that they are not consistent. They are different.

CHAIRPERSON: Yes.

ADV VINCENT MALEKA SC: If you go to Mnonopi, for instance ...

CHAIRPERSON: Ja.

ADV VINCENT MALEKA SC: The application does not require cross-examination.

CHAIRPERSON: Yes.

10 **ADV VINCENT MALEKA SC**: Those who represent him will tell us that they simply want to present the evidence of Mr Mnonopi before you without the need to ...[intervened]

CHAIRPERSON: Sure for cross-examination.

ADV VINCENT MALEKA SC: Cross-examine Mr Mcebisi.

CHAIRPERSON: Yes.

ADV VINCENT MALEKA SC: Mcebisi. Sorry.

CHAIRPERSON: Okay.

ADV VINCENT MALEKA SC: Mr Jonas..

CHAIRPERSON: Mt Jonas.

ADV VINCENT MALEKA SC: My apologies.

20 **CHAIRPERSON**: Yes.

ADV VINCENT MALEKA SC: And again they are consistent. So ...

CHAIRPERSON: Ja.

ADV VINCENT MALEKA SC: We would like to deal with them Chair so that there is no doubt about where each of them stand and there is no doubt about what form of privilege and extent of participation you afford them

CHAIRPERSON: Ja. Okay. No, that is fine. Counsel or lawyers who may be representing the applicants in this matters is there anything you want to say about these matters being heard tomorrow. These applications or are you happy that we deal with them like that? There is one who indicates. Yes? Is there another one? Stand up. Let e
10 see. Are you involved in this application.

MALE SPEAKER 1: Not in those particular ones.

CHAIRPERSON: Not, I am talking about these ones. Is there - Maybe I should say. Who appears for Ms Kaunda?

ADV HENRY COWLEY: Cowley.

CHAIRPERSON: You do. You are happy that we deal with it tomorrow?

ADV HENRY COWLEY: Indeed ..[indistinct]

CHAIRPERSON: Okay thank you. Is there anyone who appears for Mr Mtolo.

MALE SPEAKER 1: Yes Chair it is Mr ...[indistinct] for both Adv Mtolo and ...[indistinct]
General Mnonopi.

20 **CHAIRPERSON:** You are – You will appear for both of them.

MALE SPEAKER 1: Yes.

CHAIRPERSON: You are happy that we deal with them tomorrow.

MALE SPEAKER 1: ...[indistinct answer]

CHAIRPERSON: Okay. Alright and there is nobody for Mr Hlongwane? There is nobody for Mr Hlongwane.

ADV VINCENT MALEKA SC: My recollection is that Mr Cilliers appears for Mr Hlongwane.

CHAIRPERSON: O. Okay. He is part of that other ...

ADV VINCENT MALEKA SC: He is part of that other group.

CHAIRPERSON: Ja.

ADV VINCENT MALEKA SC: But Chair again without detaining you on this issue.

10 **CHAIRPERSON:** Ja.

ADV VINCENT MALEKA SC: It is vital that at some point we have to reflect on Mr Cilliers type of representation, because these things are hanging and the longer they are hanging he is bound to be ...[indistinct]

CHAIRPERSON: Well - ;you ask me to consider making directions in regard to ...

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: Those applications. As things stand. Have you as the Commission's legal team received statements from their implicated persons that they – that that group of lawyer represent.

ADV VINCENT MALEKA SC: Not at all Chair.

20 **CHAIRPERSON:** Yes.

ADV VINCENT MALEKA SC: But we assume that they may rely on some of the statements you have made when you approved the arrangement we had with them and now reflected on record and the assumption may well be that they would arrive in the third week of September and assert a right to cross-examine without a prior application, because they told us that they will be ready to cross-examine by that week of September. We are not saying that you should deal with that you should deal with that issue, but all ...[intervened]

CHAIRPERSON: Ja, no, I understand....

ADV VINCENT MALEKA SC: All we are saying is that there is a need for you to direct
10 them and we can convey your directions to them that they must make the applications by a certain date, because the period of fourteen days contemplated in the rules has come and gone.

CHAIRPERSON: *Ja.* I was – I do not remember that the arrangement that was made between yourselves and them was spelt out in any detail. But I was under the impression that the – yourselves and them, as a group, had reached an agreement in terms of which everything that is supposed to be done in terms of the rules would be done by those who are supposed to do them by certain agreed dates, but from what you are saying that might not have – the arrangement might not have had that detail.

ADV VINCENT MALEKA SC: The arrangement insofar as it had some detail was about
20 the documentation which we undertook to furnish to them and we did. But there is no clarity and we seek your guidance on that issue, about whether they were obliged to make an application within the period of fourteen days in terms of the rules, because they may read some of the statements we made or you did.

CHAIRPERSON: *Ja.*

ADV VINCENT MALEKA SC: As an accommodation that that fourteen days period is no longer applicable.

CHAIRPERSON: O. Okay. I certainly did not intend that any steps that – any step that is required in terms of the rules should be ...[indistinct] without any condonation application. So that if there has been none compliance I expect that there should be a condonation application. I wonder whether there is any room that you might speak to them this afternoon seeing that we are going to finish a little earlier.

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: Well actually it is no longer as early as it was going to be and we – So,
10 with a view to a concrete arrangement that can be presented to me tomorrow morning on the understanding that if there is no concrete arrangement that is agreed as to what will be done when. I might then just issue directions.

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: But at all possible it would be good if there is discussion and there is agreement as to what will happen. What will happen when. But I a feeling that I might just have to issue directions then.

ADV VINCENT MALEKA SC: Yes. Chair we will then do that. I think it is sensible. We will contact our colleagues

CHAIRPERSON: Ja.

20 **ADV VINCENT MALEKA SC:** Via the secretaries to find out when they are ready. To make those applications. If we do not reach an agreement around the period. We will certainly come back to you to issue directions.

CHAIRPERSON: Ja. Ja. Okay. Now, thank you very much the we are ready to adjourn and there is nothing left that you wanted to say. Are there still something?

ADV VINCENT MALEKA SC: Not at this stage, but certainly when the applications are ...[intervened]

CHAIRPERSON: Ja. No, no. Of course. Ja. Okay. Alright. We will adjourn until tomorrow. Should we start a little earlier if we are going to deal with the applications tomorrow? First.

ADV VINCENT MALEKA SC: Chair we will be available whenever it is convenient to you and to I take it that we complete the evidence of Ms Mentor to the extent possible or we
10 still interrupt that evidence to finalise the application before she resumes?

CHAIRPERSON: I think tomorrow the applications should not take long except there is legal argument – like on that issue maybe we should try and deal with the applications so that we can have certainty in that regard and then soon after that then continue with Ms Mentor’s evidence.

ADV VINCENT MALEKA SC: So, is it convenient if we start at nine, Chair. Or 09:30?

CHAIRPERSON: Maybe let us start at - I can start at 9 O’clock. We can start at 09:30. Maybe shall we make it what? 9 O’clock so that we give the applications about an hour?

ADV VINCENT MALEKA SC: ...[indistinct] from my side to they say they say they come from the rural part of Gauteng. They will not be here by nine, but certainly by 09:30.

20 **CHAIRPERSON:** Okay. Let us say 09:30. Okay. We therefore adjourn until 09:30 tomorrow morning.

HEARING POSTPONED UNTIL 28 AUGUST 2018

HEARING ADJOURNS

[End of recording]

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