

COMMISSION OF INQUIRY INTO STATE CAPTURE
HELD AT
CITY OF JOHANNESBURG OLD COUNCIL CHAMBER
158 CIVIC BOULEVARD, BRAAMFONTEIN

02 JULY 2020

DAY 229



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Recording & Transcriptions

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TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 02 JULY 2020

CHAIRPERSON: Are you ready?

ADV SONI SC: We are ready Chairperson.

CHAIRPERSON: Yes okay alright. Thank you. Please administer the oath or affirmation.

REGISTRAR: Please state your full names for the record?

MR OELLERMAN: Clinton Oellerman.

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

10 **MR OELLERMAN:** Not.

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

MR OELLERMAN: I do.

REGISTRAR: Do you swear that the evidence you will give will be the truth; the whole truth and nothing else but the truth if so please raise your right hand and say, so help me God.

MR OELLERMAN: So help me God. Thank you.

20 **CHAIRPERSON:** Thank you very much. I do not know whether to welcome you Mr Oellerman or not.

MR OELLERMAN: Good morning Chair.

CHAIRPERSON: Good morning. Yes thank you. Yes Mr Soni.

ADV SONI SC: Thank you Chairperson. Chairperson can I briefly introduce the evidence that Mr Oellerman is going to

be giving?

CHAIRPERSON: Yes, yes.

ADV SONI SC: Mr Oellerman has prepared a report and you will recall Mr Chairperson arising from Ms Ngoye's affidavit in the Siyangena Review Application questions arose about the property transactions that Mr Montana has entered into and some of which you have been on air which evidence was led in the last two days. And the question really is, is there a connection between the Siyangena contracts and those
10 property transactions. Now what Mr Oellerman has done and the question really is, how do we present all of that evidence to you and of course to the public in the manner that facilitates a proper understanding of all the evidence. One could lead the evidence of 20 witnesses about its sale and so on but these are – this is documentary evidence. Mr Oellerman has been at the heart of collecting the documents relating to the properties. And based on that he prepared initial reports which dealt with the – the different stages of the transactions in respect of each party. Then about three
20 weeks ago Chairperson we were trying to find out how we could get the evidence of Mr van der Walt then we found out that he had left the country. And it is then that we required of Mr Oellerman who through a subpoena acquired the documents that Mr Loubser presented yesterday. And that threw a quite different light on the properties transactions

and the possible link with the Siyangena contracts. Now we thought to present that in a manner that puts all the facts in perspective and without forming conclusions at this stage it puts the facts in perspective Mr Oellerman would draw up a report of his investigation as at this stage. So that is the evidence that he is going to lead he's prepared a detailed report and I will go through the report with him. Now Chairperson as a preliminary to that and again in the interest of fairness to everybody after Mr Oellerman prepared the

10 report reports were served on all if I may call it that implicated parties or parties who are possibly mentioned. Among them are TMM and Mr Ferreira. The reports were served on them and on Monday or on Tuesday we received a note from Mr Ferreira's and TMM's lawyers to say but you should not lead the evidence of Mr Oellerman because we want to present our own evidence on the matter. But it was by way a letter. The commission wrote back Chairperson to say, if you do not want Mr Oellerman's evidence to be led at this stage bring an application as you are entitled to do in

20 terms of the rules to say, well postpone it until this date and this – the prejudice will be suffering and our approach would be if you want more time we will gladly give you more time. In fact, we will consult with you next week and you can – we can lead all the evidence at the same time. We received a letter this morning or late yesterday Chairperson to say, well

they want to apply to cross-examine Mr Oellerman and Mr Loubser. So I place that on record just to indicate that there were allegations that it would be unfair to lead Mr Oellerman's evidence at this stage and when we asked for the proper procedure to be followed the response is, well we want to cross-examine. Now that is an application that will obviously be made to you Chairperson and I will just alert you to it but that is where we are at this stage and as far as the commission's legal team in the PRASA stream is
10 concerned we are entitled to lead the evidence of Mr Oellerman at this stage.

CHAIRPERSON: No thank you very much. Okay. Let us continue.

ADV SONI SC: Yes. Mr Oellerman you have heard I have explained to the Chairperson the genesis of the report.

MR OELLERMAN: Hm.

ADV SONI SC: Can you indicate to the Chairperson in – in what your role is in regard to the reports?

MR OELLERMAN: Okay.

20 **CHAIRPERSON:** Well I guess this is – the beginning is his relationship with the commission.

MR OELLERMAN: Yes.

ADV SONI SC: Yes.

CHAIRPERSON: Ja that is the beginning. Yes.

MR OELLERMAN: So Chair I am appointed as an

investigator at the commission. I am currently one – leading the investigation with the PRASA team looking into various contracts involving PRASA and allegations around state capture.

The – my involvement with the – with this particular matter comes from numerous documents which we looked through during the course of our investigation. Various court papers, affidavits which had been obtained in other matters prior our investigation. One of which was of Ms Martha
10 Ngoye who has also testified here before – at the commission as well.

And one of the affidavits which we – which we looked at during the course of investigation was her founding affidavit in the Siyangena matter where PRASA had brought an application to have the Siyangena contract set aside. One of the key matters which Ms Ngoye raised in the affidavit on why the contract should be set aside were related to certain financial dealings between the PRASA's Group Chief Executive Officer, Mr Lucky Montana and an
20 attorney Mr Riaan Van Der Walt who had represented Siyangena on various matters in the past.

In fact, Ms Ngoye in the affidavit went so far as to say that a criminal docket had been opened at – at Brooklyn police station as a result of what they referred potentially corrupt activities.

These activities actually refer to related or to financial – the financial dealings which she referred related to four property transactions involved Mr Montana and Mr van Der Walt in which four properties were purchased.

First of all, it was – three properties were purchased and one property was purchased from Mr Montana. The four properties evidence has been led at the commission on these properties. That is the Parkwood property, a property in Waterkloof, a property in Sandhurst and a property in
10 Burlingham.

What is also mentioned is whilst these financial dealing were taking place Siyangena was at the same time during the same period engaged in extending or having an addendum to their contract concluded with – they were in negotiations with PRASA to have that contract extended to the value of just over R8 million I think it is R294 million.

And because of this it was alleged that the – these relationships in which these parties as contractor and service provider raised significant red flags because of what
20 – of these financial dealings that were involved as well.

We have then subsequently reviewed the documentation, obtained further documents during the course of the investigation, interviewed a number of people, looked at affidavit and sources of information attached to their affidavits and that just culminated in a summary report

which I have then put there.

ADV SONI SC: And in regard to the documents provided by Mr Loubser what was the significance of those documents Mr Oellerman?

MR OELLERMAN: Yes Sir. As Mr Soni pointed out we initially tried to make contact with Mr van Der Walt. We subsequently learned that he is no longer in the country. We then made contact with Mr Loubser who after we had provided him a summons gave us a number of documents
10 which he had secured from their offices.

With – in amongst those documents were bank statements related to an entity called Precise Trade as well letters which or correspondence between Mr van Der Walt and Mr Loubser and his partners which set out a number of explanations regarding these property transactions.

And there were also references to certain – certain contracts which had been entered into with entities via Mr van Der Walt and those entities had paid money into Precise Trade's bank account. And a review of the bank account and
20 Mr Loubser's explanations it was clear that references had been made in Mr van der Walt's handwriting on which entities deposited which monies on which dates.

One of the entities mentioned was TMM which has a close association with Siyangena and Mario Ferreira who also has a close association with the two entities.

ADV SONI SC: Now in your report you – you detail a number of issues and you seem to have dealt with two of them at this stage namely just the general background and then the sources of information. Now that would I be correct that part of your report is from paragraph 1 to paragraph 11, is that correct?

MR OELLERMAN: That is correct Chair yes.

CHAIRPERSON: Well Mr Soni before you go into the contents of the report with the witness, we need to have the
10 – his report admitted.

ADV SONI SC: Absolutely right Chairperson. So...

CHAIRPERSON: Do you ask that I admit it as Exhibit SS18 together with the annexures thereto?

ADV SONI SC: Yes as you please Chairperson I am indebted to you.

CHAIRPERSON: The preliminary report by – the preliminary report on the commission's investigation into Mr Lucky Montana's involvement in property transactions in 2014 and 2015 compiled by Mr Clinton Oellerman that is O-e-l-l-e-r-m-
20 a-n-n for the benefit of the transcribers is admitted together with its annexure as Exhibit SS18.

ADV SONI SC: Yes. And again, just for references purposes it will be contained in Bundle H Chairperson.

CHAIRPERSON: Ja it will – it is contained in Bundle H.

ADV SONI SC: Yes.

CHAIRPERSON: Thank you.

ADV SONI SC: As you please.

CHAIRPERSON: Thank you.

ADV SONI SC: Now in paragraphs 11 to 15 you deal with the sources of the information and you have already dealt with that various transactions [00:14:23] you got from Mr Loubser and so on. In particular the bank statement that he gave you. Chairperson...

CHAIRPERSON: I gather – I am sorry. I guess also we
10 need to get this out of the way. We need to ask Mr Oellerman to confirm that it is his – his report.

ADV SONI SC: Yes. As you please Chairperson.

CHAIRPERSON: Mr Oellerman do you confirm that Exhibit SS18 which begins from page – I see that it says page 3.

MR OELLERMAN: Yes.

CHAIRPERSON: It should be page 1 is it not? It should be page 1 because the other things are the index.

ADV SONI SC: Chairperson what I suspect has happened and I only just saw it now that you have pointed out is there
20 is a...

CHAIRPERSON: Oh, there is an affidavit?

ADV SONI SC: That is right.

CHAIRPERSON: Oh okay. Oh, but then – then where is page 2? Oh, there is page 2.

ADV SONI SC: Yes, Mr Chairperson.

CHAIRPERSON: No then I understand. Okay I think what we will do is you see the from outside there is no indication that there is also the affidavit so I think that we should say Exhibit SS18 would be the actual report and we make – what shall we make the affidavit? Because it needs to be – we will make it Exhibit SS18a.

ADV SONI SC: Yes.

CHAIRPERSON: Ja. The affidavit of Mr Clinton Oellerman on the 17 June 2020 which accompanies his report will be
10 admitted as Exhibit SS18a.

ADV SONI SC: As you please Chairperson.

CHAIRPERSON: And then we – we need him to – have you already confirmed, did they ask you to confirm and you confirmed Mr Oellerman your report or not yet?

MR OELLERMAN: Not yet Chair.

CHAIRPERSON: Do you confirm that Exhibit SS18 is your report?

MR OELLERMAN: That is correct Chair yes.

CHAIRPERSON: Thank you. Mr Soni.

20 **MR OELLERMAN:** And Chair can I – I can also just confirm this.

CHAIRPERSON: Ja.

MR OELLERMAN: That the report is titled preliminary report.

CHAIRPERSON: Yes, yes.

MR OELLERMAN: And the litigations are ongoing.

CHAIRPERSON: Yes. No, no that is fine.

MR OELLERMAN: And the report will be updated as the investigation continues.

CHAIRPERSON: No, no that is fine. I think by the very nature of – of – well actually I do not even know whether it should be called a report. Maybe that is what may be confusing. As I understand it is – it is just you saying what you came across as you were investigating.

10 **MR OELLERMAN**: At this stage yes, correct Chair.

CHAIRPERSON: Ja at this stage and later on if and when you have more information that changes the situation – the picture or that confirms the picture you will put that information before the commission.

MR OELLERMAN: That is correct Chairperson.

CHAIRPERSON: Ja. Okay alright.

ADV SONI SC: And just on that point Mr Oellerman the idea is you point out later in your so-called report is that eventually you will present everything in a final report.

20 **MR OELLERMAN**: That is correct yes Chair.

ADV SONI SC: After hearing the other side and so on.

MR OELLERMAN: Yes there are additional investigations going on as well which involved detailed flow of fund analysis of various parties so that will all be incorporated into the final report.

ADV SONI SC: Then from paragraphs 18 to 23 you deal with the background and you have dealt with that already in general terms that whilst these property transactions were being negotiated and processed there was this parallel process of Siyangena acquiring major contracts with PRASA.

MR OELLERMAN: That is correct yes.

ADV SONI SC: And if I could just summarise what that is and you could just confirm whether that is correct? In June 2014 there was a R2.4 billion contract, is that correct?

10 **MR OELLERMAN:** That is correct yes.

ADV SONI SC: Between Siyangena and PRASA. And then in September 3 months later there was the R800 million extension of that contract.

MR OELLERMAN: That is correct Chair.

ADV SONI SC: Chairperson although it is not contained in this, I have just put some context to it. You will recall Chairperson that Ms Ngoye stressed on the first occasion she gave evidence and then again when she gave evidence earlier this week that that contract they only discovered the
20 R800 million contract when they stopped Siyangena from carrying on some work and Siyangena rushed off to court and got an interdict preventing PRASA from doing so. And in support of their claim for the R800 million they produced this contract which PRASA saw for the very first time. And I just place on record because it is contained here that it was Mr

Montana who had signed that contract on the 30 September on behalf of PRASA.

CHAIRPERSON: Yes.

ADV SONI SC: The R800 million.

CHAIRPERSON: I still want to be reminded whether my – but I want your confirmation that my memory is correct that there was this one contract or addendum to a contract that Mr Montana had signed without any knowledge of anyone else at PRASA. Is that the one or is that another one?

10 **ADV SONI SC:** That is it. That is the one.

CHAIRPERSON: That is the one.

ADV SONI SC: That is the one.

CHAIRPERSON: Where – do you recall whether there is nobody who witnessed his signature there or whoever witnessed was not somebody from PRASA?

ADV SONI SC: We did not canvass that with Ms Ngoye because as I understood they were simply not aware of the contract Chairperson.

20 **CHAIRPERSON:** Yes I think – I think there was – I think it was during Ms Ngoye's evidence earlier in the year when I heard evidence about a document or an agreement or addendum that I think no-one else at PRASA knew anything about it except Mr Montana because he had signed it.

ADV SONI SC: Yes.

CHAIRPERSON: I think I looked at – I wanted to see who

had signed as a witness. I cannot remember whether there was nobody who had signed as a witness to Mr Montana's signature or there was somebody and I have the impression that I may have asked Ms Ngoye whether she knew the signature or something.

ADV SONI SC: Yes.

CHAIRPERSON: And either I did not – I asked her and she said no she did not know who it was or maybe I did not ask her. I intended to ask and never asked.

10 **ADV SONI SC:** Can I – can I ask this Chairperson? We have the contract.

CHAIRPERSON: Yes.

ADV SONI SC: Can we look at it?

CHAIRPERSON: Later in due course.

ADV SONI SC: At tea time.

CHAIRPERSON: Ja.

ADV SONI SC: And I will...

CHAIRPERSON: Yes.

ADV SONI SC: Look at it and then we can canvass it.

20 **CHAIRPERSON:** Yes. Mr Oellerman does what I am talking about ring a bell with you?

MR OELLERMAN: It does Chair. It appears to be the same contract but I would also just like to confirm that.

CHAIRPERSON: Yes okay.

MR OELLERMAN: That we are – have the same thing.

CHAIRPERSON: Okay alright okay. Okay.

ADV SONI SC: We will check that.

CHAIRPERSON: Ja okay. Because I – it may be that there is some significance in the fact that none of the witnesses to Mr Montana's signature was a signature of somebody from within PRASA.

ADV SONI SC: Yes.

CHAIRPERSON: There may be some significance to that.

ADV SONI SC: Yes.

10 **CHAIRPERSON:** So – ja okay.

ADV SONI SC: Yes. But we will look at it just now Chairperson.

CHAIRPERSON: Okay.

ADV SONI SC: Then Mr Oellerman we go into the four properties. Now can I just put this in context.

MR OELLERMAN: Yes.

ADV SONI SC: In what one may call the main part of the report you simply summarise all the facts relating to each of the properties, would that be correct?

20 **MR OELLERMAN:** That is correct Chair.

ADV SONI SC: And the purpose of that is to give a broad overall picture without being bogged down by individual facts and individual documents and so on.

MR OELLERMAN: Indeed Chair.

ADV SONI SC: But in order to show that all what your

summary in the main report is based on documentation that is in your possession you have attached more detailed reports in respect of each of the properties.

MR OELLERMAN: That is correct Chair. So what – what I did was for each property there is an individual report where all the source document is attached to that particular report. So that there will be four of those reports. They are annexures to the main report. The main report then sets out a summary of what transpired more generally giving context
10 to the – the individual reports.

ADV SONI SC: So you for example would have heard the evidence yesterday of Mr Karen De Beer.

MR OELLERMAN: Correct.

ADV SONI SC: Now that deals with the Waterkloof property and all her affidavit and the other matters she dealt with are contained in the annexure to – to your main report.

MR OELLERMAN: That is correct Chair.

ADV SONI SC: And let us just get that formality out of the way. There are four annexures to your report, am I correct?

20 **MR OELLERMAN:** That is correct Chair.

ADV SONI SC: And each of these annexures deals with their properties?

MR OELLERMAN: That is correct.

ADV SONI SC: The first annexure is OR1 with which property does that deal

MR OELLERMAN: That would be the sale of the Parkwood property.

ADV SONI SC: Right. And then OR2?

MR OELLERMAN: OR2 is the Waterkloof property.

ADV SONI SC: Right. And OR3?

MR OELLERMAN: OR3 is the Sandhurst property.

ADV SONI SC: And OR4?

CHAIRPERSON: Hang on, hang on, hang on.

ADV SONI SC: Oh I am sorry Chairperson.

10 **CHAIRPERSON:** I was able to see OR1. Where is OR2? I see OR3. OR2 okay. I think the problem is that when I – you know the divide in pages where you have OR whatever written it is better if they are the same colour.

ADV SONI SC: Yes. Yes.

CHAIRPERSON: He has different colours. So when I see the first one OR1 and I see it is this green light colour in colour when I look for OR2 I am looking for a green – a similar colour.

ADV SONI SC: Yes.

20 **CHAIRPERSON:** So those – so they must not change because if I see pink, I think it must be something else.

ADV SONI SC: Something else, yes.

CHAIRPERSON: So – but if it is the same colour.

ADV SONI SC: No absolutely.

CHAIRPERSON: It helps.

ADV SONI SC: Yes.

CHAIRPERSON: Okay. Alright.

ADV SONI SC: Especially if they are marked.

CHAIRPERSON: If they are – if the – if you – if you use a certain colour to divide different sections of the lever arch file it is better to use the same colour.

ADV SONI SC: The same colour.

CHAIRPERSON: And otherwise because I am busy looking for this colour.

10 **ADV SONI SC:** No sure.

CHAIRPERSON: That is what the colours how they have been doing it in the past.

ADV SONI SC: Yes.

CHAIRPERSON: So I miss this colour because now this is cream, white or yellow. Okay thank you. Now I have found OR2 and OR3 you are about to go to OR4.

ADV SONI SC: OR4 and which property does OR4 deal with Mr Oellerman?

MR OELLERMAN: OR4 is the Hurlingham property Chair.

20 **CHAIRPERSON:** Hm.

ADV SONI SC: Chairperson can I get this out of the way? You asked me about the addendum. It is annexure FA209 but we have collected in a file which I will hand up to you at a later stage and I am but before I do that may I just point this out? That the annexure is signed by Siyangena Mr

Reddy who was mentioned at being at that meeting you might remember that Ms Ngoye talked about with the DG. She and Mr Dubek were at that meeting. And it is signed by Mr Montana and there appeared to be two witnesses and it may be that – and it is not something I recall immediately but I will check the record but it is signed but it may be that when you asked Ms Ngoye she could not recognise those persons.

CHAIRPERSON: Do I have it here or I do not have it here?

10 **ADV SONI SC:** You do not have it now.

CHAIRPERSON: Oh okay.

ADV SONI SC: I will hand it up in their file.

CHAIRPERSON: No that is fine. But we would need to know whether the people who signed as witnesses are PRASA people or not.

ADV SONI SC: Yes.

CHAIRPERSON: Or whether all the witnesses were witnesses of the other party to the agreement.

ADV SONI SC: Yes. Yes.

20 **CHAIRPERSON:** Ja.

ADV SONI SC: Yes. Then – Mr Oellerman when for example Ms Karen De Beer gave evidence and when Mr Green gave evidence yesterday it showed a number of different parties seemingly being involved and then eventually the Deed of Transfer records that two of the properties were transferred

to Precise Trade and one of the properties was transferred to Ms Montana himself. What one needs to do for the Chairperson and for the public as a whole is to just try and summarise in a sense very briefly all the various steps in the transactions so that right at the end one can say but why would all of these things happen and a contract is – and these are not small contracts. More than R10 million each of them.

MR OELLERMAN: Yes.

10 **ADV SONI SC:** Is – there is a different party to whom the property is concerned. And we will deal with that. But when you are doing your summary of each of the properties if you could keep that in mind.

MR OELLERMAN: Yes.

ADV SONI SC: So you then talk about the four properties and that the first part is an introductory part. We have heard evidence on that and we need not deal with that – the various properties we know there are four properties. So if you could start at paragraph 27 and deal with the Parkwood
20 property.

MR OELLERMAN: Sure. So just with regard to the Parkwood property, this was a property that Mr Montana owned himself and he subsequently sold that property to Precise Trade. Initially he bought the property for about R1.85 million ...[intervenes]

CHAIRPERSON: Was that in 2008?

MR OELLERMAN: That is correct Chairperson. Yes.

CHAIRPERSON: H'm.

MR OELLERMAN: His bank had valued the property around 2012 for about R2.5 million. However, in May 2014, Precise Trade made him an offer for R 6.8 million for the property which, as I say, was about R3 million more than what his bank had valued the property at the time.

And in the detailed report we had correspondence
10 between Mr Montana and his bank where that sets - where he had set that out.

Mr Montana, obviously, accepted the offer and the property was paid for through Precise Trade to a number of payments over a period of time.

ADV SONI SC: Just on that point. There are two unusual features that you are alluding to. What are those?

MR OELLERMAN: So firstly the property is valued at around R3.5 million. Mr Montana gets a very generous offer of R6.8 million for the property.

20 I mean even factoring in some escalation over - of property value over 20 months, it seems the property the value had increased significantly.

CHAIRPERSON: H'm.

MR OELLERMAN: And he, obviously, accepted the offer ...[intervenes]

CHAIRPERSON: Yes.

MR OELLERMAN: ...for the property

CHAIRPERSON: So it was within less than two years.

MR OELLERMAN: Yes, that is correct.

CHAIRPERSON: After the evaluation made by the bank.

MR OELLERMAN: Correct.

CHAIRPERSON: So and the bank valued it at three point?

MR OELLERMAN: R3.5 million.

CHAIRPERSON: Okay.

10 **MR OELLERMAN:** Roundabout August 2012.

CHAIRPERSON: Yes. So... so was it... did he get about double the - or close to double ...[intervenenes]

MR OELLERMAN: Yes.

CHAIRPERSON: ...the value of the property.

MR OELLERMAN: Correct, yes.

CHAIRPERSON: Yes. H'm.

MR OELLERMAN: And there is also – I mean there is no real evidence that significant additions had been done to the property because subsequent to Mr Montana signing the
20 deal, the addendum to the offer to purchase by Precise Trade was signed in which some onerous obligations were placed on Mr Montana to fork out for improvements to the property at his own cost.

CHAIRPERSON: H'm. So on your investigation in regard to Mr Montana's involvement in these properties, the sale of

this property of his to Precise Trade which is Mr van der Walt's company, marks the first property transaction between Mr Montana and Precise Trade. Is that right?

MR OELLERMAN: Yes, that is correct.

CHAIRPERSON: In terms of these properties ...[intervenes]

MR OELLERMAN: Correct.

CHAIRPERSON: ...that you have looked of the four?

MR OELLERMAN: That is correct.

CHAIRPERSON: Yes. And then, this is... this happens in
10 2014.

MR OELLERMAN: Correct.

CHAIRPERSON: Is that right?

MR OELLERMAN: Yes, Chair.

CHAIRPERSON: H'm.

MR OELLERMAN: The offer was made roundabout
May 2014.

CHAIRPERSON: About May 2014?

MR OELLERMAN: Yes.

CHAIRPERSON: So you will later on will round off the last
20 one of the four properties - the last one of the transactions
happens sometime in 2015. Is that right? Or towards end of
2014?

MR OELLERMAN: The properties are all concluded
...[intervenes]

CHAIRPERSON: By end of 2014?

MR OELLERMAN: End of 2015. Yes.

CHAIRPERSON: By end of 2015?

MR OELLERMAN: Yes.

CHAIRPERSON: H'm?

MR OELLERMAN: Correct.

CHAIRPERSON: Yes.

MR OELLERMAN: The properties or the initial offers are made ...[intervenes]

CHAIRPERSON: Ja.

10 **MR OELLERMAN**: ...2014.

CHAIRPERSON: Yes.

MR OELLERMAN: Although the property transfers and conclusions run into 2015.

CHAIRPERSON: Yes, yes. The actual sales ...[intervenes]

MR OELLERMAN: Yes.

CHAIRPERSON: ...occur - all occur in 2014?

MR OELLERMAN: Correct.

CHAIRPERSON: But the transfers - some of the transfers or the transfer of one of them might go into ...[intervenes]

20 **MR OELLERMAN**: Correct.

CHAIRPERSON: ...2015.

MR OELLERMAN: So just as an example. I mean, in the Parkwood property, the offer was made in August 2012 but the transfer was only affected in February 2015.

CHAIRPERSON: Yes. Okay.

ADV SONI SC: So the offer was made in 2014?

MR OELLERMAN: Sorry, 2014.

CHAIRPERSON: Yes.

MR OELLERMAN: 2014. And then the transfer was effected in February 2015.

CHAIRPERSON: Yes. Okay. But in the end, part of the point about Mr Montana's involvement in these transactions, in the sales of properties with Precise Trade and Mr van der Walt is that, during 2014, there are - there were various
10 agreements or tenders or business being done, being conducted between PRASA and Siyangena. And - ja, okay. Thank you.

MR OELLERMAN: Ja.

ADV SONI SC: And just to put that in perspective. The R2.4 billion contract was signed on the 30th of June 2014. Is that right.

MR OELLERMAN: Correct.

ADV SONI SC: And the addendum was signed on... in September by Mr Montana on the 30th of September?

20 **MR OELLERMAN:** That is correct.

ADV SONI SC: 2014 again.

CHAIRPERSON: So... so the Parkwood property is sold in May, the sale agreement is concluded in May between Montana and Precise Trade. Is that right?

And then in June, then that contract is concluded

between PRASA of which Mr Montana was the CEO and Siyangena?

MR OELLERMAN: Correct.

CHAIRPERSON: Yes.

MR OELLERMAN: Then the remaining three properties, the transactions would have happened between August and October 2015.

CHAIRPERSON: Yes, yes. Yes. Okay.

ADV SONI SC: Now Mr Oellerman, until Mr Loubser gave
10 you the documents, were you aware of how payments had been made or who had made payments and so on?

MR OELLERMAN: Not at that stage. It was part of the investigations at that stage.

CHAIRPERSON: H'm. H'm.

MR OELLERMAN: Yes, Chair.

ADV SONI SC: But he then gave you the documents. Now one of the documents that he gave you was the bank statement of Precise Trade.

MR OELLERMAN: That is... yes.

20 **ADV SONI SC**: Is it?

MR OELLERMAN: Yes.

ADV SONI SC: Chairperson, that appears at Bundle G. It is Exhibit SS16 and it is at page 190. It may be useful for you to have it in front of you Chairperson. I say that with respect because there are matters that I want to deal with here.

CHAIRPERSON: No, that is fine. I think if you do not already have, it would be convenient to have... I do not know whether or not to call it a table which say like May Montana's tables.

ADV SONI SC: Yes.

CHAIRPERSON: Mr Montana's sells his Parkwood property to Precise whose sole director is Mr van der Walt who is an attorney representing ...[intervenes]

ADV SONI SC: Yes.

10 **CHAIRPERSON:** Siyangena.

ADV SONI SC: Yes, yes.

CHAIRPERSON: June 2014, PRASA concludes or provides, gives a tender to Siyangena for so much but also the question of who signs that agreement.

ADV SONI SC: Yes, yes.

CHAIRPERSON: For that ...[intervenes]

ADV SONI SC: Yes.

CHAIRPERSON: Well, that contract.

ADV SONI SC: Yes.

20 **CHAIRPERSON:** And then, go throughout the year ...[intervenes]

ADV SONI SC: Yes.

CHAIRPERSON: ...to say, "Here is what happens about properties. Here is what happens in terms of business between Siyangena and PRASA".

ADV SONI SC: Yes.

CHAIRPERSON: And who gets involved, and that is where we need to also look at the... at what was happening to the legal department. I have got Ms Ngoye and Mr Dingiswayo. Some of the things that were happening to them ...[intervenes]

ADV SONI SC: Yes, we can... Yes.

CHAIRPERSON: ...with... they need to be factored in there as well.

10 **ADV SONI SC:** Ah, I see.

CHAIRPERSON: Ja.

ADV SONI SC: Chairperson, it has just occurred to me. We should do two things.

CHAIRPERSON: H'm.

ADV SONI SC: And that is to have a table but also have a pictorial representation.

CHAIRPERSON: Yes, yes.

ADV SONI SC: Because it gives one a bird's eye-view of ...[intervenes]

20 **CHAIRPERSON:** Yes, yes.

ADV SONI SC: ...the whole thing.

CHAIRPERSON: Exactly. Ja, ja.

ADV SONI SC: Because the otherwise ...[intervenes]

CHAIRPERSON: Yes.

ADV SONI SC: ...put it all together.

CHAIRPERSON: Ja.

ADV SONI SC: But we will do that Chairperson.

CHAIRPERSON: Ja, ja.

ADV SONI SC: And we will do it soon as well.

CHAIRPERSON: Yes, ja. If Ms Renata is on top of these things, she could do it while we are continuing and by tea-break it should... it would be ready.

ADV SONI SC: Yes.

CHAIRPERSON: Because it is just about 2014 up to 2015.

10 **ADV SONI SC:** 2015. Yes.

CHAIRPERSON: It is those items.

ADV SONI SC: Yes.

CHAIRPERSON: Ja, okay. I would have liked to have it before he finishes his evidence if possible.

ADV SONI SC: Yes.

CHAIRPERSON: Okay, alright.

ADV SONI SC: Yes.

CHAIRPERSON: Not necessarily the pictorial one.

ADV SONI SC: No, no.

20 **CHAIRPERSON:** Just the timetable ...[intervenes]

ADV SONI SC: Yes, yes.

CHAIRPERSON: ...the table. Ja.

ADV SONI SC: Yes.

CHAIRPERSON: Ja. Okay.

ADV SONI SC: Now, if you look at the bank account Mr

Oellerman, you will see that the green ...[intervenes]

CHAIRPERSON: I am so sorry. You referred to a bundle that has been handed up. Is that the one I should look at now?

ADV SONI SC: That is... Yes. Yes, Chair. I am sorry.

CHAIRPERSON: Okay.

ADV SONI SC: It is Bundle G, Exhibit SS16, page 190. It is an annexure to Mr Loubser's affidavit.

CHAIRPERSON: H'm. Thank you.

10 **ADV SONI SC**: Now, you deal with, in paragraphs 4 and 5... paragraphs 31 and 32, you say that the agreement provided for a deposit of R2.5 million. Is that correct?

MR OELLERMAN: Correct.

ADV SONI SC: At page 32.

MR OELLERMAN: That is correct, Chair.

ADV SONI SC: Alright.

CHAIRPERSON: I am sorry Mr Soni. You referred to paragraph 32.

ADV SONI SC: Yes.

20 **CHAIRPERSON**: But you... of his report?

ADV SONI SC: Of Mr Oellerman's report, yes.

CHAIRPERSON: Okay. Ja, okay.

ADV SONI SC: And you make the point that in terms of the agreement, the amount, the deposit was to be paid on the 18th, before the 18th of June. Ah, so sorry. The deposit was

to be paid by the 4th of June and payments had to be made between June 2014 and February 2015.

MR OELLERMAN: That is correct, Chair.

ADV SONI SC: And is that what happened in regard to the payments?

MR OELLERMAN: No, it appears not. It appears that payments from Precise Trade differed to what was set out in the purchase agreement. They were made over a series of payments. The deposit itself was not R2.5 million but
10 R2.225 million that was made.

ADV SONI SC: Alright. And can I then just ask you to look at the bank statement which is at Bundle G? And can you read into the record the deposits made into Precise Trade's account on the 18th of June 2014?

MR OELLERMAN: Chairperson, there are two deposits that are reflected. The one... the first one is for R1.85 million... R1 850 000. Below that is another deposit for R4 million.

ADV SONI SC: Yes. And if you look at the, I just point out that the handwriting against those numbers it says TMM
20 loan.

MR OELLERMAN: Yes, that is correct.

ADV SONI SC: H'm.

MR OELLERMAN: Mr Loubser indicated in their interactions with him that Mr van der Walt had communicated to them in their correspondence that that - that money was deposited

by TMM and these... those were his, Mr van der Walt's own handwriting inscriptions that are reflected on the bank statement.

CHAIRPERSON: Maybe just remind everybody who TMM is in relation to Siyangena.

ADV SONI SC: Yes, yes.

CHAIRPERSON: H'm.

MR OELLERMAN: Yes, so... I think Ms Ngoye covered it quite extensively in her evidence as well. TMM has a close
10 association with Siyangena within the documentation that we have seen. There is correspondence where Siyangena confirms that TMM assists them in the execution of their contracts.

CHAIRPERSON: Does - did your investigation reveal that Siyangena appears to be a subsidiary of TMM or not really but they might be owned by the same person or persons or they might have common directors?

MR OELLERMAN: Ja, at this stage, I would say they have a close association with...

20 **CHAIRPERSON:** Yes, yes.

MR OELLERMAN: ...between the two companies ...[intervenies]

CHAIRPERSON: Okay.

MR OELLERMAN: TMM plays an important role in the execution of the Siyangena contract.

CHAIRPERSON: Okay.

MR OELLERMAN: That is - or the relationship is confirmed in the correspondence ...[intervenes]

CHAIRPERSON: Is close...

MR OELLERMAN: ...to PRASA which we have seen as well.

CHAIRPERSON: Okay.

ADV SONI SC: And Mr Ferreira's roles in TMM and Siyangena?

MR OELLERMAN: Correct. So from the documentation that
10 we have reviewed, he plays an active role in both TMM and in Siyangena.

ADV SONI SC: And just again. One of the documents that Mr Loubser handed in yesterday was an agreement between TMM and himself - oh, sorry, and Mr Ferreira on the one hand and Mr van der Walt on the other hand, being a joint venture for certain developments. You have seen that document?

MR OELLERMAN: Yes, I have seen the document and I can
20 confirm that is one of the documents that was given to us by Mr Loubser. The document, essentially, appears to be an agreement where opportunities for investments would be sought by Mr van der Walt and presented to TMM or to Mr Mario Ferreira acting on behalf of TMM.

ADV SONI SC: Now, the first withdrawal from this account as on the papers we have, is made on the same day as

payment is made of those two amounts of R1.8 million and R4 million by TMM.

MR OELLERMAN: The what?

ADV SONI SC: What is that payment for? Can you...?

MR OELLERMAN: That appears to be for the deposit which is reflected in the purchase agreement. Although, the handwriting inscription next to it, appears to read as guarantee.

ADV SONI SC: Yes. And you read the explanation that Mr
10 van der Walt gave to Mr Loubser and Mr van Wyk when they asked him questions? Mr Loubser sent... I mean, annexed four letters at the exchange.

MR OELLERMAN: Correct.

ADV SONI SC: And in terms of Mr van der Walt's explanation, what was that R2.25 million ...[intervenes]

MR OELLERMAN: It appears to be a... for his existing...
one of his existing properties, the guarantee which the bank had called up, that payment would be made towards that guarantee of one of the existing parties. That would be
20 directly into his other property that he owned.

ADV SONI SC: And the Parkwood property transaction has a clause which says that the R 2,5 million may be paid to extinguish the bond on - the existing bond on Mr Montana's Waterkloof property.

MR OELLERMAN: That is correct, Chair.

ADV SONI SC: Alright. Now, can I just ask you if you look at the further withdrawals from the account and I refer you to that made on the 18th of August, the first one made on the 18th of August. Would that... would it be correct to say that was for R110 800,00 Mr Oellerman?

MR OELLERMAN: Correct. I have it as the 18th of July. 18th of July 2014.

ADV SONI SC: Oh, sorry. It is the 18th of July. Sorry.

MR OELLERMAN: Correct.

10 **ADV SONI SC:** Yes. And what is it reflected as on the bank account itself?

MR OELLERMAN: There are three payments that are... or two payments that there are there, both on the 18th. The one is R110 800,00 and the one directly below that is R350 00,00. And they reflect the same information. It says Montana payment, both of them.

ADV SONI SC: And in terms of the schedule that Mr van der Walt gave to his partners, is he saying that that was in respect of...

20 **MR OELLERMAN:** Yes.

CHAIRPERSON: Property.

MR OELLERMAN: Yes, this corresponds with the explanation that was given by Mr van der Walt to his partner on how payment of the property was effected.

ADV SONI SC: Then the third payment reflected is of

twenty-four thousand, on the 24th of July 2014. That is for R400 000,00. To whom does the bank account reflect the payment being made?

MR OELLERMAN: The... it is reflected as TLM which we understand to be the initials of Tshepho Lucky Montana.

ADV SONI SC: And in Mr van der Walt's explanation, is he saying that that is part of the Parkwood?

MR OELLERMAN: It is consistent with his explanation and the schedule of payments which he provided that was made.

10 **ADV SONI SC:** Then just one other... well, two others that I want to refer you to... or three others. Sorry. Can I ask you to turn to page 191? You will see in the third ...[intervenes]

CHAIRPERSON: H'm.

ADV SONI SC: Oh, sorry.

CHAIRPERSON: I am sorry Mr Soni. Sorry. H'm I was just making a note. What page should we... I go to? On this... is it on the same bundle?

ADV SONI SC: It is ...[intervenes]

CHAIRPERSON: On the statement?

20 **ADV SONI SC:** It is part of the bank statement.

CHAIRPERSON: Report... bank statement.

ADV SONI SC: It is the next page of the bank statement.

CHAIRPERSON: Oh, okay.

ADV SONI SC: Page 191.

CHAIRPERSON: Okay.

ADV SONI SC: Now, there is an entry on the 5th of December 2014 and that is for a withdrawal of R400 000,00. Is that correct?

MR OELLERMAN: That is correct, Chair.

ADV SONI SC: Yes.

MR OELLERMAN: The reference is again TLM and it is consistent with the information provided by Mr van der Walt.

ADV SONI SC: And then the next withdrawal is on the 15th of January 2015. And what is that for?

10 **MR OELLERMAN:** That is in the amount of R300 000,00 and the description there is TL.

ADV SONI SC: And the explanation that Mr van der Walt gave?

MR OELLERMAN: It is consistent with the series of payments that were made for the Parkwood property.

ADV SONI SC: And then finally ...[intervenes]

CHAIRPERSON: I am sorry.

ADV SONI SC: Oh, sorry.

CHAIRPERSON: But what would the TL stand for in...?

20 **MR OELLERMAN:** Well, it...

CHAIRPERSON: Do we know?

MR OELLERMAN: Well, Mr Montana's names are reflected as Tshepo Lucky Montana. So that... above you will it is TLM. Here it seems to be reflected as just TL. Tshepo Lucky. Possibly

CHAIRPERSON: Yes-no, what I am thinking is that all along until now, it looks like they used TLM to refer to Montana.

MR OELLERMAN: Yes.

CHAIRPERSON: Now there is TL. It might not be Montana.

MR OELLERMAN: It might not be but ...[intervenes]

CHAIRPERSON: Ja ...[intervenes]

MR OELLERMAN: Well ...[intervenes]

CHAIRPERSON: I want to find out whether we know whether this refers to him or whether it might be somebody else.

10 **MR OELLERMAN:** Well, the schedule that was provided by Mr van der Walt, indicated an amount of R300 000,00. This is consistent with that.

CHAIRPERSON: On the same day?

MR OELLERMAN: It does not always reflect the dates in the schedule.

CHAIRPERSON: Ja, ja.

MR OELLERMAN: But he reflects the payments and how they were made.

CHAIRPERSON: Yes.

20 **MR OELLERMAN:** Yes.

CHAIRPERSON: But of course, the bank would have the full names, is it not?

MR OELLERMAN: Correct.

ADV SONI SC: Yes.

CHAIRPERSON: Ja.

MR OELLERMAN: Ja, it would be ...[intervenes]

CHAIRPERSON: We could get the information from the bank.

ADV SONI SC: Yes.

CHAIRPERSON: So we can know exactly who TL is.

MR OELLERMAN: That is correct.

CHAIRPERSON: Obviously, if we are going to get information about TL, we may as well get information about TLM.

10 **ADV SONI SC**: Yes.

CHAIRPERSON: So that we know that we have got that.

ADV SONI SC: Yes.

CHAIRPERSON: But obviously, if Mr van der Walt has said TLM referred to Lucky Montana, that makes sense.

MR OELLERMAN: Yes.

CHAIRPERSON: But we may as well get everything from the bank.

MR OELLERMAN: It is on the way, Chair.

CHAIRPERSON: Okay.

20 **ADV SONI SC**: Yes.

CHAIRPERSON: Okay.

ADV SONI SC: May... may I just make this point, Chairperson?

CHAIRPERSON: H'm?

ADV SONI SC: And it is contained in the issue you have

raised that we see a withdrawal from here and it is said to be a payment to Mr Montana but we do not know into which account it was made.

CHAIRPERSON: H'm. H'm. H'm.

ADV SONI SC: Now it may have gone to Mr Montana's account but it may have gone to somebody else's account.

CHAIRPERSON: H'm. H'm.

ADV SONI SC: And then it just becomes that much more clear.

10 **CHAIRPERSON:** Yes, yes.

ADV SONI SC: And Ms Solomon has indicated that we would need to put all those pieces of the puzzle together.

CHAIRPERSON: Exactly. Yes, exactly. Ja, okay.

ADV SONI SC: Then finally oh sorry, not finally. On the 5th of February 2015 now, there is a withdrawal of R300 000,00 from that account. Is that correct?

MR OELLERMAN: That is correct. And the reference here again, it is TLM.

ADV SONI SC: Yes.

20 **CHAIRPERSON:** So on the face of it if before 15 January 2015, whenever there is a withdrawal in favour of TLM, of Mr Montana, they have used TLM and after the date, they have used TLM again but on the 15th of January, they have TL. One would think that it might not be the same person.

ADV SONI SC: Yes. Yes.

CHAIRPERSON: So it is important. Normally, you would ...[intervenes]

ADV SONI SC: No ...[intervenes]

CHAIRPERSON: ...you will be consistent.

ADV SONI SC: Yes.

CHAIRPERSON: Ja. So but... you are looking into it and ...[intervenes]

MR OELLERMAN: That is under way, Chair. Yes.

10 **CHAIRPERSON:** Ja, ja. Okay, thank you.

ADV SONI SC: And now finally in regard to the Parkwood property. There is a withdrawal on the 20th of February 2015, of R2 million. Is that correct?

MR OELLERMAN: That is correct, Chair.

ADV SONI SC: And ...[intervenes]

MR OELLERMAN: The reference there reflects Erf 359, Parkwood which is the direct reference to the property.

ADV SONI SC: Chairperson, I will just remind you because sometimes one needs to keep this in mind. You will recall
20 this is an entry I have raised with Mr Loubser because Mr van der Walt had said, "this was a R 1,3 million... oh, oh, sorry, not this, but on that same date, allegedly, a R1,3 million loan had been given to Mr Montana. I am just trying, in a sense, to present as much of the picture as possible without creating too much confusion.

But that is the difficulty which, in a sense, you have alluded to Chairperson, that at the end of the day, you cannot take this at face value.

You have got to connect it with what Mr van der Walt has said and you have got to connect it with the end-user's bank account.

Now, these are the payments that were made in respect of the Parkwood property. Is that correct?

MR OELLERMAN: Correct. Or at this stage, that is how we
10 understand to be.

ADV SONI SC: Yes.

MR OELLERMAN: Yes.

ADV SONI SC: Now, of course... and you are quite right Mr Oellerman that... that is the... what Mr van der Walt has said what the bank statements portray and so on.

Now, after the Parkwood agreement was concluded for R6.8 million, there was an addendum to that agreement. Could you very briefly tell the Chairperson about that?

MR OELLERMAN: Yes, sure. So there were three... ja, the
20 addendum was concluded between Precise Trade, Mr van der Walt and Mr Montana which, as I have alluded to a little bit earlier, required of Mr Montana to make a number of improvements at his own costs to the property.

And that had to be done over a period under... before the property was registered. Mr Montana then, it appears,

undertook to continue with having those improvements done over the period.

What essentially happened is that correspondence between Mr Montana and Mr Loubser shows that rather than Mr Montana paying for it, he would send contractors invoices to Mr Loubser...

ADV SONI SC: No.

MR OELLERMAN: Sorry, to Mr van der Walt and request that he make payment. In fact, there is reference to one
10 particular ...[intervenes]

CHAIRPERSON: I think you are referring to Mr Loubser two times when probably you meant Mr van der Walt.

MR OELLERMAN: Mister... Yes.

CHAIRPERSON: Just for the record. You mentioned on each occasion to Mr van der Walt.

MR OELLERMAN: Correct. So Mr Montana was corresponding to Mr van der Walt and there is documents and correspondence which shows that rather than him paying for the improvements for the kitchen and etcetera, there
20 were a number of improvements that were listed in the documentation.

Mr Montana submitted the invoices to Mr van der Walt and requested that he make payment. And as I indicated in one of the correspondence, he actually says he is under pressure to pay the contractor. Please, can you pay as soon

as possible? So it would ...[intervenes]

ADV SONI SC: Now these are the payments that were made in respect of the Parkwood property, is that correct?

MR OELLERMAN: Correct. At this stage that is how we understand it.

ADV SONI SC: Yes. No, of course, and you are quite right, Mr Oellerman, that that is the – what Mr van der Walt has said what the bank statements portray and so on.

Now after the Parkwood agreement was concluded
10 for R6,8 million there was an addendum to that agreement,
could you very briefly tell the Chairperson about it?

MR OELLERMAN: Sure. So with the – an addendum was concluded between Precise Trade, Mr van der Walt and Mr Montana which, as I alluded to a little bit earlier, required of Mr Montana to make a number of improvements at his own cost to the property and that had to be done over a period before the property was registered.

Mr Montana then it appears undertook to continue with having those improvements done over the period.
20 What essentially happened is that correspondence between Mr Montana and Mr Loubser shows that rather than Mr Montana paying for it, he would send contractors' invoices to Mr Loubser – sorry, to Mr van der Walt and request that he make payment. In fact, there is reference to one particular ...[intervenes]

CHAIRPERSON: I think you referred to Mr Loubser two times when probably you meant Mr van der Walt.

MR OELLERMAN: Mr van der Walt, yes.

CHAIRPERSON: Just for the record you meant – on each occasion you meant Mr van der Walt.

MR OELLERMAN: Correct, so Mr Montana was corresponding with Mr van der Walt and there is documents and correspondence which show that rather than him paying for the improvements. For the kitchen, etcetera,
10 there were a number of improvements that were listed in the documentation.

Mr Montana submitted the invoices to Mr van der Walt and requested that he make payment and as I indicated in one of these correspondence, he actually says he is under pressure to pay the contractors, please can you pay as soon as possible?

So it would appear that the addendum itself, rather than Mr Montana paying, he submitted those invoices to Mr van der Walt to pay.

20 **ADV SONI SC:** Mr Oellerman, may I just ask in regard to the improvements? When you look at the bills that Mr Montana sent to Mr van der Walt, what is the appropriate amount that had to be paid in respect of those improvements?

MR OELLERMAN: So the amounts add up quite

significantly to over a million, so the one invoice was R525 000 and then there is a number of additional invoices for various improvements that were made throughout. There is even invoices for certain items from a particular chain store for installation of certain equipment for about 40 000 which Mr Montana also submitted those as proof that he paid them. He wanted Mr Loubser to reimburse for that. Sorry, again, Mr van der Walt and not Mr Loubser.

ADV SONI SC: Now when one looks at the Parkwood sale
10 as a whole – and I am just asking you as a general
impression. What does it suggest? You have a sale for R6,8 million and then there are these improvements that ought to be made and that is recorded as an addendum.

MR OELLERMAN: Correct.

ADV SONI SC: For Mr Montana's account but Mr van der
Walt pays. What is the picture that emerges? I am not
asking for a conclusion.

MR OELLERMAN: Yes.

ADV SONI SC: But how should one interpret that?

20 **MR OELLERMAN:** Well, I mean, if that is indeed the case
that Mr Montana sold a property for a significant amount
above what would be market value at the time and then
despite these improvements being required of him, to
increase the value of the property, one could say, he does
not foot the bill for that. Well, then he has benefitted

significantly from this particular transaction and it would be – it would appear to be out of the ordinary for a transaction of this kind.

ADV SONI SC: Now just for the reassurance of the Chairperson and whoever is interested in what you have said, you have made a number of comments, this is what the contract provides; this is contained in communications and so on. Are each of those matters contained in annexures to OR1.

10 **MR OELLERMAN:** That is correct, yes, Chair.

ADV SONI SC: So if one looks at what you have said in your summary of the Parkwood property and one turns to OR1 you would find certainly documentary backing for all the points you have made.

MR OELLERMAN: That is correct, Chair.

ADV SONI SC: Alright, can we then turn to the Waterkloof property? Now you were not here yesterday, Mr Oellerman, but Ms Karen de Beer gave some vivid evidence and quite unusual evidence and if I could just
20 summarise it, Chairperson, just so that we have context.

She says well, Mr Montana lived five houses from her, he came and he made an offer and that fell through and so on. We do not need to go into the details but for me what was significant, is he eventually said – she said to him, look, I want to paint the inside, I want to leave the

house in a good condition for you and he says no, no, no, do not worry, do not go through that expense. I am just presenting her evidence. And she found it quite unusual

MR OELLERMAN: Yes.

ADV SONI SC: But, in any case, the sale went through not in the name of Mr Montana – sorry, transfer was not effected in the name of Mr Montana but in the name of Precise Trade.

Now you have investigated the various stages in
10 this, could you summarise very quickly for the Chairperson the different stages in the completion of the contact.

MR OELLERMAN: Yes.

ADV SONI SC: Because – and I ask in this context, Ms de Beer says she did not engage in the detail, she left that to her lawyers.

MR OELLERMAN: Right.

ADV SONI SC: So if we could just fill in that.

MR OELLERMAN: Sure. But perhaps then also for completeness sake, Chair, I can say that what we found in
20 this Waterkloof property is also a consistent theme which appears throughout the other two properties, the Sandhurst property and the Hurlingham property.

So it appears that Mr Montana initiates the purchase, he goes and views the properties and all three properties, it transpired to be the same. So he would go

and view the property, meet with the estate agent, and if he liked a property then he would say he is interested in the property and sign an offer to purchase.

Shortly thereafter Mr Montana would request that the offer to purchase be changed to that of Precise Trade or in another instance, the Minor Trust. A different party.

Both in the Waterkloof and the Sandhurst properties, that is exactly what transpired, it went through a series of offers to purchase and it was agreed that the
10 property would be registered in Precise Trade's amount.

In the Hurlingham property he attempted to have it registered in the minor Trust but the owner of the property pushed back and resisted and eventually the property was in his own name but the steps that preceded the registration are consistent in that Mr Montana is at the forefront central to the property acquisition, identifies the property, views the property, goes through the process and then it appears once the property no longer him to be the purchaser but someone else to be the purchaser or Precise
20 Trade to be the ultimate purchaser.

So those are essentially what had happened in the Waterkloof property but as I indicated it is a consistent theme across the other three properties.

ADV SONI SC: Yes.

MR OELLERMAN: Although the Hurlingham property was

unsuccessful and the property was registered in his name.

ADV SONI SC: Yes. Now in the Waterkloof property
...[intervenes]

CHAIRPERSON: I am sorry, Mr Soni?

ADV SONI SC: Yes.

CHAIRPERSON: Just to keep track of the timeframes.
May 2014 Mr Montana sells his property to Precise Trade
for about double the value of the property. June a major
contract is concluded between PRASA and Siyangena and
10 Siyangena is represented by Mr van der Walt, as an
attorney, is that right or not at that stage?

MR OELLERMAN: Mr van der Walt definitely was an
attorney which had represented Siyangena in the past
because I understand over a period of about eight years.

CHAIRPERSON: Yes.

MR OELLERMAN: Because he had ...[intervenes]

CHAIRPERSON: Yes, okay. Then it seems about
August/September another property, namely the Waterkloof
property, Mr Montana gets involved.

20 **MR OELLERMAN:** Correct.

CHAIRPERSON: Gets interested in buying the property
which later ultimately gets bought by Precise Trade.

MR OELLERMAN: Precise Trade, that is correct.

CHAIRPERSON: But he seems to – he identified the
property and sought to have it – he wanted to buy it and

then later on was it the previous trust and then ultimately Precise Trade.

MR OELLERMAN: Correct.

CHAIRPERSON: Okay, I just want to give that timeframe.

ADV SONI SC: Absolutely, Chair.

CHAIRPERSON: Yes, yes, and I think you talked about an addendum involving Siyangena around September, October?

ADV SONI SC: On the 30 September, Chairperson.

10 **CHAIRPERSON:** On 30 September.

ADV SONI SC: Yes.

CHAIRPERSON: Ja, okay.

ADV SONI SC: Now in this property a new entity is introduced namely the Minor Property Trust. Have you investigated what that is?

MR OELLERMAN: Yes, that is a trust where Mr Montana's children are beneficiaries.

ADV SONI SC: By the beneficiaries?

MR OELLERMAN: Yes.

20 **ADV SONI SC:** And who is the trustee?

MR OELLERMAN: It is Mr Johan Smith.

CHAIRPERSON: Who are the other trustees, do you know or not really?

MR OELLERMAN: I believe he is the only one.

CHAIRPERSON: The only one? Oh, I did not know you

could be one trustee.

ADV SONI SC: Yes, no, there is a second trustee, Chairperson, it is contained in the annexures but there is a second trustee.

CHAIRPERSON: Okay, no, that is fine.

ADV SONI SC: But Mr Smith played the key role.

CHAIRPERSON: Ja, he is the one who plays the – ja.

ADV SONI SC: In all of these...

CHAIRPERSON: Ja, okay.

10 **MR OELLERMAN:** Yes, just to qualify what I am saying is that he represented the Minor Trust in his transactions.

ADV SONI SC: Now just again where these – was this report served to the best of your knowledge on Mr Smith to say look, your name is going to come up at the Commission?

MR OELLERMAN: I believe it was, yes, Chair.

ADV SONI SC: And to your best of your knowledge there has been no response from him?

MR OELLERMAN: Not that I am aware of.

20 **CHAIRPERSON:** And ordinarily you would have been informed if the Commission did a receive a response from him?

MR OELLERMAN: Yes, correct.

CHAIRPERSON: Ja.

ADV SONI SC: Now this property was sold for R11 million

and there was a deposit, so – sorry, Ms de Beer said she became - Mr Montana had made a proposal to her about 18 months earlier before this had happened. She wanted to have nothing to do with him unless a deposit was paid. She insisted on a R3,5 million non-refundable deposit.

Now at paragraph 43 of your report you say that there was that deposit that was paid – it is paragraph 43 and 44. And you say it was paid on the 23 September 2014. Can I ask that we look at the bank statement,
10 Chairperson, and again, just for identification sake, this is EXHIBIT SS16 and it is on page 190, Mr Oellerman.

You will see on the 23 September 2014 there is a deposit made into Precise Trade's account. Do you see that?

MR OELLERMAN: That is correct, Chair.

ADV SONI SC: And there is a handwritten indication where that money come from, what does that handwritten...?

MR OELLERMAN: It says TMM loan.

20 **ADV SONI SC:** And that we know was Mr van der Walt telling his partners.

MR OELLERMAN: Correct.

ADV SONI SC: That was the source of that money.

MR OELLERMAN: That is correct.

ADV SONI SC: On the 23rd there is a withdrawal and what

is the amount of that withdrawal?

MR OELLERMAN: That is for R3.5 million.

ADV SONI SC: That is the same amount that was deposited on that very day.

MR OELLERMAN: Yes, it corresponds with the amount, with the deposit and the reference reads:

“Minor Property Trust loan.”

ADV SONI SC: And that was when Mr Smith was involved in this.

10 **MR OELLERMAN:** Correct.

ADV SONI SC: And then there was a further payment of R7,5 million that was due and as set out in Mr van der Walt’s explanation to his partners that was paid.

MR OELLERMAN: Correct, it was paid directly to the attorneys by TMM, as he explained it.

ADV SONI SC: So he said to the attorneys, to the conveyancer - to Karen de Beer’s conveyancers?

MR OELLERMAN: Correct.

20 **ADV SONI SC:** And then there is a further – oh, sorry, Chair?

CHAIRPERSON: Let us take the tea break.

ADV SONI SC: As you please, Chairperson. Sorry, I get carried away.

CHAIRPERSON: You did not keep your eye on the time.

ADV SONI SC: Yes.

CHAIRPERSON: Okay, let us take the tea break and we will resume at half past eleven. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Mr Soni? Do not forget your mic.

ADV SONI SC: Mr Oellerman, may I ask in regard to the Waterkloof property, when you look at the documents or the official documents it shows an offer by Mr Smith then it shows a transfer to Precise Trade, is that correct?

10 **MR OELLERMAN:** That is correct, Chair.

ADV SONI SC: But why should we say that Mr Montana was involved, you deal with in paragraphs 52 onwards of your report, is that correct? I am talking about now the Waterkloof property.

MR OELLERMAN: Yes, that is correct.

ADV SONI SC: And Ms de Beer dealt with it quite extensively yesterday but could you summarise his involvement as set out in your report?

20 **MR OELLERMAN:** Yes. So, I mean, as I indicated earlier, he was – he is quite central to the transaction that he initiated the purchase of the property. Throughout the transaction he seems to have remained in contact with the seller. He walked through the property, she took him through the property, there is correspondence where Ms de Beer – and I think she has given evidence to that effect

where she even informed her neighbours that the new owner of the property is going to be Lucky Montana.

She was quite convinced that, you know, despite the fact that the property was going to be registered in a different entity's name that he was still the person that was going to be the person who takes over the property from her and in addition to that, there is regular contact with her, the keys, etcetera, that were handed over, it appears that he remained throughout the process to be involved.

10 If it was purely a question of I am scouting for property for someone else, one would not expect to see Mr Montana remaining in the picture and being constantly included in communications, being constantly in contact with the seller of the property, etcetera, it would then just be a purely commercial transaction between the entity and the purchaser and their lawyers, etcetera, etcetera. But Mr Montana clearly remained in the picture throughout the process.

ADV SONI SC: Now what is not contained in your report
20 and it is not – it is just an observation, is a point made by Ms de Beer yesterday that she offered to paint, he declined the offer and then he made – or was intending to make major improvements and you still see scaffolding – that is her evidence, you see the scaffolding there. What do you make of all of – that is obviously not added into your

report.

MR OELLERMAN: Yes.

ADV SONI SC: But what do you make of that?

MR OELLERMAN: Well, I have actually visited the address and I can confirm that. I mean, the property appears to be almost abandoned at the moment, it looks like a construction site and there is scaffolding there, it is clearly under – was under construction but it seems to have just been abandoned and no further work has been
10 done to the property so under the circumstances it appears to be a neglected piece of property.

ADV SONI SC: And the amount paid for the property was R13.9 million?

MR OELLERMAN: R13 million, yes. So with an investment like that one would expect to – if you were going to do improvements, you want to protect your investment.

CHAIRPERSON: Well, it is really quite strange that anybody can buy property for R14 million, R18 million and
20 starts making some changes to the property or improvements and then just abandon it like that and Ms de Beer said that has been the case for six years.

MR OELLERMAN: Yes, as I understand.

CHAIRPERSON: She said she has regularly driven past and looked at the house because she liked the house and

she feels so bad to see it like that now. For six years it does not seem to have been occupied.

ADV SONI SC: Chairperson, I may have misled everybody, the amount is R11 million, not R13 million.

CHAIRPERSON: Yes, yes, yes.

ADV SONI SC: That is the Sandhurst property.

CHAIRPERSON: Oh, there is another one – but there is another property for 13 million, this one was 11, or 10, 5?

ADV SONI SC: Originally but it was eventually sold for
10 11.

CHAIRPERSON: Oh, 11 million, okay.

ADV SONI SC: You might remember she said she was willing to accept 10,5 just to get rid of the property.

CHAIRPERSON: Yes, yes. Oh, I thought she ultimately – it was ultimately sold for 10.5 because she made – she was prepared to make that discount.

ADV SONI SC: But the amount was 11 million.

CHAIRPERSON: Was 11 million, ja.

ADV SONI SC: Then let us go, Mr Oellerman to the
20 Sandhurst property. Now in relation to this property who were the key role players again? Who sourced the property, whom was it transferred to?

MR OELLERMAN: So again, Mr Montana is the person who sourced the property. He identified the property, indicated that he would want to buy the property. But this

property, again, through a similar process which I outlined earlier, rather than Mr Montana being the ultimate person to whom it was transferred, it was again transferred to Precise Trade. The interactions – the seller is a Mr Kohler, the interactions with the estate agent and Mr Montana sort of rather than the property going through the normal course of events one would expect be transferred to, the original person would put in the offer, he requested that it be ultimately transferred to the entity Precise Trade which
10 is how the transaction evolved from then.

ADV SONI SC: And to your affidavit – I mean, to your report, and that is OR3, you annex a number of emails which are communications between Mr Montana and the seller, a Mr Kohler, is that correct?

MR OELLERMAN: That is correct. So again, as I said earlier, rather than him leaving the scene after the request has been made to transfer the property to Precise Trade, he is clearly in communication with the seller on a regular basis, so he remains actively involved, it would appear,
20 from the documentation that has been reviewed.

ADV SONI SC: And when they wanted to change the electricity bill, to whom do they write, the Kohler?

MR OELLERMAN: Yes, they wrote to Mr Montana and had set out there what the significance would be for the electricity, it would be cut off and how Mr Montana – they

directed it to Mr Montana as if he was going to be taking over the property.

ADV SONI SC: And there is one payment for the fees that is in issue. When the fees for the transfer fall due to whom does Mr Kohler right?

MR OELLERMAN: Again he wrote to Mr Montana.

ADV SONI SC: And what happened after he wrote to him?

MR OELLERMAN: Well, Mr Montana apologised for the delay and said he was not aware of any problems but he
10 said he would attend to it and shortly, the next day, I believe, payments were made.

ADV SONI SC: Can I just ask you to turn to bundle G again, EXHIBIT SS16, page 191. If I can ask you to look at the entry right towards the bottom on the 25th February 2015. Do you see that?

MR OELLERMAN: Yes, I do.

ADV SONI SC: And that is a deposit into the Precise Trade account. What is the amount of that deposit?

MR OELLERMAN: The deposit is R1 105 084.92, Chair.
20 And next to it is inscription TMM loan which is in the handwriting of Mr van der Walt, as pointed by Mr Loubser.

ADV SONI SC: And what happens on later that day?

MR OELLERMAN: On the same day the exact amount of R1 105 084.92 is made as a payment to the transferring attorneys Borchardt & Hansen for the property.

CHAIRPERSON: I am sorry. On the 25 February 2015, there is a deposit of R1 105 084.92.

MR OELLERMAN: That is correct.

CHAIRPERSON: Into Precise Trade's account and then on the same day exactly the same amount is withdrawn or is – is that – it says withdrawal?

MR OELLERMAN: Yes, it is withdrawn, it is a payment that is made.

CHAIRPERSON: Yes but do we know – because there is
10 no reference to TLM there, do we know...?

MR OELLERMAN: Well, the payment is a payment made out of the account and the reference is Borchardt Hansen.

CHAIRPERSON: Ja.

MR OELLERMAN: Which were the conveyancers or the transferring attorneys that were handling the sale of the property.

CHAIRPERSON: Oh, those were the transferring attorneys or conveyancers?

MR OELLERMAN: Yes.

20 **CHAIRPERSON:** Oh, okay. In regard to the property.

MR OELLERMAN: That is correct.

CHAIRPERSON: Okay and I guess that part of what maybe underway is something that will show that it went into their account.

MR OELLERMAN: Correct, yes.

CHAIRPERSON: Ja and what they did with it. Ja.

ADV SONI SC: Mr Oellerman, it has just occurred to me I may have misled you. That is the payment in respect of the Waterkloof transfer.

MR OELLERMAN: Yes, correct.

ADV SONI SC: The one in respect of the Sandhurst transfer is the one on the 4 February 2015 and I must apologise for that, it is my fault, I drew your attention to the wrong one.

10 **MR OELLERMAN:** Yes.

ADV SONI SC: Now this question arose out of my question, when the payment for the transfer fees were due, the seller wrote to Mr Montana, you remember?

MR OELLERMAN: Correct. Yes, that is correct.

ADV SONI SC: And then you said Mr Montana apologised and is this the transfer that took place on the following day on the 4 February because Mr Montana wrote to Mr Kohler on the 3 February to say I am sorry, I will sort it out by tomorrow.

20 **MR OELLERMAN:** Yes. So if you look at paragraph 72 of my report there, I state there that Precise Trade paid the transfer costs of the exact amount which is reflected, R1 105 537.30 on that day.

ADV SONI SC: And the transferring attorneys or the conveyancers were Snyman Attorneys, is that correct?

MR OELLERMAN: Correct and there is a reference it says Empire Place, which is the property.

ADV SONI SC: Chairperson, it was my misleading the witness and I apologise for that. There were just two and I just mixed them up but I just want to place it on record that the one deals with the Waterkloof transfer but the one that Mr Oellerman is now talking about on the 4 February 2015 is the one related to the Sandhurst property. That is correct?

10 **MR OELLERMAN:** That is correct.

ADV SONI SC: Now is there any picture that emerges especially any special feature that emerges in respect of the Sandhurst property transaction?

MR OELLERMAN: Well, when you say special feature, in my – from the documentation that I have seen and the affidavits that were submitted it is just a consistent theme that emerges is that Mr Montana, as I have said earlier, he initiates the property deal. The owners actually think he is the person who would appear that is behind the deal but
20 the transfer is made to Precise Trade.

Mr Montana remains involved throughout the process but payment is not made at all by Mr Montana, payment is effected through Precise Trade or other party.

ADV SONI SC: Let us then turn to the Hurlingham property, Mr Oellerman.

MR OELLERMAN: Yes.

ADV SONI SC: Now at paragraphs 79 to 86 you deal very briefly with the bare facts in relation to the transactions in writing that took place. Could you briefly tell the Chairperson what those reflect?

MR OELLERMAN: Yes, Chair, so the Hurlingham property again Mr Montana was the person who viewed the property and made an offer for 13.5 million for the property. The request was then made subsequent to that to have the
10 property offer to purchase changed into the name of the Minor Trust represented by Mr Johan Smith.

What transpired after that was a sequence of events where the conveyancing attorney resisted that and as well as the owner which ultimately resulted in Mr Montana being the registered owner, property was transferred into his name and although it must be said, although the property was transferred into this name, from the documentation and evidence that we have gathered until this point, does not appear that he paid any amount towards the purchase
20 of the house.

ADV SONI SC: Now in respect of this property at paragraph 84 you say:

“After the deposit was paid, and amount of R11,5 million was made by a company called Midtownbrace (Proprietary) Ltd.”

MR OELLERMAN: That is correct, Chair.

ADV SONI SC: Now on the basis of the investigations you have done in respect of Midtownbrace. Who is the person involved with Midtownbrace?

MR OELLERMAN: Midtownbrace is a company that is actually registered in Botswana but again from the documentation that was provided to us, we were able – by Mr Loubser, we were able to identify that and Mr Andre Wagner was involved in this particular transaction and that
10 an agreement was similar to other agreements that Mr van der Walt had put together, a similar agreement was put into place as an investment opportunity and the funding for Hurlingham property, the bulk of the 11.5 million was then transferred to the Midtownbrace company in Botswana to the conveyancing attorneys and to effect the final outstanding amount of the property.

ADV SONI SC: Now you have tried to obtain a statement from Mr Wagner.

MR OELLERMAN: Yes.

20 **ADV SONI SC:** And what has happened to that?

MR OELLERMAN: He has recently provided us with an affidavit, we are busy working through the affidavit and following up on the information that was provided to us.

ADV SONI SC: But does he say anything of significance in the affidavit?

MR OELLERMAN: He does confirm that the agreement was put together by Mr van der Walt, that it was initiated by Mr van der Walt as an investment opportunity for properties, to develop properties, and that the deal was such that they would benefit from the sale of his properties once the properties have been put together.

Again, this was a property – he also indicates that due to zoning issues they were not able to develop the property has been essentially abandoned. I have visited
10 the property as well and it is probably in a worse condition than the Waterkloof property, it is quite derelict to be quite honest, it is property that is completely abandoned.

CHAIRPERSON: I am sure you took pictures of both the other one that we talked about at Waterkloof?

MR OELLERMAN: Indeed, Chair.

CHAIRPERSON: As well as that one you – there would be pictures of how they look like now.

MR OELLERMAN: Very good, Chair.

CHAIRPERSON: Ja.

20 **MR OELLERMAN:** With our updated reports we will include all these in the report.

CHAIRPERSON: Ja, ja. I wonder whether the investigation that you have conducted may have revealed whether the abandonment of these properties may have happened after the media became interested in some of

these properties or not?

MR OELLERMAN: Chair, that certainly has happened but I cannot say it is a direct consequence of it.

CHAIRPERSON: Yes, yes, it might be difficult to say unless it is somebody who was watching at the time what was happening.

MR OELLERMAN: Yes, yes.

CHAIRPERSON: Ja.

MR OELLERMAN: So the explanations being given are
10 issues which, for example, zoning or incorrect plans that have not been approved, things like that.

Whether there is a concerted effort to remedy that, I cannot say I have seen evidence of that, at this stage. But certainly, the two properties in question are in a rather dire condition.

ADV SONI SC: Now the interesting thing about the Hurlingham property is, as I understand it, Mr Wagner has instituted summons in the Gauteng High Court for, as he put it, to protect his rights.

20 **MR OELLERMAN:** That is correct, Chair.

ADV SONI SC: It is he who paid the money.

MR OELLERMAN: Correct, through Midtownbrace ...[intervenes]

ADV SONI SC: Well, that is what he says.

MR OELLERMAN: Yes, yes, through Midtownbrace, yes,

that is correct.

ADV SONI SC: And that matter has not been resolved yet.

MR OELLERMAN: Not to my knowledge, no, Chair.

ADV SONI SC: And in his affidavit to you, does he indicate the nature of the dispute relating to this property?

MR OELLERMAN: It is not covered in huge detail but essentially, I mean, because of the issues of the condition of the property now because their plans to develop could not be approved as a result of various hurdles that they
10 experience but essentially he is now faced with a situation where he needs to protect his own investment as a result of what has happened.

Property, I think, in my discussions with him, I think he indicated last that the best offer they got so far was in the region of 4 million which is significantly less than his investment.

ADV SONI SC: Now the property, though, is registered in Mr Montana's name, unlike the other two properties that were purchased.

20 **MR OELLERMAN:** That is correct.

ADV SONI SC: Now in regard to the three properties ...[intervenes]

CHAIRPERSON: I am sorry.

ADV SONI SC: Yes.

CHAIRPERSON: So in regard to the having property, was

Mr van der Walt not involved in terms of your investigations?

MR OELLERMAN: Yes, it is –his involvement has been consistent throughout.

CHAIRPERSON: Including on this one?

MR OELLERMAN: Yes.

CHAIRPERSON: Oh, but not Precise Trade or he was involved ...[intervenes]

MR OELLERMAN: The property would – the deal never
10 got that far because of resistance received from the conveyancers.

CHAIRPERSON: Yes.

MR OELLERMAN: Of the seller.

CHAIRPERSON: Yes.

MR OELLERMAN: They would not allow Precise Trade or the Minor Trust to initially ...[intervenes]

CHAIRPERSON: Yes. Oh, but the plan was exactly that?

MR OELLERMAN: Correct. Certainly, they already went on that – they embarked on that route.

20 **CHAIRPERSON:** Yes.

MR OELLERMAN: Because there is correspondence.

CHAIRPERSON: Yes.

MR OELLERMAN: And an affidavit which we have.

CHAIRPERSON: Yes, yes, yes.

MR OELLERMAN: Where it was set out.

CHAIRPERSON: Ja.

MR OELLERMAN: That post to Mr Montana signing the initial offer to purchase it was followed up by a request to have the Minor Trust to sign an additional offer to purchase and that was resisted, the evidence ...[intervenes]

CHAIRPERSON: Yes. So that is why it ended up being registered in Mr Montana's name.

MR OELLERMAN: It would appear so, Chair, yes.

CHAIRPERSON: So the pattern was the same as with
10 regard to the two other properties where Mr Montana identifies the property and makes the initial approach.

MR OELLERMAN: Yes.

CHAIRPERSON: And then later on wants to bring in Precise Trade.

MR OELLERMAN: Correct. And he is still involved in the property, Mr van der Walt, because he put together the deal with Midtownbrace.

CHAIRPERSON: Yes, yes.

MR OELLERMAN: As the major investor in the property.

20 **CHAIRPERSON:** Yes.

MR OELLERMAN: So the documents provided to us by Mr Loubser clearly indicate that there is a joint venture agreement between Mr van der Walt who was representing Precise Trade and Midtownbrace.

CHAIRPERSON: Okay.

ADV SONI SC: Just in regard to Midtownbrace, do any of the person involved in the Siyangena matter feature in Midtownbrace?

MR OELLERMAN: In the company itself? No. I interviewed a Mr Wagner who indicated that it was his company and that he was approached by Mr van der Walt who had known him for many years going back to university days, who put the deal together.

ADV SONI SC: So that is Mr Wagner's account?

10 **MR OELLERMAN:** Yes.

ADV SONI SC: Now as not – and I am just going by reports on this, was not a company in which Mr Mario Ferreira having an interest namely Triple Trade Invest 04 (Proprietary) Ltd. Did they not acquire some of the shares in Midtownbrace? I know you may not know but I am just saying that is what is in the media space.

MR OELLERMAN: I am aware of those reports but as far as the investigation at the moment, we have not confirmed that at that moment.

20 **ADV SONI SC:** But those are matters that clearly call for further investigation and that is why it is relevant to the Siyangena dispute, if I can put it as such, Chairperson.

Now you have been at pains to point out that you have the bare facts, the legal triggers involved but in your report your look at Mr Montana's role in each of these

transactions. Could you briefly summarise that in respect of each of the transactions? Let us start off with the Parkwood and the Waterkloof property?

MR OELLERMAN: Yes, Chair, I think I have covered most of it already, I think I have indicated – and it is – a lot of it was covered by Ms de Beer in her evidence as well. I think she went as far as to say that although there were other properties involved, she saw they were just alter egos, I think were the words that she has used in her affidavit and
10 yesterday as well of Mr Montana and that he was the central figure. As far as she was concerned, she was – or he was her buyer, the purchaser of the property and he remained constant in contact with her throughout the process.

ADV SONI SC: Sandhurst?

MR OELLERMAN: Sandhurst, again, Mr Montana was the one who signed the first offer to purchase so he presented himself as the buyer of the property and again as he then requested or requests were made for the property to rather
20 be transferred to – in the name to Precise Trade, there is still evidence – there is significant evidence that he remained in contact with the sellers of the property and continually – was continuously in the picture right through until the property was transferred.

ADV SONI SC: And Hurlingham?

MR OELLERMAN: Hurlingham is the last property which we have just covered, very, very similar. The only thing that happened in this place is that they were not – he was unable to convert the request to have the property transferred into a different entity's other than himself, being the Minor Trust and this property was transferred into his name and remains in his name up until now.

ADV SONI SC: And then at paragraph 104 of your report you conclude that whatever the documents – the official
10 documents may show, it was Mr Montana who played a crucial role in the purchasing or the transactions relating to those properties.

MR OELLERMAN: Absolutely, it is quite clear from the documents, particularly emails, correspondence and the affidavits of people that have been interviewed up until now that he was active in the whole process.

It would appear that there is an attempt to conceal, if I can use that word, his involvement thereafter, but he is quite clearly involved in these properties' transactions.

20 **ADV SONI SC:** Then you deal with the next topic in your report, which is – because we know Mr Montana is a key figure – then you deal with the other key role players, could you just identify them and summarise what their role is, the first one being Mr van der Walt.

MR OELLERMAN: Yes.

CHAIRPERSON: And maybe before you do that please we – you said earlier on that the three properties if one works on the basis that with regard to the three properties, Waterkloof, Sandhurst and Hurlingham, that effectively the buyer was Mr Montana even where in regard to the two Precise Trade was the entity that on paper bought you know and if one says in effect Mr – in reality Mr Montana was buying these properties and became the owner and so on in substance it would mean that within a period of about
10 what, 12 months or thereabout he bought properties to the value of what – over R30 000 000, over R24 000 000.

MR OELLERMAN: It is around R36 000 000.

CHAIRPERSON: Over R36 000 000.

MR OELLERMAN: Ja look certainly the impression that the sellers gave is that Mr Montana was the owner of the property, that is certainly how they understood it to be. As I said Ms de Beer said those, the other organisation, Precise Trade was just an *alter ego* of Mr Montana, she understood that the property was his.

20 Yes, so what happened post the sale of these properties is under investigation, but as I say the sellers of the property was certain under the impression that Mr Montana was the person who was going to take occupation or be the owner of the property.

CHAIRPERSON: We know that Waterkloof and

Hurlingham you did say that they are not in good conditions.

MR OELLERMAN: Yes.

CHAIRPERSON: Ja, Sandhurst what happened to Sandhurst, did he occupy?

MR OELLERMAN: For Sandhurst, I visited that address as well?

CHAIRPERSON: Huh?

MR OELLERMAN: I visited that address as well, the
10 Sandhurst property. It does appear that it is a property that is occupied, however on the days which I visited it we did not find anyone there, we left them a letter requesting that they get in contact with us. They have not done so as yet, but certainly the property, there's a fairly big wall and gates so you just cannot get a full picture of the property, but there were cars parked there and you could clearly see the property is occupied, the yard looks in a reasonable condition etcetera, so it is certainly not in the derelict condition of the other two properties.

20 **CHAIRPERSON:** Okay thank you. It will be important to establish whether after the transaction who occupied the Sandhurst, ja.

MR OELLERMAN: Yes Chair.

CHAIRPERSON: And up to when or whether the same people who occupied immediately after the transfer are

they still the same people who are still occupying.

MR OELLERMAN: Yes correct.

ADV SONI SC: Sorry Chairperson if I could just remind you, you might remember Mr Green yesterday when he gave evidence said that in 2017, he had sold the Sandhurst property.

CHAIRPERSON: Oh yes, yes, he sold it from Precise Trade to somebody else.

MR OELLERMAN: That is correct.

10 **CHAIRPERSON:** Also, what would be important is to establish who occupied it before it was sold in 2017.

MR OELLERMAN: Yes.

ADV SONI SC: Yes.

CHAIRPERSON: Okay, thank you. And of course, who got the money for the 2017 sale.

ADV SONI SC: Yes.

CHAIRPERSON: It would be important to get to know that.

ADV SONI SC: Indeed Chair, yes.

20 **CHAIRPERSON:** Okay, alright.

ADV SONI SC: Let's deal then with this issue about the other role players Mr Oellerman.

MR OELLERMAN: So we have identified Mr van der Walt, obviously to the Precise Trade entity which he created as – for the purchasing of these properties and which two

properties were transferred to. He was also the director of Loubser van der Walt at the time and as we understand it acted as an attorney for Siyangena for a period of time. Also apart from Mr – we have obviously identified Mr Montana as well as being central to these property purchases, and then Mr Mario Ferreira who has links to Siyangena as well as TMM and on Mr van der Walt's own version to his partners was involved in these property transactions through an investment initiative and joint
10 venture agreements. The same would go for Mr Johan Smith who acted for – on behalf of the Minor Trust who were linked to these transactions.

ADV SONI SC: Now these, your report has been served on all of these people.

MR OELLERMAN: That is correct Chair.

ADV SONI SC: And one of the things that you as an investigator needed to look at is how do you get this whole picture before the Commission, before the full picture emerges and one did not by way of this report is that
20 correct?

MR OELLERMAN: That is correct.

ADV SONI SC: Okay, now you have invited all of these persons to indicate what their links are to the different companies and so on, and we I take it will await their response and if they don't respond then we will require

them to respond as per the Commission's powers.

MR OELLERMAN: As I understand that is correct Chair. Obviously, there is also additional investigation that has to proceed with these matters as well, as I indicated at the outset. This is a status of where we are at the moment.

ADV SONI SC: And those investigations include what the Chairperson said earlier, namely we need to look at who we know withdrawals were made purportedly in respect of the properties, but to whom were the actual payments
10 made. I mean I can always say I am paying to Mr Montana, but pay to somebody else, so those are the investigations that still need to ...[intervenes]

MR OELLERMAN: Absolutely that is correct Chair.

ADV SONI SC: Now you conclude then that these matters are raised and what do you expect the persons whom you have mentioned now, Mr van der Walt, Mr Smith, Mr Mario Ferreira, Mr Wagner and all of them to – how do you expect them to respond.

MR OELLERMAN: The intention is for them to examine
20 the information that is being compiled here along with other individuals who have given evidence related to these particular matters and to provide an explanation on their involvement in the property and give us detailed versions of their account of how these transactions emerged.

ADV SONI SC: And in the eventual outcome of this, you

set it out at paragraph 19.

MR OELLERMAN: Yes once we have all these the investigation is complete and we have everyone's responses. This will be packaged as a complete report for the Chairperson to evaluate as part of the evidence that has been gathered in the PRASA investigation.

ADV SONI SC: Yes, Chair that is the evidence we would like to lead in respect of Mr Oellerman.

CHAIRPERSON: Yes no that is fine. That table is it
10 ready?

ADV SONI SC: We will give you a typed copy Chairperson ...[intervenes]

CHAIRPERSON: Ja, but in the meantime ...[intervenes]

ADV SONI SC: Just for your – yes.

CHAIRPERSON: Ja, I just want to have a look before Mr Oellerman leaves the witness stand. Okay no that's fine, I think prepare – let me have a typed one maybe tomorrow.

ADV SONI SC: Yes.

CHAIRPERSON: Let it go according to date sequence.

20 **ADV SONI SC:** Yes.

CHAIRPERSON: What happens first involving who.

ADV SONI SC: Yes.

CHAIRPERSON: And what happens next involving who so that's why it becomes important for example where a contract is signed to say from PRASA's side who signs it.

ADV SONI SC: Yes, yes.

CHAIRPERSON: But maybe also from the other side who signs it.

ADV SONI SC: Yes.

CHAIRPERSON: And I see here the note is the 8th of June contract is signed by Montana.

ADV SONI SC: Yes, both the 30th June and the 30th of September.

CHAIRPERSON: Yes, so both of them, so – and the June
10 one comes about a few weeks after the Waterkloof agreement in May.

ADV SONI SC: The Parkwood agreement?

CHAIRPERSON: Parkwood, ja, Parkwood, I am sorry, and then August of course you have August/September you have I think that's when you have the Waterkloof?

ADV SONI SC: Yes.

CHAIRPERSON: Yes, and then you have got the addendum also signed by Mr Montana.

ADV SONI SC: Yes.

20 **CHAIRPERSON:** For ...[intervenes]

ADV SONI SC: 4th of September.

CHAIRPERSON: For close to R800 000.

ADV SONI SC: R900million.

CHAIRPERSON: Oh, she wrote here – Ms Fangata is not used to millions, she wrote R794 634, she didn't even write

R794 000 000, she wrote thousands. R900million you said?

ADV SONI SC: R800million.

CHAIRPERSON: R800million ja, so if I can get a typed one that really says – because it would be handy, you say this happens first, then this happens after.

ADV SONI SC: Yes, yes.

CHAIRPERSON: This happens first and then this happens after.

10 **ADV SONI SC:** Yes.

CHAIRPERSON: And the values, the amounts and all depending on the occasion. Okay no thank you very much. Mr Oellerman thank you for coming to give evidence, thank you for your investigation and of course you may come back later on when your investigation is complete.

MR OELLERMAN: That is correct.

20 **CHAIRPERSON:** But in the meantime, the people who have been served may come forward to put their side of the story.

MR OELLERMAN: Thank you.

CHAIRPERSON: Thank you, unless Mr Soni still has something for you, I am ready to excuse you.

ADV SONI SC: No, I have nothing.

CHAIRPERSON: You are excused thank you.

ADV SONI SC: Thank you Mr Oellerman. Mr Chairperson the next witness is Mr Fani Dingiswayo. We have been threatening to call him for quite a long time, but he has eventually got his day in the Commission.

CHAIRPERSON: I am sure he says finally my day arrives.

ADV SONI SC: Yes.

CHAIRPERSON: Ja, call him. I think these files we need to ...[intervenes]

ADV SONI SC: It does not look like, Chairperson can I
10 ask for a few minutes, it seems he may be outside, I am sorry, I thought he was here.

CHAIRPERSON: Okay we will have a – we will take ten minutes, we will resume at twenty past, or shall we make it half past?

ADV SONI SC: Make it half past Chair.

CHAIRPERSON: Ja, okay. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

20 **CHAIRPERSON:** Yes Mr Soni.

ADV SONI SC: As you please Chairperson. Chairperson Mr Dingiswayo is now here, may he be sworn in.

CHAIRPERSON: Yes, please administer the oath or affirmation.

REGISTRAR: Please state your full names for the record.

MR DINGISWAYO: Mfaniphela Moses Dingiswayo.

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

MR DINGISWAYO: No.

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

MR DINGISWAYO: Yes.

REGISTRAR: Do you swear that the evidence you will give will be the truth, the whole truth and nothing else but
10 the truth, if so please raise your right hand and so help me God.

MR DINGISWAYO: So help me God.

MFANIPHELA MOSES DINGISWAYO: [d.s.s.]

CHAIRPERSON: Yes Mr Soni?

ADV SONI SC: Mr Chairperson in light of the concerns you raised yesterday in regard to the numbering, the numbering in this bundle, which is Bundle F Chairperson has been changed so you will see Chairperson on the right hand side is each affidavit starts with number one, we have
20 for the purposes of today put the numbers sequentially as you have required and we will attend to it so that it looks neater and perhaps even in red but for today could we look at the left hand side, those are the numbers so they are sequential then, and we don't have the difficulty that we had yesterday Chairperson.

CHAIRPERSON: You when you say the numbers on the left hand side ...[intervenes]

ADV SONI SC: On the top left hand side where I have them.

CHAIRPERSON: Is it the one that says PRASA Bundle F154?

ADV SONI SC: That's right yes.

CHAIRPERSON: For example here – okay so – okay no that's fine so that is alright, okay, alright, for purposes of
10 this bundle any reference to pages will be to the number – will be not to the red numbers, it will be to the black numbers which appear on the left hand side of each page.

ADV SONI SC: Indeed, and which are handwritten Chairperson.

CHAIRPERSON: Yes, well this is not handwritten I think on mine.

ADV SONI SC: Oh.

CHAIRPERSON: It is not handwritten but it is black numbers, maybe they just made sure mine looked like that
20 and yours – ja they are not handwritten, they – I think it must be a matching.

ADV SONI SC: Yes.

CHAIRPERSON: Ja, okay.

ADV SONI SC: What we will do Chair ...[intervenes]

CHAIRPERSON: On mine, I don't know about the witness

but ...

ADV SONI SC: He has the same numbering Chairperson.

CHAIRPERSON: Ja, okay, okay.

ADV SONI SC: But Chairperson what we will do is after this part of the evidence has been led, we will just put everything in order, but at least we know the record will properly reflect this and I would reflect it on the documents we will discuss with you.

CHAIRPERSON: Yes, yes, no that's alright.

10 **ADV SONI SC:** Mr Dingiswayo you have made an affidavit in regard to this matter.

MR DINGISWAYO: That is correct Chair.

ADV SONI SC: I am going to – so to summarise – well I am going to give an outline of what is contained in your affidavit but just for formality sake do you confirm the correctness and truthfulness of what is said in this affidavit?

MR DINGISWAYO: Yes Chair the affidavit I see it runs from ...[intervenens]

20 **CHAIRPERSON:** Hang on one second, let's first identify where the affidavit is found. It is found in Exhibit – in Bundle F starting at page 95.

ADV SONI SC: 95 Chairman.

CHAIRPERSON: Well that's the index but there's – the index to – no it's not the index, it is – ja it is the index.

ADV SONI SC: Yes.

CHAIRPERSON: But the actual affidavit starts on page 96.

ADV SONI SC: 96.

CHAIRPERSON: And runs up to page 121.

ADV SONI SC: That is correct.

CHAIRPERSON: And again, for the record I am looking at, or I am using the black numbers on the top left side of each page and not the red numbers on the top right side of the page.

ADV SONI SC: And it is Exhibit SS8 Chairman.

CHAIRPERSON: That affidavit it is annexures – or has it got annexures?

ADV SONI SC: Yes it has, it has quite a few.

CHAIRPERSON: Ja, and its annexures there it is admitted as Exhibit SS8 and it is contained in Bundle F.

ADV SONI SC: As it pleases Chairperson.

CHAIRPERSON: Okay, yes, so is that the – is that your affidavit?

20 **MR DINGISWAYO:** That is correct Chair, this is my affidavit and the signature that is on page 121 is my signature.

CHAIRPERSON: Yes, and I think Mr Soni had asked you something and I interrupted him, do you confirm that its contents are correct?

MR DINGISWAYO: I do confirm Chairperson.

CHAIRPERSON: Yes, thank you.

ADV SONI SC: Now Mr Dingiswayo what are your professional qualifications?

MR DINGISWAYO: Chairman admitted attorney, I was admitted in 1999, and I practiced until 2013 when I joined the Passenger Rail Agency as a General Manager : Legal Services. To date I am still there as General Manager.

ADV SONI SC: And to which department – this is at
10 PRASA, is that right?

MR DINGISWAYO: That is correct, the department I worked in is called Legal Risk and Compliance. I – so I am responsible for the legal side, a counterpart of mine is responsible for compliance and the other sub-sets of that department.

ADV SONI SC: And you fall under the general administrative, your general administrative head is Ms Martha Ngoye?

MR DINGISWAYO: Yes my – I report to Ms Ngoye.

20 **CHAIRPERSON:** Is the position you occupy now that you have just told me about the same position you occupied in 2014/2015 or it is different?

MR DINGISWAYO: That is correct.

CHAIRPERSON: It is still the same?

MR DINGISWAYO: It is the same position.

CHAIRPERSON: Okay.

ADV SONI SC: We will return to that question a little later Chairperson because Mr Dingiswayo is at present under suspension. But that I want to deal with at a later stage. But I just place it on record so it is not as if it – we are not aware of what his status is.

Now Mr Dingiswayo you begin at paragraph 4 of your affidavit to make a general observation about concerns that you have in relation to PRASA and there are two or perhaps
10 three concerns.

The first one relates to the undue influence that certain persons exercised or still exercise at PRASA. Could you tell the Chairperson what you mean by that and identify who those persons are?

MR DINGISWAYO: Chair in – in an institution like PRASA and I think it is the same with a number of your institutions it is – they are holy cows. So they are – I mean I remember one of the first transactions that I had to deal with related to Siyaya and somebody just whispered in my ear that do
20 not scrutinize too closely.

So you learn if you have friends in the institution or if people receive you favourably you will learn very quickly that there are some holy cows and it is something that is very much known in the institution. Everything that relates to those service providers is treated favourably from

procurement even where sometimes the procurement is not done properly but that is part of the favourable treatment of that particular service provider to contracting you – Chairperson you would remember that in the report entitled Derailed one of the things which are supposed to be a normal thing that were noted by the Public Protector is that contracts do not go to the legal department for vetting and drafting.

10 So you would find that kind of trend from procurement to contracting to contract management. And it is – it is key contracts in the organisation. It is even when you – you have meetings with those service providers they give you looks that – that tell you that if you are not towing the line after this meeting, I am going to report you.

20 So it is something like that. You get the sense very early that there are certain people that you cannot do your work properly because the – the work is to ensure that the organisation complies with the law but also to make sure that the interest of the organisations are – the legal interest of an organisation is protected at all times.

So – and the management of the legal risks. So it is – you then find that you – you cannot do that work properly in relation to those service providers or companies.

ADV SONI SC: Now I am going to come back to that in a moment. But as I understand – as I heard you, you say that

when you got there or soon after you got there you were told when we were looking at a Siyaya contract.

MR DINGISWAYO: Yes.

ADV SONI SC: Now who does Siyaya – well we know it is a company.

MR DINGISWAYO: Yes.

ADV SONI SC: But who is behind Siyaya?

MR DINGISWAYO: Well I later learnt Chair that the – a gentleman behind Siyaya is a gentleman called Makhensa
10 Mabunda. Mr Mabunda according to information that I – I – was gathered later had worked with Mr Lucky Montana at the Department of Public Enterprises.

They were if I am not mistaken DDG's. I think Mr Mabunda was in finance and I forget what Mr Montana was doing. Then Mr Montana moves to the Department of Transport to be a DDG in Public Transport. When that happens, it appears that Mr Mabunda has an interest in business and he is involved in – at the project of Taxi Recapitalisation which fell under the – the purview of Mr
20 Montana at the department.

So he is one of the people who – I think he was a CFO of the agency that was doing the work in that space of Taxi Recapitalisation. Mr Montana leaves the Department of Transport joins – joins PRASA and Mr Mabunda continues to get work from PRASA and this is very key work. In effect

I can say that the entire technical division of PRASA was outsourced to – to his entity because at the – there is a division called PRASA Technical.

He has got a lot of – of advisory work that he does there. I mean this entity Siyaya has a lot of advisory work that it does there and the contract that I was referring to about that somebody whispered to me was a strange contact.

10 It was with an entity I think called Siyaya Fuel and this entity was being paid something in the order of I think about 20cents for every litre of petroleum products that PRASA was consuming.

Now you would – if you think about it that included Autopax and Autopax probably had at that time a lot of functional buses. I mean today the fleet is very small but at the time it was sizable fleet. Our long-distance trains then when we had a long distance – an operating long-distance service they – they traversed and a large part of the network with using diesel.

20 So each and every litre that we – we poured of petroleum products they would 20 cents. I tried to – no although as a lawyer the deal is made. I think we were trying – they were trying to get some security of sorts from a bank and the bank needed us to – to confirm something about – about this and it looked – this contract looked very

strange to me because I thought that we could as an organisation get very favourable treatment from the suppliers who are known of these products but we had to go through this organisation.

So that is when somebody said, look do not look too closely at it. So it is that kind of a thing. It is – you know the outsourcing of them almost the entire technical function of PRASA and PRASA is a highly technical entity.

I mean the – the locomotives, the rolling stock, all of
10 that is technical. The network that we – it operates on is – is technical. So you need a lot of technical capacity to deal with it. So yes, I think at the time when we were looking at the contracts, they had benefitted in the order of a billion through those contracts.

And then there is other associations like Swifambo that came up that they seemed to have a hand in that. So yes it is that kind of a thing.

ADV SONI SC: Can I just say to you, you may not have heard this because you have mentioned Siyaya and
20 Swifambo in the same breath.

MR DINGISWAYO: Yes.

ADV SONI SC: Now Mr Molefe when he gave evidence this week, earlier this week.

MR DINGISWAYO: Yes.

ADV SONI SC: Monday and Tuesday he said that he had

been told by a Mr Mashaba that Mr Mashaba had been approached by Mr Mabunda.

MR DINGISWAYO: Yes.

ADV SONI SC: To be the face of Swifambo.

MR DINGISWAYO: Yes.

ADV SONI SC: Are you aware of that or does that all within what you know about these matters?

MR DINGISWAYO: Chairperson that is in the Swifambo Review Application. That discussion that happened
10 between Mr Molefe and Mr Mabunda – sorry Mr Mashaba. So I am aware of – of that discussion. I think what came as a very strange thing is that Siyaya came – like I said they were – they were taking over the technical division. One of the people that were in Siyaya was a lady called Brenda Malongete who was working for a law firm DM5.

Now what came as a shock to me is that this lady is the one that was drafting the agreements between PRASA and Swifambo.

So now you had somebody who came to PRASA
20 through Mr Mabunda advising PRASA on a contract with an entity that is closely associated with – with Mr Mabunda.

So it – yes it is – I am aware of it from that context and then I got shocked that this is – this is the situation where we – I mean it is – it is a very – Chair I must be assisted I am on suspension so I am not used to talking a

lot. So if I go on and on, I am hoping that Counsel will assist me and bring me back.

CHAIRPERSON: Counsel knows what you are going to say so he will know when ...

MR DINGISWAYO: To stop me.

CHAIRPERSON: To – to ask you the next question.

MR DINGISWAYO: Yes.

CHAIRPERSON: And when to interrupt you.

ADV SONI SC: Yes.

10 **MR DINGISWAYO:** Thank you. Thank you Chairperson.

ADV SONI SC: But Mr Dingiswayo I have consulted with you on a number of...

CHAIRPERSON: I am sorry Mr Soni. On a lighter note I do not know whether Mr Dingiswayo mean that when you are not on suspension and you are working you speak a lot but now that you are on suspension you do not speak a lot so this is the opportunity.

MR DINGISWAYO: Chair you have very little human interaction when your – all your colleagues and other family
20 members are at work.

CHAIRPERSON: Ja.

MR DINGISWAYO: So.

ADV SONI SC: But I have not interrupted you because you know what this commission is about.

MR DINGISWAYO: Yes.

ADV SONI SC: You know PRASA intimately.

MR DINGISWAYO: Yes.

ADV SONI SC: And to the extent that matters are relevant.

MR DINGISWAYO: Yes.

ADV SONI SC: And you have not mentioned it in your affidavit please feel free to mention it. Now I had heard of the name of Ms Brenda – what is the name?

MR DINGISWAYO: Malongete.

ADV SONI SC: Malongete.

10 **MR DINGISWAYO:** Yes.

ADV SONI SC: But I had not realised what the connection was until now. So please what – whenever you can assist.

MR DINGISWAYO: Ja.

ADV SONI SC: It does help because as Mr Molefe said it is up to the commission to join all the dots.

MR DINGISWAYO: Sure.

CHAIRPERSON: Hm.

ADV SONI SC: Now just on the question of persons of influence that is how the question...

20 **MR DINGISWAYO:** Yes.

MR DINGISWAYO: Of Mr Mabunda came about. May I ask you was there any other person of influence who struck as being an influential role player at PRASA?

MR DINGISWAYO: The other person Chair – I mean there were – there are quite a number of – of people. I mean the

– PRASA was nicely divided amongst but I will just speak about the major role players.

The other major one would have been Mr Roy Moodley. He is the owner of a company called Royal Security and I think Ms Ngoye would have taken you through the relationship between PRASA and an entity called Strawberry Worx.

CHAIRPERSON: Just one second. I see that you are speaking quite some distance away from the microphone.

10 **MR DINGISWAYO:** Oh.

CHAIRPERSON: But that might be fine. I want to check with the transcribers whether they can hear you properly. Can you hear the witness? Yes okay ja – be closer to the microphone. Okay.

MR DINGISWAYO: Thank you Chair. So the other person Chair who – who...

CHAIRPERSON: I – maybe I could just say the transcribers if – because sometimes I will not ask them. If there is anyone of us whom you cannot hear properly try and send a
20 message that must go up to the evidence leader who can let me know. Ja. Okay. Thank you.

MR DINGISWAYO: Thank you Chair I was saying that the – the other person that was influential was a gentleman by the name of Roy Moodley and it is – the security – Royal Security that he owned and associated with Strawberry

Worx. Through the investigations that were launched by the board it came out that he may be associated with Siyangena as well.

I mean these – these people would be said to have some free reign in the PRASA building. For an example the – in the Siyangena case that sometimes when you know there is a delay in payment – well this is something that I was told that Mr Mario Ferreira would be spotted in the building. So you do not understand how they have gained
10 entrance and all of those things.

And later on, the other entity that he was associated with Mr Roy Moodley was associated with is Prodigy. And on that same thing of – of him having free access to the building I remember being called by the CFO I think around – the acting CFO then was Ms Yvonne Page. She was calling me around – in December saying that there were people from Prodigy in her office who were there uninvited.

Now I mean I remember I said to her, just call security and tell them to get rid of those people. How did
20 they – how did they end up there in the first place? Because she was – she was saying she was being forced to do a reconciliation of how much had been paid to Prodigy and how much was owing and make that payment then.

So you had that kind of a thing. And this is after Mr Montana had left. I mean this is I think 2017 when this

incident happened. So which also gives you the impression that those people that were important at – during the time of Mr Montana carried on being special even after he had left.

The trends are the same. The people who get vilified in the organisation for doing their work are the same. I am on suspension. Mr Montana I probably will get there at some point dismissed me and the – the more it looks like things are changing. I do not want to say they stay the same because my observation is that it seems as if
10 there is a level of desperation that is kicking in in our institution including – including at PRASA to do those wrong things you know the desperation has increased.

During the time of Mr Montana, he kind of created a parallel structure where he had a lawyer in his office who was just serving him. And then he had at another point this firm DM5 doing quite a lot of work for the organisation.

He – that firm was not getting instructions from the legal department. They were getting instructions directly from SCM at some point and others from Mr Montana
20 himself.

So he had created a nice parallel structure where he can do some of these deals in. Now we cannot afford the parallel now because of our cash flow constraints. Now the pressure has come back inside for the people inside to be party to doing wrong. For the people in the inside to

basically afraid and it is something that I think is...

CHAIRPERSON: Afraid of doing the right thing?

MR DINGISWAYO: Chair let me put it in general terms that it is just to sow fear. Now when someone is afraid, they are malleable. Whatever you ask them to do they will do. So it is just that thing of sowing fear. And at the end the end – the intended end is really that to say, if I say jump you say how high? You do not say but why am I jumping and all of those things? Because people are just afraid.

10 **ADV SONI SC:** Chairperson I see it is one o'clock I...

CHAIRPERSON: Yes let us take the lunch break. We will resume at two.

ADV SONI SC: As you please Chairperson.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay let us continue.

20 **ADV SONI SC:** As you please Chairperson. Now, in paragraph 4 of your affidavit and I know we are there but we move a little faster Mr Dingiswayo.

You first say there were certain peoples of influence. When you point out that when you got there, you were told: "Be careful about this Siyaya matters. Do not scrutinise too carefully."

Now, I take it you did not take that seriously that you should not do your job?

MR DINGISWAYO: I... Yes, I did my job as best as I can.

ADV SONI SC: Yes.

MR DINGISWAYO: Because PRASA is the one that pays my salary Chairperson and part of that job is to protect the interest of PRASA.

ADV SONI SC: Now in regard to... assuming you had scrutinised contracts carefully, whether involving Mr
10 Mabunda's firms or Mr Moodley's firms here. How did Mr Montana react to that?

MR DINGISWAYO: It is was in a very strange way Chairperson. I mean, it happened to me and I happened to scrutinise the Prodigy Agreement and indicate that... initially, I wrote to Mr Montana, giving him the benefit of the doubt.

Say to him: "I believe that he may have been misled in approving the contract". The contract was approved on the basis that it is a... so the Prodigy contracts that...

ADV SONI SC: Sorry, mister.

20 **MR DINGISWAYO:** Ja.

ADV SONI SC: I do not want to stop you. I want to follow your affidavit.

MR DINGISWAYO: Okay.

ADV SONI SC: In paragraph 4, you deal generally ...[intervenes]

MR DINGISWAYO: Yes.

ADV SONI SC: ...with how Mr Montana reacted. We will come to the Prodigy contract in a minute but I do not want to lose the thread of what you said in your affidavit.

MR DINGISWAYO: Sure.

ADV SONI SC: So just in general.

MR DINGISWAYO: Actually, the word I used in the affidavit is ruthlessly. And I believe that correctly characterises the response when we do the work to protect the interest of
10 PRASA.

ADV SONI SC: So you say he ruthlessly abused his powers?

MR DINGISWAYO: Yes.

ADV SONI SC: And you will give us your example of that. And you make the point that the public protector has also pointed out this in her report called Derailed.

MR DINGISWAYO: That is correct, Chairperson.

ADV SONI SC: And then the third issue you raise is, that even when courts made pronouncements about matters, for
20 example, where a person has been unfairly dismissed or the contract is invalid and so on.

MR DINGISWAYO: H'm.

ADV SONI SC: What was management's reaction at PRASA?

MR DINGISWAYO: Chairman, even for... and so there was

always this need to appearing in certain instances where the advice that would have come from the legal department, would be say, “you do not have good prospects of success on appeal”.

Even where we would have said... even from the word go that before the decision was made that there is no prospects of suspects.

So there will just be that waste of resources and... in certain... especially where employees are involved, it was almost like an attitude where somebody says, “I have the pass of the state and I am going to litigate you until you do not have money”.

ADV SONI SC: Now the obvious when the contract... a cloud is put over a contract and it involved influential people, what would their attitude be?

MR DINGISWAYO: It would be dealt with unprofessionally Chair. I mean, the expectation was that you do not raise the issue that has a cloud over this transaction.

ADV SONI SC: No, no. I am raising a different point with you. It is the last part of paragraph 4.

MR DINGISWAYO: Yes.

ADV SONI SC: You say that:

“Even when payment was not justified, payments would be made.”

MR DINGISWAYO: Yes, that is correct Chair. That there

were instances where there would be very hefty invoices. I mean, I remember one point when I was questioning an invoice of a lawyer who had got onto our panel, in my view, through the backdoor.

And I was not... I was actually called by Mr Montana. I was busy talking to the service provider as the service provider to the legal department, questioning the invoices and I was called to his office to say, “why are you questioning this and all of this?”

10 **ADV SONI SC**: And was the invoice paid?

MR DINGISWAYO: Well, in the end, the lawyer had to change the invoice. I mean, they were glaring things like different hourly rates. Today is two point five. The next day it is four-thousand.

So I mean, those... it was obvious things that were... then I pointed them out to Mr Montana to say, “I cannot put my signature on an invoice like this. I mean, if it has to be paid in another way, it can be paid in another way, but I am not going to put my name on it”.

20 **ADV SONI SC**: Now in paragraph 5 you point out that as legal services, you were all often required to take matters to different places.

And you say, for example in regard to the contract for R 3,5 billion which was conducted... which was concluded corruptly. That is what the court of Appeal said. Which

one... which contract are you talking about there.

MR DINGISWAYO: Chair, this the...[intervenes]

CHAIRPERSON: I wonder Mr Soni whether you should not ask him in a manner that might not appear to be so leading.

ADV SONI SC: Yes, yes. I will do, Chair.

CHAIRPERSON: Ask him whether they were required... they were able to instruct different law firms and what would be the position so that the evidence comes from him.

ADV SONI SC: Yes.

10 **CHAIRPERSON:** Otherwise, it looks like you are giving evidence and just getting him to say, yes, yes, yes.

ADV SONI SC: Yes.

CHAIRPERSON: So, look at a finding a way of just extracting the information, the evidence from him.

ADV SONI SC: In regard... well, you are aware of the Swifambo contract?

MR DINGISWAYO: That is correct, Chair.

ADV SONI SC: What... after Mr Montana left, what did PRASA do in respect of that contract?

20 **MR DINGISWAYO:** PRASA launched an application Chair to have this contract reviewed and set aside which was successful at the high court taken on appeal.

The SCA confirmed the high court decision and there was an attempt to take it the constitutional court. The constitutional court said that there were not prospects of

success and they did not entertain the matter.

ADV SONI SC: Now once the issues that Mr Molefe raised is, that in respect of that contract, Mr Mashaba had made... had told him certain things about how that contract had been... we need not go there.

But as a result of that, what would PRASA in relation to taking the matter further, besides going to the high court to set aside the contract?

MR DINGISWAYO: It... there was a gentleman called
10 Philemon Mamabolo who was in the security department. Just by himself, he took... Chairperson, what... by enlarge was the complaint to the public protector that was launched in 2012 around... I think he went around 2015.

He deposed to an affidavit and reported those matters, a number of those matters to the police. And in that report, he included the Swifambo matter.

So when... after the board had investigated the transaction and these issues that counsel referred to, came up, the investigators assisted Mr Mamabolo to prepare a
20 more comprehensive affidavit that is specifically with the Swifambo transaction.

And that was then filed under the same case number that Mr Mamabolo had initiated. I think it is Hebrew case number.

So that matter was then taken to the police. At some

point, the HAWKS became involved because of the size of the transaction and the issues that are involved in it.

ADV SONI SC: Sorry. Were you involved in it as well?

MR DINGISWAYO: Yes, Chair. At the beginning it was just the board and the investigators who were dealing with the matter. Around, I think 2016, around April, then the board started involving the legal department as well in these... in the deals between PRASA and the HAWKS.

So that is how we got involved in the dealings between
10 PRASA and the HAWKS. And if I am allowed Chair? I can probably talk about two meetings that stood out for me which was one very big meeting which was... were led by Mr Popo Molefe from the PRASA side.

The investigators that had been engaged by the board were there and the HAWKS were there. We met with a gentleman called General Khana.

When I left that meeting Chair, I was very encouraged. It appeared that there was very work that had been done by the investigators.

20 That the HAWKS had appreciated the kind of work that had been done and they really believed that this is a very important matter that needed to be investigated.

A number of undertakings were made in that meeting by the HAWKS to say, "you know, there is a need to take this matter to the FAFI".

I think it is called... the institution in the police is called FAFI. But it deals with assets forfeiture and meetings were subsequently arranged with that institution.

But then the whole thing kind of ground to a halt and were inexplicable ground to a halt. When...[intervenes]

CHAIRPERSON: I do not want you to lose your train of thought.

MR DINGISWAYO: Yes.

CHAIRPERSON: But just give some timeframe if you can.

10 That meeting from which you came out very encouraged...[intervenes]

MR DINGISWAYO: Ja.

CHAIRPERSON: ...and when was it, more or less, even if it is not the actual date?

MR DINGISWAYO: Ja.

CHAIRPERSON: Year and month. Or what part of the year? And the time when you felt that everything came to a halt inexplicable? I just want those timeframes.

MR DINGISWAYO: Chair, if I am not mistaken the meeting
20 was in April 2016. And I think there were follow up meetings between the investigators. Sorry. And the... and FAFI.

I was not part of that meeting because part of the discussions are confidential and secret at that stage of the investigation but we came into the main introductory meeting between... before the nitty-gritty was discussed.

At that time, a... one of the sub-contractors to Werksmans and I think that company is now called Crowe but at the time it was called Howarth, had been appointed by the HAWKS to do the cash-flow analysis in respect of Swifambo.

The arrangement between the HAWKS and PRASA was that PRASA would pay their fees that are incurred by Howarth and Howarth would report to the HAWKS.

So those were part of the discussions in the separate meeting to deal with issues that related to the Section 205's
10 and the subpoenas and all of those things.

I think it would have been after those initial meetings that everything just went dead like... so the timeframe would be when this... the following up would have come around May and then after May, it seemed everything would just ground to a halt.

CHAIRPERSON: So you said the big meeting which gave you encouragement was in... did you say May?

MR DINGISWAYO: April.

CHAIRPERSON: April?

20 **MR DINGISWAYO:** Yes.

CHAIRPERSON: So just about a month later...[intervenes]

MR DINGISWAYO: Yes.

CHAIRPERSON: ...everything came to a halt?

MR DINGISWAYO: Yes, that is correct Chair.

CHAIRPERSON: Yes. And in between there would have

been about how many meetings if you are able to say that because you said there would have been intervening meetings?

MR DINGISWAYO: Well, those would not have been... I would not have been present in those meetings.

CHAIRPERSON: Yes. But you know that some meetings took place.

MR DINGISWAYO: Those would have been with the investigators.

10 **CHAIRPERSON:** But you know that some meetings did take place...[intervenes]

MR DINGISWAYO: Yes.

CHAIRPERSON: ...some people from PRASA and the HAWKS or... and the... or the SIU or whatever or...[intervenes]

MR DINGISWAYO: It was the HAWKS and I think FAFI.

CHAIRPERSON: Ja.

MR DINGISWAYO: I believe that were engagements as well with AFU.

20 **CHAIRPERSON:** Ja.

MR DINGISWAYO: I think those were the institutions that were there.

CHAIRPERSON: Ja, okay. Okay, okay.

MR DINGISWAYO: The AFU being the Asset Forfeiture Unit?

MR DINGISWAYO: That is correct. The AFU of the MPA.

And I think there was also engagements with... there were prosecutors appointed to lead the HAWKS team that was investigating. So there were engagements as well with those people.,

ADV SONI SC: And you have had that one meeting with the... you were present at which... you were part of the delegation led by Mr Molefe.

MR DINGISWAYO: That is correct.

10 **ADV SONI SC:** Did you have any meetings with the prosecutors?

MR DINGISWAYO: Yes. Yes, we did.

ADV SONI SC: And how did you find them?

MR DINGISWAYO: That came a little bit later Chair. Roundabout... probably around 2018. I initially said there are two meetings that stood out. And I just request counsel to just allow me to deal with those.

ADV SONI SC: Yes, yes. I was going to ask you about that.

MR DINGISWAYO: Yes. But ca I also be allowed to just insert another... share with you Chair?

20 **CHAIRPERSON:** [No audible reply]

MR DINGISWAYO: The... so the second meeting ...[intervenes]

CHAIRPERSON: Well, now. I am sorry Mr Dingiswayo.

MR DINGISWAYO: Yes.

CHAIRPERSON: I just want to make sure that whilst you are

going to, as you say insert some meeting...[intervenes]

MR DINGISWAYO: Ja.

CHAIRPERSON: So the first important meeting that you are aware of happens in April

MR DINGISWAYO: Yes.

CHAIRPERSON: And then everything comes to a halt inexplicable in May sometime?

MR DINGISWAYO: Yes.

CHAIRPERSON: Ja. And the meeting that you will insert,
10 falls in between?

MR DINGISWAYO: No.

CHAIRPERSON: It is later?

MR DINGISWAYO: It is later.

CHAIRPERSON: Okay. Before you go to that meeting. What is that you heard or you observed or you saw which made you to conclude that there was this inexplicable halt of the attempts to... for the HAWKS to investigate and FAFI or AFU, all these law enforcement agencies to do something?

MR DINGISWAYO: Chairperson, at that time, the matters...
20 most of the matters were handled by the investigators.

CHAIRPERSON: H'm.

MR DINGISWAYO: So, from time to time, we would have meetings with Werksmans and just generally discuss what is happening to the investigation including the criminal investigation.

CHAIRPERSON: H'm.

MR DINGISWAYO: And then the frustrations then were coming from that end of Werksmans to say that they are not getting the feedback from the HAWKS around further engagements with them.

Because, as I understand it Chair, when you are investigating transaction like Swifambo and you are trying to follow cash, you have to... it is almost like an onion.

So you start on the outer side to say, what... who did
10 Swifambo pay? And try to link those payments to the purpose of Swifambo so that you isolate those that seems strange in respect of business of Swifambo and then you start following the cash from that end.

For an example. If Swifambo were to pay Vossloh which was the OEM, that type of a payment would not raise a flag but if Swifambo was to pay Fani Incorporated, then you have to ask, who is Fani Incorporated and Fani Incorporated belongs Fani Dingiswayo who is an employee of PRASA.

Then you... so they were frustrated by the fact that the
20 follow up subpoenas were not coming back.

So the people who were doing the analysis would do the first layer of analysis and then say, "we need these other subpoenas to be issued and the bank statements to be brought". And so that was the frustration that they were getting.

CHAIRPERSON: Now did you say... you were talking about the investigators who had been appointed by Werksmans' firm?

MR DINGISWAYO: Yes.

CHAIRPERSON: The investigators, they were Werksmans' investigators so to speak?

MR DINGISWAYO: They were sub-contractors.

CHAIRPERSON: They were sub-contractors.

MR DINGISWAYO: Yes, Chair.

10 **CHAIRPERSON:** Ja, ja. But they were reporting to Werksmans?

MR DINGISWAYO: Yes.

CHAIRPERSON: Yes. So you were having interactions with some of them and you... the reports that you were getting when interacting with them...[intervenes]

MR DINGISWAYO: Yes.

CHAIRPERSON: ...was that they were feeling frustrated because they were not making headway?

MR DINGISWAYO: That is correct.

20 **CHAIRPERSON:** And part of the reason why they were not making headways because some subpoenas had led... that had been issued to try and get to see where the money went to and then the subpoenas were not coming back?

MR DINGISWAYO: Yes, so the way I understood the interaction Chair was that the investigator will say, "I need

you to issue subpoena for the following entities and banking accounts”.

CHAIRPERSON: Ja. Yes.

MR DINGISWAYO: The work of issuing the...
the...[intervenes]

CHAIRPERSON: Subpoenas.

MR DINGISWAYO: ...subpoenas would be done by the
police.

CHAIRPERSON: Ja.

10 **MR DINGISWAYO:** And then the police would go to the
banks after issuing... having these subpoenas issued.

CHAIRPERSON: H'm.

MR DINGISWAYO: They would go to the banks to get the
statements. Analysis is done and the investigator says, “I
need the following”.

CHAIRPERSON: H'm.

MR DINGISWAYO: So at some point that flow through,
simply came to a halt.

CHAIRPERSON: Yes. Now that is very important Mr
20 Dingiswayo. Mr Soni, we need to get to the investigators.

ADV SONI SC: Yes, yes.

CHAIRPERSON: We need them to tell us who was not doing
his job or her job.

ADV SONI SC: Yes.

CHAIRPERSON: If they were require to investigate such an

important matter of corruption at PRASA and they needed the police to assist them by way of getting certain information by subpoenas and the police or the HAWKS or whoever it was, were not doing their job or were refusing to do their job for whatever reason, maybe because the money trail started to lead to certain people. I need to know.

ADV SONI SC: Yes.

CHAIRPERSON: Who are those police officers who were not doing their jobs?

10 **ADV SONI SC:** Yes.

CHAIRPERSON: We need to...[intervenes]

ADV SONI SC: And to whom did it lead?

CHAIRPERSON: Ja. We need to get to the bottom of this.

ADV SONI SC: Yes.

CHAIRPERSON: It is a lot of taxpayers' money.

ADV SONI SC: Absolutely.

CHAIRPERSON: Who were the police officials who were not doing their jobs? Because if this is correct, they were frustrating a very important investigation. So... thank you Mr

20 Dingiswayo.

You... I am sure that you will be able to supply Mr Soni and the Commission investigators with names if you are able to or those who could assist who were being frustrated when they were trying to do their jobs.

MR DINGISWAYO: Certainly, Chair.

CHAIRPERSON: Ja, okay.

ADV SONI SC: Then let us get to the second meeting that you say stood out for you Mr Dingiswayo.

MR DINGISWAYO: So the second meeting was... I think it would have been around November/October 2016. I think it was at a time when Mr Collins Letsoalo was the acting CEO of PRASA.

Brigadier Khana requested a meeting and he came to PRASA with, I think, Brigadier Makinyane and with them...
10 sorry.

Then there... on our side it was Mr Letsoalo and myself. I think the company secretary, the then company secretary, Mr Lindikaya Zide may have been there and my manager, Martha Ngoye was there.

In this meeting, the HAWKS were concerned, they said, about the affidavit of Mr Mamabola. And their concern, they indicated, was the fact that he makes certain legal conclusions in the affidavit, for an example, that so and so and so and so were acting in common purpose and they
20 committed fraud.

So it came as a... so he said, "look, we are feeling stuck because we are worried that if you take this matter forward, Mr Mamabola is not going to survive cross-examination because he is the A1."

And the A1 is the first person to make the first

complaint. So he would be the one who needs to give evidence. And he will not be able to support his legal conclusions.

CHAIRPERSON: But I think Mr Mamabola does not have to... he needed to simply state facts.

ADV SONI SC: Yes.

CHAIRPERSON: That he knew. And if he made the legal conclusion that was wrong, that is really neither here nor there. They had to look at whether the facts that he
10 speaking to, revealed that there was *prima facie* a crime, whether it was the same crime he was talking about or a different crime.

MR DINGISWAYO: Ja.

CHAIRPERSON: It is neither here nor there.

MR DINGISWAYO: Chairperson, that is exactly what we told them.

CHAIRPERSON: H'm.

MR DINGISWAYO: We also told them that our view is that the whole point of investigating... the whole point of
20 somebody coming to the police and saying please investigate this, is so that the police can find evidence.

And we have indicated to them that this is evidence that only the police have the legal authority to find. So when Mamabola says, Fani Dingiswayo got gratification from this contract, he does not have the legal authority to go into Fani

Dingiswayo's banking account.

He may be making that conclusion on the basis that after this award was made the lifestyle of Fani Dingiswayo dramatically changed.

So the police then with their legal authority, should be the ones that go and find and follow the money. If the money does not lead to that person and does not lead to anybody. It does not... sorry. It does not lead to anybody who it should not lead to, there is no one who should be
10 prosecuted.

But if it leads to somebody that should not receive the money, then that person must be prosecuted. And we said, you cannot simply say because you think that the legal conclusion is incorrect, you do not investigate.

You investigate to check whether the legal conclusion is correct. And when the evidence is gathered, you then present the evidence to court”.

And maybe the legal conclusion is like, Chair, you were saying, if the legal conclusion is this crime, then that is that
20 crime. Or another crime is another crime but it cannot be.

But the way he was presenting it, it was as if this was the end of the road for this entire investigation. Because we were concerned about that stance and, I mean he had, I think, a four-page letter that...[intervenes]

CHAIRPERSON: Remind me. Who was speaking here?

Was it...?

MR DINGISWAYO: General Khana.

CHAIRPERSON: General Khana.

MR DINGISWAYO: Correct Chair.

CHAIRPERSON: And just for the sake of understanding properly. From PRASA's said, you said it was you, it was Ms Ngoye...[intervenes]

MR DINGISWAYO: Yes. I think the acting company... sorry, the then...[intervenes]

10 **CHAIRPERSON:** Mr Zide.

MR DINGISWAYO: ...the acting company secretary... sorry. I am putting acting to the wrong designation.

ADV SONI SC: Yes, yes.

MR DINGISWAYO: [laughs] The acting CEO was Mr Letsaolo.

CHAIRPERSON: Yes, ja.

CHAIRPERSON: Yes, ja.

MR DINGISWAYO: He was present. And the Group Company Secretary was Mr Zide. He was also present.

20 **CHAIRPERSON:** Yes. And from the police's side it was General Khana...?

MR DINGISWAYO: I think it was general... General Khana was there.

CHAIRPERSON: Ja.

MR DINGISWAYO: I think he was accompanied by Brigadier

Makinyane.

CHAIRPERSON: Makinyane

MR DINGISWAYO: Yes.

CHAIRPERSON: Okay. Do you know how we spell that name?

MR DINGISWAYO: M-a-k-i-n-y-a-n-e.

CHAIRPERSON: Okay, okay.

MR DINGISWAYO: Yes.

CHAIRPERSON: Okay. So he was saying he had a letter?

10 **MR DINGISWAYO:** Yes, he had a four page letter with him which he presented to the meeting. So it was a bit strange that he has this meeting for - he asked for the meeting and he gives us a letter and he wants us to discuss the letter at the meeting.

CHAIRPERSON: H'm.

MR DINGISWAYO: So we then said we will respond to the letter formally because, I mean, the way that this thing was being presented was that – was problematic.

20 I think he also complained that they did not have information because the more comprehensive affidavit of Mamabolo had a lot of annexures.

So he said we do not have these annexures. We said but we understand that you were provided with that. So he then responded to that letter and indicated these concerns from my view to say we believe that the ball is in

your court because of the legal mandate and the legal authority that you carry which we do not have.

And I think we do, in that letter, make reference to the April meeting and the outcomes of that April meeting and what happened after the April meeting because we thought it is necessary to just go back to say this is where we were and when we were here we were very happy and then everything comes to a – grinds to a halt. When it grinds to halt, we find that you come now with this letter to
10 us and not to the people that you were interfacing with, you come directly to PRASA to say this is my concern.

CHAIRPERSON: And you said this meeting happens towards the end of 2015?

MR DINGISWAYO: 2016.

CHAIRPERSON: It was 2016?

MR DINGISWAYO: Yes and I think around October.

CHAIRPERSON: Around October?

MR DINGISWAYO: Yes, November.

CHAIRPERSON: So about one and half years after you
20 felt things came to a halt?

MR DINGISWAYO: No, Chair. So it is April 2016 when we had that first ...[intervenes]

CHAIRPERSON: Oh, I thought it was April 2015.

MR DINGISWAYO: No, no, no, it is 2016.

CHAIRPERSON: Oh, 2016? Oh, okay. Okay, so the

major meeting that gave you encouragement happens in the April 2016.

MR DINGISWAYO: Yes.

CHAIRPERSON: Okay and everything seems to come to a half in May 2016.

MR DINGISWAYO: Yes.

CHAIRPERSON: And then this meeting that certainly would not have encouraged you at all happens in October 2016?

10 **MR DINGISWAYO:** Yes.

CHAIRPERSON: Ja, okay.

MR DINGISWAYO: That is correct, Chair.

CHAIRPERSON: Okay. So how does that meeting end?

MR DINGISWAYO: So the culmination of the meeting is that we will write a formal response to the letter. We will consider the letter that was just brought to us at the meeting and formally respond.

CHAIRPERSON: But when General – is it Khana is Khan?

MR DINGISWAYO: Khana.

20 **CHAIRPERSON:** Khana?

MR DINGISWAYO: Khana – K-h-a-n-a.

CHAIRPERSON: Ja, Khana. When he was speaking at this meeting was he basically making the same points that he – that he appeared in the letter that he had given you?

MR DINGISWAYO: By and large, Chair.

CHAIRPERSON: Ja.

MR DINGISWAYO: Yes.

CHAIRPERSON: And was the effect of what he was saying and the effect of the letter that they were stopping the investigation because of what Mr Mamabolo said in his affidavit?

MR DINGISWAYO: Chair, I speak under correction, I believe that we have the letter.

CHAIRPERSON: Yes.

10 **MR DINGISWAYO:** And we will make it available.

CHAIRPERSON: Yes.

MR DINGISWAYO: I believe that was the conclusion that this is because of – he was basically saying because of all these things we cannot proceed.

CHAIRPERSON: But these things were what? You have told me about him saying that Mr Mamabolo makes legal conclusion in his affidavit. What else did he put up as causing them to say we do not think we are going to go forward or something to that effect?

20 **MR DINGISWAYO:** Chairperson, the thing that was in my recollection intractable in that letter was the legal conclusions. I mean, I think he knows Mr Mamabolo personally.

CHAIRPERSON: Yes.

MR DINGISWAYO: And like he was expressing sentiments

like he knows Mr Mamabolo and he is worried that he will be embarrassed in court and if ...[intervenes]

CHAIRPERSON: Because of a legal conclusion?

MR DINGISWAYO: That is correct, Chair.

CHAIRPERSON: That is very strange.

MR DINGISWAYO: There was, as I said, also the issue about the fact that they were saying they do not have the annexures.

ADV SONI SC: The annexures.

10 **MR DINGISWAYO:** To the ...[intervenes]

CHAIRPERSON: Affidavit.

MR DINGISWAYO: To the affidavits which I later established was not correct.

CHAIRPERSON: Yes.

MR DINGISWAYO: But, I mean, we re – we gave them the documents again.

CHAIRPERSON: Yes, yes. And so you believe the letter can be found?

MR DINGISWAYO: Yes. Yes, Chair. I will...

20 **CHAIRPERSON:** Can we get it? I wish we had it here.

ADV SONI SC: Yes.

MR DINGISWAYO: Yes, Chair.

CHAIRPERSON: But that is your recollection of what the letter also says?

MR DINGISWAYO: Yes.

CHAIRPERSON: Ja. So you then went back and you were going to respond. I think that is where we were.

MR DINGISWAYO: Yes.

ADV SONI SC: Chair, I just want to for the record, in whose name was that letter, the letter that was given to PRASA?

MR DINGISWAYO: The letter that was given to PRASA was addressed to Ms Ngoye.

ADV SONI SC: No, no, no, who signed or who wrote the
10 letter?

MR DINGISWAYO: Oh. General Khana.

CHAIRPERSON: What was his position within the Hawks? Was he the second-in-command?

MR DINGISWAYO: He was the head of a unit called The Serious Economic Offenses.

CHAIRPERSON: Serious Economic Offenses?

MR DINGISWAYO: Yes.

CHAIRPERSON: Yes, okay.

MR DINGISWAYO: Chair, then this meeting that I just told
20 you about is the one that I inserted because I thought the last meeting flows from this ...[intervenes]

ADV SONI SC: Before you get to the third meeting, sorry, Mr Dingiswayo, when you wrote back to General Khana what was your – did you agree with him, did you dispute what the correctness of what he was saying?

CHAIRPERSON: What was the thrust of your response?

ADV SONI SC: Yes.

MR DINGISWAYO: The thrust of the response, Chair, is what I have said, that the position that we held even at the meeting that the whole point of Mr Mamabolo not going to arrest those people that he named there himself is because it is the police that must be reported to and it is the police that must conduct an investigation and the police that have the authority to arrest but the main thrust was that these
10 are economic crimes and the only way you deal with an economic crime is to follow the money. Which is, I think, a discussion that I think we have had with the Hawks *ad nauseam* even on the Siyangena investigation, that you just have got to follow the money.

So that was the thrust of the response. It was fairly a lengthy response, Chair, because we felt that we have to be as detailed as that and at least that one I can make available almost immediately but I think the one from Brigadier Khana, it might take some time. But I will
20 request assistance from our investigators as well as Ms Ngoye to see if they can locate it.

CHAIRPERSON: Okay, ja. No, thank you. We should get both, ja.

MR DINGISWAYO: So on that day that I delivered the response, because I had all these lever arch files as well

as our response, I went to the Hawks offices in Pretoria and gave them the documents. We had some bit of a chit chat with me giving them the essence of what our response is.

Then one of the officers accompanied me, because their offices, at those premises, you need a remote and there is no security guard. In fact, it is a nondescript building, you would not know that there is police there, there is nothing that says police. So one of the members,
10 of the officials, accompanied me so that he can open the entrance for me.

So I thought let me just ask this gentleman because this seems so easy for me, maybe there is something that I am missing. I said to him if you look at the application that was launched by PRASA ...[intervenes]

ADV SONI SC: This is the Swifambo application?

MR DINGISWAYO: That Swifambo application. I think there is a very interesting thing that happened which is in the affidavits and that is the meeting between Mr Molefe
20 and Mr Mashaba at the Maslow Hotel and the outcomes of that meeting. Have you not considered having a conversation with Mr Mashaba?

My understanding of what Mr Mashaba had presented to Mr Molefe is that it looks like I got myself entangled in something I should not have gotten myself

entangled in.

CHAIRPERSON: Might have to lose my assets.

MR DINGISWAYO: That is correct. And he appeared to, from my reading, he appeared to have received the shock of his life when he received instructions to make payments to people that are not associated with Swifambo, with the business of Swifambo. He was a sole director and he knew who were Swifambo's counterparties in transactions and these people are people he did not know. So I said to him
10 maybe somebody like that can assist if this thing is correct.

Chair, there was an awkward silence for a few seconds and this gentleman said to me I feel bad that you have to ask me this question because I have been an investigator for a number of years, I have done investigations in the North West and blah, blah, blah. So he went on and told me his life story in the police and he says what you are telling me is something that we have asked from our superiors and I was just instructed not to
20 touch Mr Mashaba.

So I said to him look, I do not want to put you in a difficult position, let me go, what you have told me is enough. But the essence of it was that he had been instructed not to take that route. Between me and him in our discussion seemed to be a very easy route and

something to explore.

CHAIRPERSON: Oh, he seemed to have been instructed not to do what he believed was the right thing to do in order to do his job?

MR DINGISWAYO: That is correct, Chairperson.

CHAIRPERSON: Do you – is that somebody that you know, is that somebody that you met once on that occasion, is that somebody that ...[intervenes]

MR DINGISWAYO: I only met once, Chair.

10 **CHAIRPERSON:** Oh, okay.

MR DINGISWAYO: And I never met him again.

CHAIRPERSON: Yes.

MR DINGISWAYO: I think I may have enquired about him at some point.

CHAIRPERSON: Yes, yes.

MR DINGISWAYO: And I was told he had left the police.

CHAIRPERSON: Oh.

MR DINGISWAYO: I was told something like that, Chair.

20 **CHAIRPERSON:** Oh. But is that because you remembered his name?

MR DINGISWAYO: I – you know, as I am talking about this, I am thinking – I think you are going to get there and I am trying to remember his name.

CHAIRPERSON: Yes.

MR DINGISWAYO: But I think I may have it somewhere,

Chair.

CHAIRPERSON: Yes, well, you see, maybe if he has left the police he might well be very – might be quite prepared to assist the country and tell us what he knows about why this investigation – why the Hawks do not seem to have done what they were expected to do or what he would have done but was prevented from doing and who prevented him. So one knows that an investigation such as the investigation that this Commission has conducted depends
10 to a very large extent on men and women in the country who will put the country first and who will have the courage to stand up and to speak the truth, sometimes under difficult circumstances and we have seen some of –some of the people who have taken that stand, who have come before this Commission and the country should be very grateful to them.

But there are many who are staying away from the Commission when they have knowledge of very bad things which should be told to this Commission that have been
20 done by certain people who are staying away from the Commission, who are not putting their country first but there may still be many who have not come forward who, if contacted, might just say okay, I will come.

So maybe even the one that you are speaking about, wherever he is, even if we do not contact him, if he

hears maybe he may just decide to make himself available to the Commission.

If there are not enough people in this country who are prepared to come forward and make sacrifices and take a stand, all that we are doing will be in vain. We will not make this country a better country.

If we are all too scared, if we are all putting our own self interest first, if we all putting our organisations' interest first, if we are all putting certain wrong institutions
10 first and not putting the country then all of these efforts and all of the money that this Commission is using to try get to the truth will all be in vain and I continue to be grateful to each and every one of those people who have come here and who - and told the nation some of the things that we heard and those who have stood by the truth even in difficult times over the years as I have been told by numerous witnesses.

So we need his name and we need others who know exactly why certain institutions were not doing their job to
20 come forward and tell us. When they tell us, they are telling the nation, the nation gets to know what was going on, we will get to be able to make recommendations that hopefully can contribute, if implemented, to make this country a better country. Yes, thank you.

ADV SONI SC: Thank you, Chairperson. Mr Dingiswayo,

you will look at your documents and so and try and identify the person but as the Chairperson has said, if that person hears your evidence hopefully, he will come even on his own whether you not find his name.

MR DINGISWAYO: Chair, sorry, can I just one thing? My observation of how the PRASA criminal investigations were conducted is a case study of how to look like they are investigating.

CHAIRPERSON: When you are actually not investigating?

10 **MR DINGISWAYO:** Yes, I was very happy with the evidence that was led yesterday and this morning around the property transactions because it is evidence that we have been looking for, for a long time, it is evidence that is sitting in the hands of bankers. It is not evidence that is sitting with the people who are implicated in the criminal offences and the police have simply not gone to the bank to ask for the bank statements so that we can be able to do the very sterling work that was done by Mr Oellerman this morning to take you through the property transactions.

20 I do not believe that it takes long, I think the concern as well is the fact that the money is disappearing, the properties are lying unattended to and, I mean, it is just construction sites, the value of that property is dissipating. The biggest loser in the process, it comes the country.

CHAIRPERSON: Yes, okay.

ADV SONI SC: Before I leave this theme, general investigations. You dealt with the Swifambo investigation. During the course of that you mentioned a little earlier the – you said the same thing happened in the Siyangena investigation.

MR DINGISWAYO: Yes.

ADV SONI SC: Now you do not have to go into details unless you want to but what happened there? If you could
10 tell the Chairperson.

MR DINGISWAYO: Chairperson, the lesson learnt from the Swifambo investigation is that do not do the cash flow analysis, that is why it ground to a half at some point because now you are starting to see names of people, you are starting to see organisations that should not be seen associated with those transactions.

So at the April meeting - because by the time we had the April meeting, the police had already appointed Howarth to do the cash flow analysis, so that work had
20 started on the Swifambo investigation.

Now on the April meeting one of the things that General Khana said he is going to do is to do the same appointment that had been done on – because the appointment – that appointment necessitated that PRASA should issue a letter to Howarth to say we will cover your

fees, you report to the police.

So after that meeting that letter was not issued to Howarth in accordance with what was discussed at the meeting that Howarth was going to be appointed to do the cash flow analysis in respect of the Siyangena matter. That appointment never happened so that is why I am saying that whoever was controlling this investigation realised that if you make this appointment you are going to have problems and I am saying I am happy with the
10 evidence that was lead yesterday and today in the morning because now the things that were just in newspapers and such places are now clear that those reports, those news reports were accurate that those journalists did do the work that – in a proper way.

So they probably feel vindicated but, I mean, it is a bitter sweet experience that all these things came out in 2016 and it is only now in 2020 that they have been ventilated in public in a forum which is credible and the people are coming out to say yes, there was a TLM
20 inscription on this bank and there is clearly monies demanded this side and Mr Montana is asked for money and then he says I will pay tomorrow and then money is deposited there and then the payment is made.

So to draw that – now I do not think that it would have taken the police and investigators a long time from

2016 to get to that point where you can clearly see what has happened. I mean, PRASA has had to spend millions litigating against people who have done it wrong and those people who were using the money coming from PRASA to defend themselves in the litigation.

CHAIRPERSON: Well, to make it worse – and think as Mr Molefe was saying, on the one side PRASA has had to litigate against people that allegedly were engaged in corruption and that money corrupt the fraud in PRASA and
10 those people use that money to fight PRASA but PRASA has had to also litigate against the Hawks. PRASA goes to the Hawks and the SAPS and say go and catch them. There they are, here is the evidence, here is a complete – catch them, there is crime here. The Hawks do not seem to do much until PRASA says let us go to court to force the Hawks to do their job and what do the Hawks do? They oppose that, they fight with PRASA. What kind of thing is that?

MR DINGISWAYO: Yes, Chair.

20 **ADV SONI SC:** Mr Dingiswayo, just so that I understand, at the April meeting with the Hawks with General Khana ...[intervenes]

CHAIRPERSON: One second, when we finish here, I will want to see you Mr Soni and Ms Langata(?) and the investigators that are attached to the PRASA work stream

so Mr Oellerman must not go away. If he is around. Or if he is not around maybe somebody can send him information to say he should be here when we finish.

ADV SONI SC: Yes, we will do that, Chairperson.

CHAIRPERSON: Okay.

ADV SONI SC: Now I just want to understand, one of the matters – in fact the main matter that was discussed was the Swifambo criminal case. But was Siyangena discussed at that meeting as well, at the April meeting?

10 **MR DINGISWAYO:** In my recollection it was.

ADV SONI SC: But the difference is in regard to Swifambo they appointed the assistance that Werksmans was providing but they refused to do that in regard to the Siyangena matter.

MR DINGISWAYO: That is correct, Chairperson. Well, sorry, Chair, sorry. It is slightly different. At that meeting General Khana undertook that the appointment that was made to Howarth on the Swifambo case will be made to them to deal with the Siyangena case.

20 **CHAIRPERSON:** So he was saying he will use the same people for the Siyangena investigation as well?

MR DINGISWAYO: Yes.

CHAIRPERSON: Yes, okay.

ADV SONI SC: And that PRASA must pay for it.

MR DINGISWAYO: Yes.

ADV SONI SC: And that will in the sense fund
...[intervenes]

CHAIRPERSON: The same arrange would apply.

MR DINGISWAYO: The same arrange and after that meeting, we – PRASA issued a letter to – I think it is the acting CEO was Mr Nathi Khena. He issued a letter to say to Howarth that PRASA will cover their fees, they must assist the Hawks.

CHAIRPERSON: Yes.

10 **ADV SONI SC:** But that appointment was never made by the Hawks.

MR DINGISWAYO: No, it was never made.

CHAIRPERSON: Did you get to know why it was not made?

MR DINGISWAYO: It did never – this is one of the things, Chair, that we were complaining about after the meeting of April and I think in the response that we sent to the Hawks later that year to their letter, we also included that to say this is what – this is the impression we got from this
20 meeting and it just never happened.

CHAIRPERSON: And now we are talking about the letter which you told us about which was responding to General Khana's letter.

MR DINGISWAYO: Yes.

CHAIRPERSON: These are the things you dealt with in

the letter.

MR DINGISWAYO: Yes, yes.

CHAIRPERSON: Now did General Khana ever respond to your letter?

MR DINGISWAYO: No.

CHAIRPERSON: He never responded?

MR DINGISWAYO: No, he did not.

CHAIRPERSON: But from what you said earlier it seems to me that the content of your letter was such that it called
10 for a response if he did not agree with the points you were making there because there, as I understand it, part of what you were saying is, you people cannot stop the investigation just because of what Mr Mamabolo says in terms of legal conclusions.

MR DINGISWAYO: That is correct, Chair, and that was the expected – we were expecting one of two outcomes, either a response or some ...[intervenes]

CHAIRPERSON: Action.,

MR DINGISWAYO: Action in terms of furthering the
20 investigation.

CHAIRPERSON: Because if they did not respond but they continued with the investigation then you could see that they were continuing.

MR DINGISWAYO: Yes.

CHAIRPERSON: You would not mind then not responding.

MR DINGISWAYO: Then that is fine.

CHAIRPERSON: That would be a response in action and not in – by way of a letter.

MR DINGISWAYO: That is correct, Chair.

CHAIRPERSON: But if they were not going to ...[intervenes]

MR DINGISWAYO: Do anything then they should ...[intervenes]

CHAIRPERSON: If they are going to maintain their stance
10 despite what you said in your letter then you expected them to respond to your arguments.

MR DINGISWAYO: That is correct, Chair.

CHAIRPERSON: Which they did not do.

MR DINGISWAYO: Which they did not do.

CHAIRPERSON: Ja. To this day.

MR DINGISWAYO: Yes, yes, Chair, I think that ...[intervenes]

CHAIRPERSON: As far as you know.

MR DINGISWAYO: To this day, Chair, because that is part
20 of the reason why the board decided to launch a *mandamus* to compel them to do their work, yes.

CHAIRPERSON: Yes, continue.

ADV SONI SC: Now Mr Dingiswayo in your affidavit you refer to the affidavit made by Ms Ngoye in October last year.

MR DINGISWAYO: Yes.

ADV SONI SC: If you look at paragraph ...[intervenes]

MR DINGISWAYO: Six.

ADV SONI SC: Yes. Now can I just ask you this, you've read her affidavit?

MR DINGISWAYO: Yes.

ADV SONI SC: And you agree with what she says insofar as she talks about you?

MR DINGISWAYO: That is correct Chair.

10 **ADV SONI SC:** Just now you then say, but there are two matters you want to discuss and it's not surprising, given your evidence that one of them concerns a company involving Mr Roy Moodley, that's Prodigy and the other concern, Siyaya, the company involved involving Mr Mabunda?

MR DINGISWAYO: Yes.

ADV SONI SC: Let's deal with the Prodigy matter, you've dealt with it quite extensively in your affidavit but if you could – we can go through what you say was wrong with
20 this matter and how it ended for you, but I'll lead – I'm just, sort of presenting the panel.

MR DINGISWAYO: Chair around March/February – March 2015, I received a request, so what happens is that if anyone in the business requires legal services they come to me as the General Manager of legal services and then I

decide what I'm going to do, whether I'm going to do the instruction or maybe ask one of my colleagues to assist with it. So I received this request from a Mr Sydney Khuzwayo who is in the Supply Chain Management Division of PRASA. The instruction ...[intervenes].

CHAIRPERSON: This is about when, just to get the time frames?

MR DINGISWAYO: February/March 2015.

CHAIRPERSON: Oh February/March 2015, ja okay.

10 **MR DINGISWAYO:** Yes, so I receive this instruction, the instruction is, we have this contract between PRASA and Prodigy, this contract contemplates the training of 3000 PRASA employees on customer services. We have – the contract, I think it was for three years, this contract has now lapsed but we have not trained 3000 we have trained just over 2000 so can you assist us to finalise that scope of work so that we can – because I think at that time, payment could not be made without a contract. So when you enter the details of the contract on the SAP system or
20 on the finance system you had to enter that length of the contract, so once it lapses then requisitions for payment will not happen and what was explained to me was that there has – the parties have been continuing with the work, notwithstanding that the contract has lapsed but now they are having problems with payment. So, I said, okay, as is

normal give me the SCM file so that I have a better understanding of what is going on here. So I look at the SCM file...[intervenes].

CHAIRPERSON: What does SCM file contain, the contract?

MR DINGISWAYO: Yes, so the SCM file will contain all the information that has led to the on boarding of the service provider for that contract.

CHAIRPERSON: Okay.

10 **MR DINGISWAYO:** So, whatever – however they were procured and all of this.

CHAIRPERSON: Yes, okay so it will give you information that will tell you whether the contract is justified, whether there was a need for this contract.

MR DINGISWAYO: Yes.

CHAIRPERSON: And how the contract – what processes were followed to conclude the contract.

MR DINGISWAYO: That is correct.

CHAIRPERSON: Okay, so you asked for that file?

20 **MR DINGISWAYO:** Yes.

ADV SONI SC: Before you go on just so that we orientate ourselves, this is the matter you deal with from paragraph 14 of your affidavit, would that be correct?

MR DINGISWAYO: That is correct Chair.

ADV SONI SC: So, there are other matters that are dealt

with but they're in a sense, peripheral to the main issue and I thought I would just indicate to you, where precisely Mr Dingiswayo is leading evidence from.

CHAIRPERSON: Yes, no that's fine.

MR DINGISWAYO: So Chair – so in terms of just orientating myself I look at this file to see what happened, I come across a letter that is dated 10 June 2010 which seems to be the genesis of this relationship. That letter, Chair, is marked as MMD3 and is on page 138.

10 **CHAIRPERSON:** The page number?

MR DINGISWAYO: 138.

CHAIRPERSON: Yes.

ADV SONI SC: Chairperson – before you go on, just again orientation so you will recall, you might recall when Mr Holele gave evidence this letter came up.

CHAIRPERSON: Okay, okay well I can see that it has attracted my attention every time I see it.

ADV SONI SC: Yes.

CHAIRPERSON: Yes.

20 **MR DINGISWAYO:** Chair it's a bit of a confusing letter but how – it seems that what it sought to do was to say, as Prodigy we have a grant from the Services SETA of I think – well the numbers are a bit also confusing but at the end it seems as if the number that was agreed to was R10.8million so we have a grant of R10.8million for training

purposes now you have people that need training. So, what we can do is, we can use this grant for training your people you claim the grant, so it's a – for PRASA it becomes a zero sum, you pay Prodigy for training and then you claim from that grant that they have and the other thing is that there's a – I think there was something around the fact that Prodigy was accredited to do something called recognition of prior learning...[intervenes]

ADV SONI SC: Sorry Mr Dingiswayo, may I just place on
10 record, you are reading from a document now, am I right?

MR DINGISWAYO: Yes.

ADV SONI SC: That's MMD3 starting at page 138 and finishing at page 139.

MR DINGISWAYO: Yes.

ADV SONI SC: Now what is that, could you describe it for the record so that when the Chairperson is looking at this later, he knows what he is looking at. Now this is a letter...[intervenes].

MR DINGISWAYO: Yes, it's a letter from Prodigy, it is
20 addressed to Mr Montana at PRASA, it's signed by the Director at Prodigy, a certain Nerishni Shunmugam.

ADV SONI SC: And the date?

MR DINGISWAYO: The date of the letter is 10 June 2010.

ADV SONI SC: Sorry you were explaining what this letter is about.

MR DINGISWAYO: Yes, now Chair on page 139, the third line, the sentence there says,

“These interventions will also include recognition of prior learning and we’ll align to test critical skills required by PRASA”.

So, it appeared that – and if I recall I may have seen, also, in this SCM file a submission to Mr Montana to say that PRASA would like to engage Prodigy by way of a confinement because they are the only people who are
10 accredited to do recognition of prior learning. So that was the reason for the confinement, that you won’t be able to get another person to do this for you. So, you will see that the – Mr Montana has made a note on that letter, there on page 138 and he seems quite excited about the proposal and gives an instruction that the necessary documents should be prepared so that the relationship can be established.

CHAIRPERSON: And I see that he seems to have – the letter was written on the 10th of June 2010.

20 **MR DINGISWAYO:** Yes.

CHAIRPERSON: And he signed that hand-written note on the 10th of June, the year doesn’t appear on my copy but it has to be 2010.

MR DINGISWAYO: Yes.

CHAIRPERSON: I don’t think that he could have waited

until it was 10 June of another year, so it has to be 2010.

MR DINGISWAYO: Yes.

CHAIRPERSON: So it means it was written on the 10th of June 2010, probably delivered by hand or so, delivered to him say day and same day he made that note there and signed to accept it, to say it should be accepted, actually not to say it should be accepted, he says, it is accepted.

MR DINGISWAYO: Yes Chair.

CHAIRPERSON: Yes okay.

10 **MR DINGISWAYO:** So, then there's a – then there's the following document which is MMD4...[intervenes].

CHAIRPERSON: But I know that we have dealt with this document – this letter before but basically Prodigy says, from what you say, says we have got money that we – that can be used for training, is that right, is that what you're saying?

MR DINGISWAYO: Yes.

CHAIRPERSON: And you have people that need to be trained, we can provide the training but then it says, it
20 says, you will pay us and claim back from that source that we're talking about but that will be a different source, not them, is that so?

MR DINGISWAYO: It will be the SETA.

CHAIRPERSON: It will be the SETA?

MR DINGISWAYO: Yes.

CHAIRPERSON: Yes, so they make it look like you won't pay?

MR DINGISWAYO: Yes, it's a zero sum.

CHAIRPERSON: Ja you won't pay, ja, so why not give it to us.

MR DINGISWAYO: And we'll also do recognition of prior learning for you.

CHAIRPERSON: Yes, yes.

MR DINGISWAYO: And like I say, I think there's a
10 submission that I came across at the time that actually
said – stated that, that is the reason why – the reason for
the confinement, is the accreditation for – so, and then
there's a contact that is concluded, Chair, which is a
partnership agreement which starts on page 141 and runs
to 152.

ADV SONI SC: And that's MMD4.

MR DINGISWAYO: That is MMD4, yes.

ADV SONI SC: What's the essence of the agreement, in
other words, what obligations were there on Prodigy and
20 what obligations were there on PRASA?

MR DINGISWAYO: PRASA was supposed to provide 300
of its employees for training by Prodigy at a cost of
R10.8million. You will see, Chair, on page 141 there's – at
the bottom there are two bullet points and the one talks
about the provision of grant funding valued at that for 300

learnership which Prodigy has secured from the Services SETA and the PRASA appoints – I'm not sure what actually happened at this point, I'm just looking at the documents as they come to me but the impression that I form is that this was the intention, this is what had been done. So, Prodigy – how Prodigy puts the foot in the door is by saying, I have this grant and I am accredited, therefore let's do a contract. A contract is then prepared and signed and I take it their service is delivered but that's for 300
10 learners.

ADV SONI SC: And at a cost of?

MR DINGISWAYO: Of R10.8million, but this is not the contract that was the subject of my instructions, let me see, I think the contract that was the subject of my instructions is the next contract which is MMD5...[intervenes].

CHAIRPERSON: So just for the sake of completeness that contract – partnership agreement that you were – we were looking at just now, namely MMD4 at page 141 was signed
20 by, it would appear, Mr Montana as CEO on behalf of PRASA.

MR DINGISWAYO: That is correct Chair.

CHAIRPERSON: And then there is a witness there and the designation for the witness appears to be GE – office of GCEO.

MR DINGISWAYO: Yes.

CHAIRPERSON: Do you know that signature, whose signature is that?

MR DINGISWAYO: It looks like Mr Holele's signature.

CHAIRPERSON: Okay and you would – at that time...[intervenes].

MR DINGISWAYO: He was the...[intervenes].

CHAIRPERSON: Occupied that position?

MR DINGISWAYO: Yes, that is correct.

10 **CHAIRPERSON:** Yes, okay, yes you say then the contract that you were dealing with is not this one?

MR DINGISWAYO: Yes.

CHAIRPERSON: Because what was sought was – this one had lapsed?

MR DINGISWAYO: This one had run its course and it seems it was executed and discharged and the parties' obligations were discharged.

CHAIRPERSON: Yes but was it not the one that was sought to be extended or something?

20 **MR DINGISWAYO:** No Chair.

CHAIRPERSON: It was not, oh this was the initial one?

MR DINGISWAYO: Yes.

CHAIRPERSON: Okay, alright.

MR DINGISWAYO: So, this is what is giving me the background.

CHAIRPERSON: Ja, okay.

MR DINGISWAYO: So, I – I'm sorry Chair, I think I'm – I was not correct, it's not MMD5 that was the subject of my instructions it is MMD6.

CHAIRPERSON: Oh, okay and MMD6 appears at ...[intervenes]

MR DINGISWAYO: At page 170.

CHAIRPERSON: 170 yes h'm.

MR DINGISWAYO: And runs to 177.

10 **CHAIRPERSON:** Yes, if we are going to talk about MMD6, it – would it not be more logical to talk first about MMD5 unless there's nothing to talk about on MMD5?

MR DINGISWAYO: We can – well it's just for background purposes Chair because...[intervenes].

CHAIRPERSON: That too, had run its course?

MR DINGISWAYO: MMD5...[intervenes].

ADV SONI SC: It's at page 154.

MR DINGISWAYO: Yes, I'm just trying to...

20 **ADV SONI SC:** Isn't this the addendum to the original contract?

MR DINGISWAYO: Yes, now MMD5 is – I think, an interesting document, if you're on page 156 there is – at the bottom there are paragraphs that are numbered 1 to 3.

CHAIRPERSON: H'm, h'm.

MR DINGISWAYO: Now you'll see number 1 is

implementation of PRASA Customer Service – PRASA My station, frontline worker, programme, 3000 employees, 5 days of training and 5 days of workplace mentorship and coaching. Now the way this looks, MMD5 departs from MMD4 and introduces a new service, the training on Customer Services and then the second one is another training on all Customer Services of 6000 employees and then continual professional development of training for station and corridor management. So those are the things
10 that PRASA and Prodigy are going to have a relationship on.

CHAIRPERSON: H'm.

MR DINGISWAYO: So, the one that is against the paragraph marked number 1 at the bottom becomes MMD6, the training of the 3000.

CHAIRPERSON: H'm, h'm.

MR DINGISWAYO: And you will see that it's on page 170.

CHAIRPERSON: Yes.

MR DINGISWAYO: You will see that it calls this the first
20 phase under paragraph 2, the second numbered paragraph it says,

“The first phase of the three phase partnership agreement is for a minimum of 3000 PRASA employees commencing 1st September 2011 and to be completed by 31st March 2014”.

And if you go further and you will come to page 175 and there's a table that's there on page 175 under the heading, "invoicing schedule, phase one of three, PRASA my station programme" and the next page which is 176 you'll see the total cost and under the heading, "number of learners" is 3000 and the total cost including VAT is R82 080 000.

CHAIRPERSON: Now for which year or what was the duration for this one?

MR DINGISWAYO: The duration, Chair, is where we
10 started it is...[intervenes].

CHAIRPERSON: 2013...[intervenes].

MR DINGISWAYO: On page 171 the second un-numbered paragraph under heading, "number 2", the second line of that is 1 September 2011 to 31 March 2014.

CHAIRPERSON: So, is that four years or three years?

MR DINGISWAYO: It's just over three years, I think it's about three and a half years.

CHAIRPERSON: Okay.

MR DINGISWAYO: I think so.

20 **CHAIRPERSON:** Now is this...[intervenes].

MR DINGISWAYO: No two and a half.

CHAIRPERSON: Two and a half?

MR DINGISWAYO: Apologies Chair.

CHAIRPERSON: Oh, is this still provision of training to make PRASA employees to enable them to provide good

service?

MR DINGISWAYO: So Chair, we've moved now from what seems to have been recognition of prior learning, which is the 3000 the zero sum game of the – I've got a grant, give me people to train and you claim back from that grant and – which is the reason why we have the relationship with Prodigy.

CHAIRPERSON: Yes that's what I want to understand, I want to see where we start to have something different,
10 remember you started with the original.

MR DINGISWAYO: Yes.

CHAIRPERSON: The letter.

MR DINGISWAYO: Yes.

CHAIRPERSON: And then you came with the original agreement, the partnership agreement.

MR DINGISWAYO: Yes.

CHAIRPERSON: Which was talking about the SETA money.

MR DINGISWAYO: Yes.

20 **CHAIRPERSON:** Yes, which was based on the SETA money.

MR DINGISWAYO: Yes.

CHAIRPERSON: Then there was another agreement which, I think, we didn't talk much about then there was another one. So I want to find out whether we are still –

the basis for all this is still the SETA money or if it is no longer the SETA money this is the first time we are no longer dealing with the SETA money or whether any of the previous agreements were already no longer based on the SETA money, that's what I want to establish.

MR DINGISWAYO: So, the previous one – it seems to me, Chair, the previous one is sort of an umbrella and it – well it serves two purposes...[intervenes].

CHAIRPERSON: The partnership one.

10 **MR DINGISWAYO:** It departs from SETA and starts a new relationship, altogether...[intervenes].

CHAIRPERSON: That is MMD4 – MMD5...[intervenes].

MR DINGISWAYO: MMD4 – 5 sorry, the one that is called addendum to partnership agreement.

CHAIRPERSON: Yes.

MR DINGISWAYO: So that one...[intervenes].

CHAIRPERSON: That's where the departure from the SETA starts?

MR DINGISWAYO: Yes.

20 **CHAIRPERSON:** Okay.

MR DINGISWAYO: That one starts now introducing customer services training for – first phase is 3000 employees; second phase is 6000 employees and the – then continual professional development. There's no – it doesn't talk about money or anything and programmes and

things like this.

CHAIRPERSON: Ja.

MR DINGISWAYO: Where we start talking about...[intervenes].

ADV SONI SC: Sorry before you go there, I'm just trying to see if there is a relationship between – we have the partnership agreement as MMD4.

MR DINGISWAYO: Yes.

ADV SONI SC: Then we have MMD5 and if you look at
10 page 154, what is this document called?

MR DINGISWAYO: It's called an addendum to partnership agreement Chair.

MR DINGISWAYO: But that is a misnomer it has – in my view it has absolutely nothing to do.

CHAIRPERSON: In terms of the content.

MR DINGISWAYO: In terms of the content with what was envisaged in the partnership agreement.

CHAIRPERSON: You think the – the heading or title is there to mislead or maybe not intentionally?

20 **MR DINGISWAYO:** No Chair I think it is intentional. I think – earlier I said the first one was – was the foot in the door.

CHAIRPERSON: Ja.

MR DINGISWAYO: Now when now the door is open.

CHAIRPERSON: We can get you to do other things.

MR DINGISWAYO: Seems – anything is possible.

CHAIRPERSON: Ja but on the face of it might be – it must look like we are still continuing.

MR DINGISWAYO: Like it is a continuation.

CHAIRPERSON: Partnership.

MR DINGISWAYO: Yes.

CHAIRPERSON: Okay.

ADV SONI SC: So if this was a new agreement the first agreement was a confine – was based on confinement.

MR DINGISWAYO: Yes.

10 **ADV SONI SC:** If this was a new agreement you would have to follow Section 217.

MR DINGISWAYO: That is correct Chair.

ADV SONI SC: But this is now as the Chairperson has pointed out simply titled Addendum but in effect has nothing to do with the previous agreement.

MR DINGISWAYO: That is correct Chair it has nothing to do with the previous agreement. It has nothing to do with the rationale for the previous agreement and it does not – it has nothing to do with the services contemplated in the
20 previous agreement. But I am saying – I am calling it sort of an umbrella because it now starts a new thing of customer services.

ADV SONI SC: Yes.

MR DINGISWAYO: Chairperson.

ADV SONI SC: Can I then ask you if you look at MMD6.

MR DINGISWAYO: Yes.

ADV SONI SC: Page 170. What is that document called?

MR DINGISWAYO: It is called an Annexure. It is – no it is called Annexure A2 of Addendum to Partnership Agreement.

ADV SONI SC: Yes. And when is that agreement entered into?

CHAIRPERSON: Ja.

ADV SONI SC: If you look at page 177 you will see it.

MR DINGISWAYO: Yes. It is dated 21 October 2012 it is
10 signed by Mr Montana on that date.

ADV SONI SC: So the annexure to the agreement – n sorry and if I can ask you could look at page 168 that is the date on which the previous agreement, the addendum was entered into.

MR DINGISWAYO: Yes.

ADV SONI SC: What is that date?

MR DINGISWAYO: It is 30 August 2011.

ADV SONI SC: So the annexure is entered into more than a year later?

20 **MR DINGISWAYO:** Yes.

ADV SONI SC: So that just puts those agreements in context or a purported relationship between those agreements in context?

MR DINGISWAYO: Yes. Chair the – this – one of the things that is striking about MMD6 is on page 175 under the

heading No 4 Learner Cost of PRASA My Station Program.
The first unnumbered per learner cost of the program is
R24 000.

CHAIRPERSON: I am sorry did you say page 175?

MR DINGISWAYO: 175.

CHAIRPERSON: Yes that is – oh the Learner Cost of the
PRASA My Station Program?

MR DINGISWAYO: Yes.

CHAIRPERSON: Okay. The My Station Program was that
10 something that was started by PRASA or did they come up
with it as part of what – of giving a name to what they
wanted to do?

MR DINGISWAYO: Yes Chair they just gave a name.

CHAIRPERSON: They came up with it.

MR DINGISWAYO: Who?

CHAIRPERSON: Prodigy?

MR DINGISWAYO: Prodigy – I do not know who came up
with the name Chair.

CHAIRPERSON: Oh. Okay, okay.

20 **MR DINGISWAYO:** But it was just called My Station.

CHAIRPERSON: Yes.

ADV SONI SC: You say the per learner cost was R24 000.

MR DINGISWAYO: Yes.

ADV SONI SC: That means for each learner. What did the
– in terms of days and so on what did the – the program

entail?

MR DINGISWAYO: I am not sure if it is here on MMD6 but you will recall that it is a five-day course. I think we saw it on MMD5. It is a five-day course and – and five days of workplace mentorship and coaching. Now in response to Counsel’s question Chair may I ask you to go to page 172 and there is a table there and you will see on the – I think it is the – what is it? Is it the fourth column which says: Develop Customised PRASA My Station Skills. And it will

10 speak – it talks about transport NQF1 and professional driver NQF3 and transport passenger services NQF3. Now this is an according to your qualifications standards that are issued by the qualification’s authority. And I am drawing your attention to this because as far as I know NQF4 is matric. The reason I am – I was drawing your attention to that price is that you are here with a course on customer services which is pitched at a level that is less than a matric for five days and it is R24 000.00 per learner. I think it is the most expensive customer services training in the

20 world. But Chair so what then causes concern for me as I look at this transaction is that which the Chair has noted simply starting the relationship on one basis and coming up with a confinement because that is a deviation from the normal process and then simply introducing another process mid-stream – sorry another service mid-stream which is not

related to why you confined in the first place. So I then raised this as a concern to the colleague to say, this is irregular because I think there is so many people who can do customer services training. There is nothing unique about customer services training and I think it is too expensive. I mean I think the prices are much, much less than – especially for just five days. But I did not – I did not want to get into that. I said to the colleagues I think this is irregular and I would prefer not to be involved in it. I wrote
10 there an email to Mr Montana to say I think that he may have been misled to enter into – for this agreement to be concluded. Sorry I wrote that letter – that email to the then Chief Procurement Officer a Mr Joseph Phangula to say I think that the Group CEO was misled because the relationship starts as one thing and then it just out of nowhere morphs into another. I was not supposed to do that. An – Chairperson.

CHAIRPERSON: Did you get a response in writing?

MR DINGISWAYO: From the – so the – if I remember well
20 the Group Chief Procurement Officer said he will bring this to the attention of Mr Montana.

CHAIRPERSON: Hm.

MR DINGISWAYO: That – so she sent me a short response that just says something along those lines.

CHAIRPERSON: Hm.

MR DINGISWAYO: So after some time and I think at some point I think I did not put my foot down at that point.

CHAIRPERSON: Hm.

MR DINGISWAYO: But after some time, I said guys this is – I am not going to be involved in this because it is irregular so please do not bring this thing here. I have told you it is irregular and you insist that I should do this. I am not – I am not going to do something of this nature.

CHAIRPERSON: Hm.

10 **MR DINGISWAYO:** And then there was an email that was then coming from Mr Montana – apologies Chair.

CHAIRPERSON: Hm.

MR DINGISWAYO: I thought you wanted to say something.

CHAIRPERSON: Hm.

MR DINGISWAYO: So an email came from Mr Montana.

CHAIRPERSON: Hm.

MR DINGISWAYO: I do not know if it is here.

ADV SONI SC: Yes it is at page 187.

MR DINGISWAYO: 1?

20 **ADV SONI SC:** 187.

MR DINGISWAYO: 187.

ADV SONI SC: It is in MD – MMD8.

MR DINGISWAYO: Okay. Yes so that is – that is the email that was....

CHAIRPERSON: We do not have the one that you sent to

the Group Chief Procurement Officer because if we do – oh no it is not we do not have it here.

MR DINGISWAYO: You know – no Chair I do not have it here.

CHAIRPERSON: Oh okay.

MR DINGISWAYO: No.

CHAIRPERSON: But it can be found?

MR DINGISWAYO: It can be found Chair. I had requested the investigators to request that I be given access.

10 **CHAIRPERSON:** To the premises.

MR DINGISWAYO: To my laptop and my office.

CHAIRPERSON: Yes, yes.

MR DINGISWAYO: And I do not think anything came out of that.

CHAIRPERSON: Yes. I think it should be – attempts should be made to find it and – and I think nobody is going to resist if we ask that he be allowed to have his laptop in order to assist the commission.

ADV SONI SC: Yes.

20 **CHAIRPERSON:** Ja. Yes so – so but you are referring us now to the one at page 187?

MR DINGISWAYO: Yes.

CHAIRPERSON: Yes.

MR DINGISWAYO: It is an email that is from Mr Montana. It is addressed to Ms Nonhlanhla Kondowe, Fani Dingiswayo

and Sidney Khuzwayo and then it is other people are copied there including my manager Mathongene.

CHAIRPERSON: Who was or is Nonhlanhla Kondowe? What position was she holding?

MR DINGISWAYO: Nonhlanhla Kondowe is in the HR department.

CHAIRPERSON: Hm.

MR DINGISWAYO: She – she was the person who was really running with this project.

10 **CHAIRPERSON:** Hm.

MR DINGISWAYO: And I remember in one of my discussions with her I said but the end user is supposed to be rail – the rail division no HR.

CHAIRPERSON: Hm.

MR DINGISWAYO: Why am I talking to you?

CHAIRPERSON: Hm.

20 **MR DINGISWAYO:** Because I said to her I think one of the problems that cost the situation where you finding yourselves in is that the end user is not the one needing the discussions and telling you I can make so many frontline stuff available at such a time so that you have a proper schedule of the train. But she was what I would consider the champion of this project.

CHAIRPERSON: Hm. Okay. Okay.

ADV SONI SC: In essence what does that email say Mr

Dingiswayo?

MR DINGISWAYO: The essence of the email Chair is the...

CHAIRPERSON: Well I think I know it has been read into the record but I think we may as well have it read again because it is quite important. Just read that email from Mr Lucky Montana to Ms Nonhlanhla Kondowe and others.

MR DINGISWAYO: Yes.

CHAIRPERSON: Yes.

MR DINGISWAYO: It reads Chair.

10 “Dear Nonhlanhla there is nothing wrong with the appointment of Prodigy nor with the extension of their contracts. I am not surprised I think that is what it is supposed to say I am not surprised because this is part of a much bigger agenda which has targeted certain contracts.”

CHAIRPERSON: Just hang on before you proceed. When he says this – I am not surprised because this is part of a much bigger agenda. What do you understand this to refer to?

MR DINGISWAYO: I – Chair I have – I do not know. I think
20 after in November – in December and January – in December 2014 and January 2015.

CHAIRPERSON: Hm.

MR DINGISWAYO: Mr Montana was on leave.

CHAIRPERSON: Hm.

MR DINGISWAYO: When he came back from leave.

CHAIRPERSON: Hm.

MR DINGISWAYO: He had a lot of what I think was some paranoia and some – he was unsettled.

CHAIRPERSON: Hm.

MR DINGISWAYO: He felt – he felt extremely unsettled.

CHAIRPERSON: Hm.

MR DINGISWAYO: Because before this there was a meeting of what is called the extended exco.

CHAIRPERSON: Hm.

10 **MR DINGISWAYO:** And I mean I do not – because of my – because I am a junior employee I do not go to those meetings. But an extended exco I was invited.

CHAIRPERSON: Hm.

MR DINGISWAYO: In that meeting there was this long about two-hour complaint by Mr Montana complaining about people who have got agendas and that he is going to expose them and whatever. So I was really shocked because I have – I have never been in a meeting where like you have – you discuss the business of the meeting and at
20 some point the person chairing the meeting has just a very long speech that he is – he is talking and everyone is quiet and he is really saying – talking about this agenda that is – that has been launched. He is talking about people that are trying to get the favour of the board at his expense because they are probably after his job or something like that.

CHAIRPERSON: Hm.

MR DINGISWAYO: It was a very – it was a very strange thing to me I mean I – like I am saying I have never been in that kind of a situation where – I thought maybe somebody will say can you...

CHAIRPERSON: Will stop him.

MR DINGISWAYO: Can you tell us what you are talking about because everything was couched in very general terms.

10 **CHAIRPERSON:** Hm.

MR DINGISWAYO: Because I certainly felt I would want him to stop or I – or be specific.

CHAIRPERSON: Hm.

MR DINGISWAYO: Now if there is somebody in the room.

CHAIRPERSON: Hm.

MR DINGISWAYO: That he is addressing then they must have a separate meeting.

CHAIRPERSON: Hm.

20 **MR DINGISWAYO:** But it – we cannot all be detained here you know and be listening to this that – at the time I thought had absolutely nothing to do with me.

CHAIRPERSON: Hm.

MR DINGISWAYO: But I realised like from that time on up until he left.

CHAIRPERSON: Hm.

MR DINGISWAYO: That was going to be repeated over and over again.

CHAIRPERSON: Hm.

MR DINGISWAYO: Against employees of PRASA and against the board.

CHAIRPERSON: Hm. Okay continue.

MR DINGISWAYO: So – so...

CHAIRPERSON: ...[intervenes]

MR DINGISWAYO: ...[intervenes] was a big agenda which
10 has targeted certain contracts and appointments and to project – and to project these as being irregular. Some of the contracts had already been leaked to external auditors and the media as part of a strategy to discredit the Group CEO and create a cloud before he steps down at the end of the year. And then the next paragraph says:

“This is a well-co-ordinated strategy that started in November 2014 when I went on leave. I was at the most appropriate time – I will at the most appropriate time act against all those who are involved in this dirty campaign.
20 The investigation they are starting is unlawful and part of a plot I am well aware of. The extent of opportunism by some of our managers really amazes me. A manager like Sidney Khuzwayo should start first by cleaning the many irregular appointments he has party to within SCM which I have been trying to address and even explaining some of these to the

office of the Public Protector. Some of the managers are excited by the new board and are feeding all sorts of wrong information so that they could carry:

I think he wanted to say:

“Carry favour with the board. They will be the biggest losers at the end of this process. A decision to partner with Prodigy on the training of customer services remains sound and the extension of the contract is still in order. Please allow them to continue with their strategy which is bound to
10 fail.”

Then he says:

“Kind Regards. Lucky Montana.”

CHAIRPERSON: What was your understanding of what made Mr Montana write this letter? Having read it in the context of what was happening what was your understanding of why he wrote this letter?

MR DINGISWAYO: Chair I – I thought that the colleagues that I was dealing with who in the Prodigy matter it – I thought they were reporting back to him.

20 **CHAIRPERSON:** Hm.

MR DINGISWAYO: To say this is the – these are the views that are held by this man and now I think that at this time they had told him that now he has said please leave me out of this matter. And I think at the time I also said it should not come to the legal department. If – because I mean Mr

Montana has his own lawyer in his office who can – who can do this work. But I am very uncomfortable with – with having my name associated with this irregularity. So I think that he – there had been – there had been reports that had been sent to him. I think that – I think the reference to Mr Sidney Khuzwayo was a deflection. I think that the entire thing was addressed to me that is how I understood it.

CHAIRPERSON: You said earlier on that this was a meeting of the extended executives, is that right?

10 **MR DINGISWAYO:** Yes.

CHAIRPERSON: And which you would normally – well you would normally not attend meetings of the executive committee.

MR DINGISWAYO: Yes.

CHAIRPERSON: But you had been invited to this one.

MR DINGISWAYO: Because it was an extended exco.

CHAIRPERSON: Because it – ja.

MR DINGISWAYO: Yes.

20 **CHAIRPERSON:** It was an extended exco. Were there others who were invited to – or in other words were you the only one who made it to be an extended exco or were there others who – who were there who also contributed to making it an external exco?

MR DINGISWAYO: Ja. No I wish I was the only one who made that cut Chair but no I was not.

CHAIRPERSON: You were not okay.

MR DINGISWAYO: Yes. The people at my level

CHAIRPERSON: Ja.

MR DINGISWAYO: Of General Manager are invited for extended exco's.

CHAIRPERSON: For external exco's.

MR DINGISWAYO: For extended exco's yes.

CHAIRPERSON: Ja okay. Okay.

MR DINGISWAYO: But I am saying that this whole thing
10 about Sidney is just a deflection.

CHAIRPERSON: It is a deflection ja.

MR DINGISWAYO: Because I said earlier that I am a junior employee.

CHAIRPERSON: Hm.

MR DINGISWAYO: Sidney's position is junior to mine.

CHAIRPERSON: Hm.

MR DINGISWAYO: And he would not be dealing with – only – he would not be involved in irregular appointments.

CHAIRPERSON: Hm.

20 **MR DINGISWAYO:** As someone else was – who is higher than Sidney would have to sign off.

CHAIRPERSON: Yes.

MR DINGISWAYO: On any appointments.

CHAIRPERSON: Hm.

MR DINGISWAYO: So I – I just thought this – this is just

something that has been put there to – to hide the fact that this entire thing is a response.

CHAIRPERSON: But quite clearly – quite clearly this was a – Mr Montana’s response to the stance taken by some which included you that the Prodigy contract was irregular.

MR DINGISWAYO: Hm.

CHAIRPERSON: Is that right?

MR DINGISWAYO: Ja that is correct Chair.

CHAIRPERSON: Is that reading of this correct?

10 **MR DINGISWAYO:** That is correct Chairperson.

CHAIRPERSON: Yes. But at that stage apart from you who else had made it known that they also thought that this Prodigy contract was irregular?

MR DINGISWAYO: Well in writing I was the only one.

CHAIRPERSON: You were the only one?

MR DINGISWAYO: Yes. I had – I had discussed it with – with Ms Martha Ngoye.

CHAIRPERSON: Ja.

20 **MR DINGISWAYO:** Especially even at the time when I thought I am not engaging in this anymore.

CHAIRPERSON: Ja.

MR DINGISWAYO: I am getting out of it.

CHAIRPERSON: Yes.

MR DINGISWAYO: To say to him – to say to her this is the stance that I have taken.

CHAIRPERSON: Hm.

MR DINGISWAYO: And I am not going to do this.

CHAIRPERSON: Yes.

MR DINGISWAYO: She agreed with...

CHAIRPERSON: She agreed with you.

MR DINGISWAYO: With me and I think I even – because we have – we have monthly – at the time we had monthly meetings.

CHAIRPERSON: Hm.

10 **MR DINGISWAYO:** As a department.

CHAIRPERSON: Hm.

MR DINGISWAYO: I think I may have tabled the issue at the departmental meeting. Because I had – I had given – I had made a number of enquiries to try and see if there is nothing wrong with this.

CHAIRPERSON: Hm.

MR DINGISWAYO: So this – I thought no, no this – that is fine no further.

20 **CHAIRPERSON:** Hm. Now how – how long before the 18 May 2015 which is a date of this letter had you written to say you – this contract was irregular and I think you had written the Group Chief Procurement Officer?

MR DINGISWAYO: Yes.

CHAIRPERSON: How long before that – that date more or less?

MR DINGISWAYO: At most a week Chair.

CHAIRPERSON: Oh, so it was close?

MR DINGISWAYO: It was a very time.

CHAIRPERSON: Ja a very short time.

MR DINGISWAYO: Very short time.

CHAIRPERSON: Ja. And he of course had told you that he would convey to Mr Montana your stance.

MR DINGISWAYO: Yes.

CHAIRPERSON: Yes. Now did you get to know whether Ms
10 Kondowe and Nonhlanhla was the letter the salutation is
Dear Nonhlanhla?

MR DINGISWAYO: Hm.

CHAIRPERSON: You know it is not Dear Mr Dingiswayo.

MR DINGISWAYO: Hm.

CHAIRPERSON: It is Dear Nonhlanhla did you get to know whether Ms Kondowe had written anything to Mr Montana about the Prodigy contract to which maybe which had prompted Mr Montana to write to her? Or is that something you never got to know?

20 **MR DINGISWAYO:** No I never got to know Chair.

CHAIRPERSON: Yes. Did you know whether Ms Kondowe was agreeing with your position on this contract or not at that time?

MR DINGISWAYO: No she – she never agreed with my position.

CHAIRPERSON: She did not agree with your position?

MR DINGISWAYO: No.

CHAIRPERSON: She – but she – did she – was she against it? Did she articulate a different position or she never said anything?

MR DINGISWAYO: No Chair I mean she – she never engaged with me about my position.

CHAIRPERSON: Yes.

MR DINGISWAYO: But I mean having checked also her
10 conduct after all these things when she was working very hard to – to try and make sure that Prodigy is paid.

CHAIRPERSON: Hm.

MR DINGISWAYO: I do not think that she – she agreed with my – she never expressed her disagreement.

CHAIRPERSON: She never articulated.

MR DINGISWAYO: Yes.

CHAIRPERSON: Any position.

MR DINGISWAYO: Yes.

CHAIRPERSON: She might just have carried out
20 instructions.

MR DINGISWAYO: Yes.

CHAIRPERSON: Yes.

MR DINGISWAYO: I think – I think that if I am not mistaken at best Chair what she may have said is that look I mean Prodigy would not know our processes.

CHAIRPERSON: Hm.

MR DINGISWAYO: Sort of it is a – is an innocent party to this thing and now they are in this situation we have put them in that situation.

CHAIRPERSON: Hm. Okay. Okay. Thank you.

ADV SONI SC: Now this letter from... I mean, this email from Mr Montana is dated the 18th of May.

MR DINGISWAYO: May.

ADV SONI SC: May.

10 **MR DINGISWAYO:** Yes.

ADV SONI SC: What was the next major incident that happened after this letter was sent?

MR DINGISWAYO: On the 19th ...[intervenes]

ADV SONI SC: Of the following day?

MR DINGISWAYO: Yes.

ADV SONI SC: Yes.

MR DINGISWAYO: On the 19th of May...[intervenes]

20 **CHAIRPERSON:** Maybe actually before we do that. I see we are at one minute past four. I am quite happy that we continue ...[intervenes]

ADV SONI SC: Yes.

CHAIRPERSON: ...up to five to try and finish. If we... if that suits everybody.

ADV SONI SC: Yes. Yes, Chair.

CHAIRPERSON: But if we are going onto to five, maybe we

should take a short break. Mr Dingiswayo, you are happy with continuing.

MR DINGISWAYO: I am okay Chair. I am on suspension.

CHAIRPERSON: Okay. Mr Soni, [laughs] oh you are on suspension? You have got all the time. [laughs]

ADV SONI SC: We enjoy the interaction. [laughs]

CHAIRPERSON: [laugh] Okay. Alright. Let us take a short break and we will come back at ten past.

ADV SONI SC: Yes. Yes, Chair.

10 **CHAIRPERSON:** We adjourn.

INQUIRY ADJOURNS:

INQUIRY RESUMES:

CHAIRPERSON: Just to go back to the letter MMDH at page 92. So Mr Dingiswayo, as... would it be correct to say, as far as you know, at the time of this meeting of the extended executive... No, no. I am sorry.

At the time of this letter, you were the only one among the employees of PRASA who had taken the position that this contract was irregular and that would have been
20 conveyed to Mr Montana.

As far as Mr Ngoye is concerned, she was agreeing with you but that was a discussion between ...[intervenes]

MR DINGISWAYO: That is correct Chair.

CHAIRPERSON: ...the two of you at that stage.

MR DINGISWAYO: That is correct Chair.

CHAIRPERSON: So the probabilities are, you would say, are that Mr Montana knew only you as the person who was saying this was irregular.

MR DINGISWAYO: Yes.

CHAIRPERSON: Ja.

MR DINGISWAYO: Yes.

CHAIRPERSON: Ja. If there other people, we could hear from him.

MR DINGISWAYO: Yes.

10 **CHAIRPERSON:** But you did not know of anyone else who had taken that style... that stand and said it should be conveyed... it can... it could be conveyed to him.

MR DINGISWAYO: Yes.

CHAIRPERSON: Yes.

MR DINGISWAYO: Yes, Chair. I can confirm that... I mean, I think someone like Sydney was trying to see if we can find a solution.

CHAIRPERSON: Yes. Ja, ja.

MR DINGISWAYO: But...[intervenenes]

20 **CHAIRPERSON:** But you had taken a clear position?

MR DINGISWAYO: Yes.

CHAIRPERSON: Ja, okay.

ADV SONI SC: [Indistinct]

CHAIRPERSON: Your mic. Your mic.

MR DINGISWAYO: Chair, the following day, after I

...[intervenes]

CHAIRPERSON: I am sorry.

MR DINGISWAYO: Ja.

CHAIRPERSON: Before you deal with that. How did this letter make you feel?

MR DINGISWAYO: I wanted to respond to the... to this email Chair. But I realised that I will be now on the... a real war path with the Group CEO.

CHAIRPERSON: H'm.

10 **MR DINGISWAYO**: So I had a discussion about it with my boss because I mean, the... all these things what he is saying about these general statements are incorrect.

CHAIRPERSON: H'm.

MR DINGISWAYO: And I do not... Maybe there was an agenda.

CHAIRPERSON: H'm.

MR DINGISWAYO: I was not part of it.

CHAIRPERSON: H'm.

20 **MR DINGISWAYO**: But it was clear. As... Chair, you have noted that according to my knowledge at the time, I had been the only person who had expressed this view.

And this view is now emerged into what is call a bigger agenda about people who are investigating Mr Montana unlawfully.

CHAIRPERSON: H'm.

MR DINGISWAYO: And Chair, you... I think at this time, it was before even the Werksmans' investigation started.

CHAIRPERSON: H'm.

MR DINGISWAYO: So I... so there is a lot of strange things that are said in this email which are associated with this view which I felt I probably just need to set the record straight and say, this is my view.

It has nothing to do with all these things that are being mentioned here. It is something that I believe is legally
10 sound and it is an independent view, a professional view.

CHAIRPERSON: H'm.

MR DINGISWAYO: But Chair, in some of these institutions you cannot tell a professional view which is sound, if it interferes with other people's personal interest, then you get dealt with.

CHAIRPERSON: H'm. H'm.

MR DINGISWAYO: And the normal thing is that they confuse their own personal interests with PRASA's interest because they will always use that cloak of saying, you are acting
20 against PRASA when, in fact, you maybe be dealing with his own personal interests.

CHAIRPERSON: H'm. H'm. And when he says in the end of the third paragraph: "They would be the biggest losers at the end of this process".

MR DINGISWAYO: Yes.

CHAIRPERSON: Who did you think he was talking about?

MR DINGISWAYO: I thought he was talking about me.

CHAIRPERSON: H'm. H'm.

MR DINGISWAYO: And that is why I thought I needed to isolate the professional view from all this. All this paranoia and say, I have nothing to do with... I do not have... I do not have the time or the inclination for agendas and opportunism.

I am just working here. And this is just a view that I am
10 expressing. So I believed that he intended to do something drastic. And that is why I thought it would be necessary to respond to the email.

CHAIRPERSON: H'm. H'm.

MR DINGISWAYO: But in my discussion with Ms Ngoye, we agreed that we do not escalate.

CHAIRPERSON: Yes.

MR DINGISWAYO: Let us de-escalate the situation. Maybe... and hope for the best.

CHAIRPERSON: Ja, okay.

20 **ADV SONI SC:** What though happened on the following day?

MR DINGISWAYO: I was on my way home in the evening from work.

CHAIRPERSON: That is now on the ...[intervenes]

MR DINGISWAYO: On the 19th.

CHAIRPERSON: ...on 19th of ...[intervenes]

MR DINGISWAYO: Of May.

CHAIRPERSON: Of May 2015.

MR DINGISWAYO: 2015.

CHAIRPERSON: 2015, ja.

MR DINGISWAYO: Yes. I am on my way home and when I am about five minutes away from home, I received a call from PRASA. I pick it up and it is Mr Montana's personal assistant. I think it was De Beer. I mentioned her yesterday, Dumi.

10 She calls and says, "Mr Montana would like to see you". I say, when? She says, "Now".

So I am like: "I am close to home. Does he need to see me today? Please let him know I am close to home but if he needs to see me today, I will come back to the office".

CHAIRPERSON: H'm.

ADV SONI SC: At what time was this, Mr Dingiswayo?

MR DINGISWAYO: Maybe around seven.

ADV SONI SC: In the evening?

20 **MR DINGISWAYO:** Yes, seven in the evening. So I get home and as I am driving into my driveway, I get another call from the same number. I pick it up and she tells me, "No, no, no. He wants to see you now.

CHAIRPERSON: So that was still his PA?

MR DINGISWAYO: Yes.

CHAIRPERSON: Ja.

MR DINGISWAYO: So I then say, okay. Now the people inside the house have seen I am driving. So I have to go and say, “I have been called back to work”. And like... and everyone is like: “Are you serious?”

So then I called... I am on my way back to work and I call Ms Ngoye and I say to her, “I think I am going to be fired”.

So she says, “Why?” I said I received this call and this is what happened. She says, “Okay, just go and let me know
10 what happens”.

I get to the office. He was finishing a meeting and walking the people that he was meeting with out. And he then says... he comes back, he says... he greets and he says, “Come in”.

I go into his office. And then he says that he has heard that I am working against the interest of PRASA. So I am taken aback, okay.

He starts talking about some tender that he said I was... he said I wanted to cancel a tender. So I say, “Okay, but
20 wait. I do not have the power to cancel a tender. Which tender are you talking about?”

Then he explains what he is talking about. I say, “No, no, no. We are approached because the BEC is having some problems with this tender and we were asked to give advice. We gave the advice.

And the advice was nothing mere to cancellation of the tender. There was just a bottle neck. We gave advice to ease that bottle neck, so that the work of the BEC can continue”.

He says, “No, I do not want to hear anything from you. I have been told what I have been told”. And then he goes all over... he talks about a number of things that I am acting against him. I am leaking documents to the board.

Now I am really stunt that... how does... how does one
10 leak documents to the board? I mean, the documents of the company are documents of the company. The board is the accounting authority.

And I am thinking, I am so far from the board. I do not even know who is in the board. I have never interacted with these people. My normal work does not bring me anywhere close to these people.

But I cannot say these things because I have been told that: “No, I do not want to hear anything from you”. And then he says, “All I brought you here to tell you is that you
20 no longer work here”.

So I am like okay. And he says, “We can talk about how much I pay you for you to leave your employment”. I said, “No, I am not interested in that discussion.”

He says, “Okay. Then you do not... you are fired”. I say okay. And... so I realise that he is done and I gesture to

stand from my seat.

Then he says, “You can wait for your letter of termination or you can get it tomorrow or you can tell us where to deliver it”.

It was not a long meeting Chair. And I think he said I could wait because his legal advisor was there present, Ms Naidoo. I think she was the one who going to draft the termination letter.

So I say, “No, no. I will come back tomorrow and get it.
10 I will come and also get my personal belongings from the office”. And so I left.

CHAIRPERSON: So it is not even you are suspended?

MR DINGISWAYO: No.

CHAIRPERSON: You are fired?

MR DINGISWAYO: No, I was fired on the spot.

CHAIRPERSON: And he says he does not want to hear anything from you?

MR DINGISWAYO: Yes. The only thing he can engage on is ...[intervenes]

20 **CHAIRPERSON:** How much you want to be paid?

MR DINGISWAYO: Yes.

CHAIRPERSON: But you are fired?

MR DINGISWAYO: Ja.

CHAIRPERSON: H'm.

MR DINGISWAYO: In his words, he says, “You no longer

work here”.

CHAIRPERSON: That is how he put it.

MR DINGISWAYO: Yes.

CHAIRPERSON: Yes.

MR DINGISWAYO: Yes.

CHAIRPERSON: So you come in working here?

MR DINGISWAYO: Yes. [laugh]

CHAIRPERSON: But you go out not working here?

MR DINGISWAYO: Ja. [laugh]

10 **CHAIRPERSON**: Okay. Now the tender that he was referring to, are you able to remember what it was connected with?

MR DINGISWAYO: Chair, I do not remember but what I remember is that, they... you know in a situation of a tender, there is a part where you do the technical evaluation?

CHAIRPERSON: H'm.

MR DINGISWAYO: Where you need to meet a certain threshold before other aspects of the tender can be considered.

20 **CHAIRPERSON**: H'm. H'm.

MR DINGISWAYO: Now the specification was drafted in such a way that you needed to... that type of collaboration I think was divided into four or five aspects.

CHAIRPERSON: H'm. H'm.

MR DINGISWAYO: And they said you need to meet a

minimum, I think of like 80% on each of those aspects for you to get the typical... the threshold of the typical criteria to...

So they said to us, there is none of the tenderers who gets all of those five aspects at that level and... according to the scoring.

And... but the technical advisors... because there was technical advisors there. Siyaya was with the technical advisors of that tender. They say that ...[intervenes]

10 **CHAIRPERSON**: Was that tender committed with Siyaya?

MR DINGISWAYO: So...[intervenes]

CHAIRPERSON: Siyaya was one of the ...[intervenes]

MR DINGISWAYO: The professionals that are assisting PRASA to do their evaluation of the tender.

CHAIRPERSON: Oh, okay.

MR DINGISWAYO: So they said... the typical advisors are saying they are satisfied that some of the people can actually do that job because the whole point of a technical evaluation is to assess whether the tenderer can actually do
20 the work.

We said to them, "Look, you seem to be having a problem with your technical evaluation criteria because if you are satisfied that they can do the work but your evaluation criteria says they cannot, that is what you need to deal with because it is not achieving what it is supposed to achieve".

And the guys that we consulted with were happy and they left. And then later on, I was accused of wanting to cancel that tender.

CHAIRPERSON: But did you also say, he accused you at that short meeting of leaking some... leaking some documents to the media or...?

MR DINGISWAYO: To the board.

CHAIRPERSON: To the board?

MR DINGISWAYO: Yes, to the board.

10 **CHAIRPERSON:** But was it to the board only or also to somebody else?

MR DINGISWAYO: To the board.

CHAIRPERSON: To the board?

MR DINGISWAYO: Yes.

CHAIRPERSON: Okay. Now in the letter of 18 May, you did also speak again about people who are leaking...[intervenes]

MR DINGISWAYO: Yes.

CHAIRPERSON: ...documents but he said to the media.

MR DINGISWAYO: Yes, Chair.

20 **CHAIRPERSON:** The external auditors ...[intervenes]

MR DINGISWAYO: Yes, the external auditors.

CHAIRPERSON: Yes, ja. Okay. Alright. So you left. You said you will come back the following day to take your letter.

MR DINGISWAYO: Yes, to take the letter and take my personal belongings.

CHAIRPERSON: Ja, okay.

ADV SONI SC: Now, after you left Mr Montana's office, what was the next thing you did?

MR DINGISWAYO: Well, as soon as I left the building Chair, I reported back to my boss as I indicated that I would call her after the meeting and I told her that... I told her that I am going to be fired and I am fired.

CHAIRPERSON: And I am sure she could not... she thought you... she could not believe that you ...[intervenes]

10 **MR DINGISWAYO:** No, she thought I am joking.

CHAIRPERSON: Ja.

MR DINGISWAYO: And I said, "No, I am not joking. I am fired". But I mean, I have seen it coming from this letter because that "biggest losers", I thought it is a threat.

It is a threat although, the threat was a raid by the name of Sivele Khuzo(?) but I did not see it. But I could see it.

So she said... she did not believe me. She said, "Let us meet". And we arranged to meet and I told her this is what happened. And she realised that I am not joking.

20 And she made a call to Mr Montana and asked him, "This guy...". I mean, she was shocked. She was shocked. And she made the call whilst shocked that how did this happen?

"This person reports to me. You do not tell me what you are doing and you just fired him. I mean, how does that work?"

And then I did not hear everything that was discussed. I only heard what Ms Ngoye was saying. And from what she was saying and once she has told me, they had agreed to meet the next day for him to take her through the reasons why he had made this very drastic decision.

CHAIRPERSON: Now when Mr Montana asked you about that tender which I think you said he said he understood you wanted to cancel.

MR DINGISWAYO: Yes.

10 **CHAIRPERSON:** Did he make you... did he represent that your dismissal was because you wanted to cancel that tender? Was... did you understand that he wanted you to believe that that is what the dismissal was about?

MR DINGISWAYO: Yes, Chair. So he... that is one of the things that he mentioned..

CHAIRPERSON: Yes.

MR DINGISWAYO: He mentioned the cancellation of the tender, he mentioned working against PRASA.

CHAIRPERSON: Ja.

20 **MR DINGISWAYO:** He mentioned leaking information to the board.

CHAIRPERSON: Yes. So it... you are... he may have wanted you to believe that it was all of those things...[intervenes]

MR DINGISWAYO: Yes.

CHAIRPERSON: That he mentioned.

MR DINGISWAYO: Yes.

CHAIRPERSON: Yes. Okay. And he did not mention anything that was connected with the letter or that was in the letter?

MR DINGISWAYO: With the email?

CHAIRPERSON: The email, ja.

MR DINGISWAYO: Chair, I really do not recall him saying anything about Prodigy.

10 **CHAIRPERSON:** Yes, yes. Except that, I guess, that... in that email, the one addressed to, Dear Matlantle.

MR DINGISWAYO: Yes.

CHAIRPERSON: In that email, he is speaking strongly against those whom he was accusing of working against him.

MR DINGISWAYO: Yes.

CHAIRPERSON: Ja. So it may not be that if you are leaking documents to the board you may have been working against him if he ...[intervenes]

20 **MR DINGISWAYO:** If indeed you can leak documents to a board. Yes, then that we are.

CHAIRPERSON: [laugh] Well, certainly from his point of view.

MR DINGISWAYO: Yes, yes.

CHAIRPERSON: If you can, you are good. Ja.

MR DINGISWAYO: Ja.

CHAIRPERSON: Ja. Okay. Alright. Ms Soni.

ADV SONI SC: As it please you. Now, Ms Ngoye is giving evidence that after that meeting which was about as short as your meeting was with Mr Montana... oh, sorry. At the end of that meeting, Mr Montana told her that you were fired or you no longer...

MR DINGISWAYO: Yes.

ADV SONI SC: Now...[intervenes]

MR DINGISWAYO: Yes, Chair.

10 **CHAIRPERSON**: I am sorry, Mr Soni. Please do not forget your next question.

ADV SONI SC: No, no.

CHAIRPERSON: Ja. You said that you... I asked you earlier on about what... I think I believe I did you ask you. [laugh] I hope I did. About what you believed was the reason why Mr Montana dismissed you that evening. What, on your analysis, is the reason why you were dismissed?

MR DINGISWAYO: According to me Chair, I gave a view that is legally sound and that was against his personal interest.
20 He appeared overly invested in this relationship.

I mean, it is a... in the greater scheme of PRASA, this is a very small contract, especially taking into account that two thirds of that contract had been implemented already. It is a miniscule contract.

CHAIRPERSON: H'm. H'm.

MR DINGISWAYO: PRASA burns... well, it is supposed to burn more than R 20 billion a year. Now when we are talking about a contract of R 82 million, which is two thirds... has not discharged two thirds of the way and you have this very bizarre response to a legally sound view, then it shows that extend of your investment, your personal investment in the contract.

CHAIRPERSON: H'm. H'm. So you believe that he dismissed you because of the position you had taken with
10 regard to the Prodigy contract?

MR DINGISWAYO: Yes, Chair. Yes.

CHAIRPERSON: Ja.

MR DINGISWAYO: Well, Chair. Let me put it this way. This... it is some... this one is the crescendo.

CHAIRPERSON: Yes.

MR DINGISWAYO: There are things that happen. I mean, for an example, there is a very... there is a story that is not told about the fact that at some point there is an intention to increase the value of the Swifambo contract from
20 R 3,5 billion to R 5 billion.

And we were asked to do that addendum. And we said, "Well, no. You guys are too far off with this thing. It is an addendum".

I... because we queried a couple of things and it did not make sense but... because the rational that was stated for

the increase in the contract price was that the Euro had moved against the Rand and because of that the contract value must increase so that we still get they still get this thing of committees.

Now, I mean even to me who is a lawyer who does not know numbers, an increase from R 3,5 billion to R 5 billion, it is almost 33%. I do not think the Euro could have increase so much.

So that is one of the things that... you could see the level of irritation growing as you are saying, “Please, do not include me in this. If you want to go ahead with it, you go ahead with it but...”

And we said, “We were approached by Ms Malongete. He said, “You know this thing better than all of us. We have fundamental problems with this contract but... so you draft and then we do not want to go back to those problems. So just finish the addendum.

She had... she actually had a draft of that addendum but she wanted us to be... to have an input to it. And he said, “Please, do not get us involved in this”.

CHAIRPERSON: So you say, you were fired, as far as you are concerned, for this position you took with regard to the Prodigy contract?

MR DINGISWAYO: Yes.

CHAIRPERSON: But you say that happened as culmination

of a number of things that had happened before what you have just said.

MR DINGISWAYO: That is correct Chair.

CHAIRPERSON: One of which was the...[intervenes]

MR DINGISWAYO: Attempts.

CHAIRPERSON: Attempts. You stand. Not to want to be involved in interest in the Swifambo contract.

MR DINGISWAYO: Yes, that is correct Chair.

CHAIRPERSON: Okay.

10 **ADV SONI SC:** Now, I perhaps should have asked earlier. Very early in your evidence, you talked about a parallel process and you were saying it in reference to the work you and Ms Ngoye did.

Is that the process that you are now describing that Ms Malongete and the lady in Mr Montana's office you were engaged with, is that the parallel process you are talking about?

MR DINGISWAYO: That is correct Chair.

20 **ADV SONI SC:** So in other words... oh, if I can just ask you and tell me if I am wrong. There was the official process that you... your office and Ms Ngoye's office was involved with.

MR DINGISWAYO: Yes.

ADV SONI SC: And there was this process of his own personal advisors and an outsider...[intervenes]

MR DINGISWAYO: Yes.

ADV SONI SC: ...that... who was advising him, Mr Montana.

MR DINGISWAYO: That is correct Chair.

ADV SONI SC: And who had drawn up the Swifambo contract? Was it your office... oh, sorry. Your office. Or was it these other processes?

MR DINGISWAYO: It was DM5. As I understood it, it was Ms Brenda Malongete who drew up the contract.

10 **ADV SONI SC:** So your office was not involved in the drafting of Swifambo.

MR DINGISWAYO: No. No, it was not.

ADV SONI SC: Now Ms Ngoye has described the manner in which Mr Montana dismissed her and of course she would have told you about it but in relation to your dismissal – your and her dismissal, what happened next?

20 **MR DINGISWAYO:** So I did not go to the office on the 20th as I indicated I would because now there is this meeting and I felt - I do not know, maybe let me not be presumptuous, let me just park my going back to the office and then she was fired and she relayed the message to me. So we then went to the CCMA.

We did two things basically, we wrote to the board, we said this is what has happened to us and we believe these are the reasons that this has happened to us.

We are taking the matter to the CCMA but we

wanted you as the board to know that this is what happened under your watch and so we did not receive any response from the board but what happened after that is we were called back to the office and the letters of dismissal - I think about a week later the letters of dismissal were withdrawn by Mr Montana and then he then asked us to show cause why he should not suspend us.

We wrote representations, he rejected them and suspended us and we were on suspension until he left.

10 **ADV SONI SC:** Now in paragraph 14.15 at page 105 you give your assessment of Mr Montana's state of mind in regard to the two dismissals. Will you indicate to the Chairperson what you thought his state of mind was? This is paragraph 14.15.

MR DINGISWAYO: Yes. Chair, I state here that:

20 "I submit that the reaction of Mr Montana was of one who had suffered a bout of temporary irrationality or someone who was overly invested in showing that his word was final or someone who was overly invested in this transaction and was intolerant of anyone who saw the screaming irregularities in the transaction."

CHAIRPERSON: Sorry, what paragraph, what page was that?

ADV SONI SC: It is page 105, paragraph 14.15,

Chairperson.

CHAIRPERSON: Yes, thank you. Paragraph 105?

ADV SONI SC: No, page 105.

CHAIRPERSON: Page 105.

ADV SONI SC: Paragraph 14.15, just at the bottom.

CHAIRPERSON: Okay. I think I – it has been a long day, I am looking at the wrong – I am looking at Mr Achmat's affidavit. Okay. Okay, let me get the page number again now. I am on the right document now. Paragraph 14?

10 **ADV SONI SC:** 14.15 which is right at the bottom of that page.

CHAIRPERSON: Okay, I have got it, ja.

ADV SONI SC: I thought ...[intervenes]

CHAIRPERSON: Why I did hear 25 or something? Okay, I have got it.

ADV SONI SC: I thought just Mr Dingiswayo's description of what he understood or what he thought Mr Montana's state of mind is, is a matter that you are looking at as a whole, Chairperson. I thought we needed to put that on
20 record.

CHAIRPERSON: Okay.

ADV SONI SC: Alright, then you have said in paragraph 14.16 that you went to the board. What we have not done, I am looking at the parallel process, in paragraph 14.17 at page 106.

Now you go back to the SLA and what happened to that? This is the agreement you said you would not support, is that correct?

MR DINGISWAYO: Chair, the SLA was intended to be an annexure to the agreement because, I mean, I said I think as I am preparing myself to assist you, I need to – a programme of the rest of these trainings as well as – before looking at the issues of whether it is irregular or not, the programme of the training, I also need some –
10 there must be some service level agreement that you conclude with the service provider.

So the document I was going to prepare would just contain the general terms but the specifics in terms of what is going to be the – the training is going to be and all of those things should be in this document called an SLA and then Ms Kondo(?) told me that no, no, no, we have been talking about that, in fact I can send you a draft and then she sent me a document which is very similar to what is the SLA.

20 **ADV SONI SC:** MMD7?

MR DINGISWAYO: MMD7.

ADV SONI SC: Page 179.

MR DINGISWAYO: No, I do not think so, I think it – no, sorry, I have joined the Chair, I am at the wrong place.

ADV SONI SC: Page 179.

MR DINGISWAYO: Ja.

ADV SONI SC: That is the SLA.

MR DINGISWAYO: Yes, yes, that is the document that was given to me but you will see when you read this document it does not have any of the essential terms of the contract, it does not tell you how many people are going to be trained, how much is this training going to cost and all of those things because it was not intended to be a self-standing document.

10 **ADV SONI SC:** And you articulate that at paragraph 14.17 your reasons, is that correct, why you thought that the SLA was inadequate?

MR DINGISWAYO: Yes, yes, that is correct.

ADV SONI SC: And why PRASA should not enter into such a contract.

MR DINGISWAYO: Yes.

ADV SONI SC: Because the obligations of the parties were not properly set out and, in any case,, it now had become a self-standing agreement.

20 **MR DINGISWAYO:** That is correct, Chair.

ADV SONI SC: Now you were now dismissed on the 19 May.

MR DINGISWAYO: Yes.

ADV SONI SC: But do you say that that agreement, the SLA, was concluded by PRASA or signed by PRASA on the

29 May? This is a week and a half after your dismissal, is that correct? Look at the last page of the SLA, you will see that.

MR DINGISWAYO: Yes. Yes, so it is signed on behalf of PRASA on the 29th.

ADV SONI SC: Yes. And you say a Ms Koko signed the agreement?

MR DINGISWAYO: Yes.

ADV SONI SC: No, I am just going back – was she in your
10 department? In other words, in the legal department?

MR DINGISWAYO: No, she was in the HR department.

ADV SONI SC: You say she was not in the HR department but ...[intervenes]

MR DINGISWAYO: She was in the HR department.

ADV SONI SC: She was in the HR department?

MR DINGISWAYO: Yes, that is correct.

ADV SONI SC: But this, given the fact that it is R82 million contract ought to be signed by - I mean, it ought to pass through legal, would that be correct?

20 **MR DINGISWAYO:** Yes, Chair, that would be – well, all contracts should be regardless of the size.

ADV SONI SC: Now do you know if this passed through Group Legal?

MR DINGISWAYO: I do not think so, Chair, because I had – as stated, I had not reported about this at the monthly

meeting of the legal department where all the legal advisers come and they – partly, I mean, it was to alert them to the fact that, you know, we do not do the – we do not get involved in these kind of things so I do not think it went past – I mean, even the quality of the document, as a self-standing document, I do not think that any of my colleagues in the legal department would have agreed to this being the document.

ADV SONI SC: You are not in a position to say whether it
10 had passed through the eyes of lawyer, if I could use such an expression?

MR DINGISWAYO: No, no, not [indistinct – dropping voice]

CHAIRPERSON: You may have dealt with this already and maybe I missed it. Do you know who had drafted it?

MR DINGISWAYO: According to Ms Kondo a it is a document they were developing with Ms Shunmugan of Prodigy.

CHAIRPERSON: Oh, okay. .Ja, okay. And contracts
20 would ordinarily be prepared by the legal department, is it not?

MR DINGISWAYO: Yes, we either draft a ...[intervenes]

CHAIRPERSON: And if somebody else drafts them they would have to be approved by the legal department.

MR DINGISWAYO: That is correct, Chair.

CHAIRPERSON: Was Ms Kondoa legally qualified?

MR DINGISWAYO: No.

CHAIRPERSON: And was Ms Koko legally qualified?

MR DINGISWAYO: As far as I know, no, Chair, she was in the HR department.

CHAIRPERSON: Yes, okay.

ADV SONI SC: Alright, then you describe or you point out that there were other people who had suffered adverse consequences at the hands of Mr Montana and you say that
10 at 14.18.

MR DINGISWAYO: That is correct, Chair, Mr Khuzwayo was suspended and there was just a dramatic thing that was done around his suspension.

I am told that these reflector things were – where, you know, that are used for where there is an investigation by police to warn people not to go in were put around his office door just to add drama to his suspension.

Mr Gangia was not suspended with such much fanfare but he was one of the people who are saying on the
20 payments that – the payments that PRASA was claiming were not valid or were not warranted.

CHAIRPERSON: Now you refer to Mr Khuzwayo and Mr Gangia in that sentence, a letter you say who refused to requisition. Is it Mr Gangia who refused to requisition payment or is it both Mr Khuzwayo and Mr Gangia?

MR DINGISWAYO: It is Mr Gangia, Chair.

CHAIRPERSON: Oh, okay, alright. And did you get to know why Mr Khuzwayo was suspended or not really?

MR DINGISWAYO: Chair, I think he said to me he was accused of losing documents.

CHAIRPERSON: Oh, okay.

MR DINGISWAYO: Something like that.

CHAIRPERSON: Okay.

ADV SONI SC: But after Mr Montana left what happened
10 to Mr Khuzwayo and Mr Gangia?

MR DINGISWAYO: They came back, I mean, no charges were proffered against them and they came back to work.

ADV SONI SC: And at whose intervention did that happen?

MR DINGISWAYO: I think what happened is that the first peoples whose suspensions were lifted was myself and Ms Ngoye.

ADV SONI SC: Ngoye, yes.

MR DINGISWAYO: And then the then Group CEO engaged
20 a firm to look at the other suspensions and engaged Milton Rose too look at the other suspensions and a report was produced which – there were a number of people that were just suspended for no reason and all of them came back.

You know, there were some people in the HR department, I do not know what they were suspended for

an no one seems to be known what happened there and so they all came back.

ADV SONI SC: Now in the next three subparagraphs, that is 14.19, 14.20, and 14.21 you deal with payments. Can I just ask you, you have mentioned those in 14.20 and 14.21 the meetings that Mr Moodley had with Mr Holele and Mr Makoto.

MR DINGISWAYO: Yes.

ADV SONI SC: That is at 14.21 and 14.20 earlier you
10 mentioned the approach to Ms Page in December 2017.

MR DINGISWAYO: Yes.

ADV SONI SC: Can I ask you to say to the Chairperson why what you say at 14.19 is important?

MR DINGISWAYO: Chair, I think in an organisation like PRASA you find that because in order to institutionalise an irregular contract there are number of players that you need for that to succeed.

So you need to kind of create that chain of people that will assist you from the on boarding to the payment.

20 So it is normal where you find that although something is so irregular, it still has champions, it still has those people who are saying he is paying you this thing, please feel sorry for this is innocent service provider and so forth.

So there is always that and that is why even the

people from Prodigy gained entrance and went to Ms Page's office.

I mean, one Prodigy official came to my office, he was just there in the corridor and he said he is looking for me, he did not know –so I said who are you? And he told me why.

He says I am from Prodigy and he was trying to say let us have a meeting and discuss blah, blah, blah, so I said to him no, no, no, come, sit, it is just going to take
10 five minutes, let me explain to you, I am not going to set up another, you know, we can kill it now and he left.

So the –and you ask yourself, how did that person gain entrance? How did that person know where to look for me and all those kind of things.

So there is always people who are working for PRASA but who are working for service providers.

ADV SONI SC: Now in December 2017 in paragraph 14.22, you point out that there was a news report in relation to this Prodigy contract and you annex that report
20 as NMD9 which appears at page 189.

MR DINGISWAYO: Yes.

ADV SONI SC: Now you do not have to read the whole report in but would you confirm whether that is correct, that the report dealt with the Prodigy contract and, of course, Mr Roy Moodley's association with Prodigy?

MR DINGISWAYO: Yes, I am trying – okay there it is.

ADV SONI SC: Page 189.

MR DINGISWAYO: Yes, it is – the reference to the link between Mr Moodley and Prodigy is on page 190 at the top.

ADV SONI SC: Yes.

MR DINGISWAYO: It says:

“We can today reveal that Prodigy Business Services, a provider of training and skills services made at least...[intervenes]

10 **CHAIRPERSON:** I am sorry, have you identified what report that is?

MR DINGISWAYO: Oh, sorry, yes. Apologies, Chair, it is ...[intervenes]

CHAIRPERSON: Just identify it, ja.

MR DINGISWAYO: It is a report by News 24.

ADV SONI SC: And who is the author of that report?

MR DINGISWAYO: Is it Mr Pieter Louis Myburgh.

CHAIRPERSON: Give the date as well if you have the date as well.

20 **MR DINGISWAYO:** The date is 15 December 2017.

CHAIRPERSON: Yes.

ADV SONI SC: And what is the essence of that, the article?

CHAIRPERSON: I am sorry, I interrupted him while he was reading the first sentence, if I am not mistaken, or had

you finished?

MR DINGISWAYO: No, no, no, I had not finished, Chair.

CHAIRPERSON: Okay.

MR DINGISWAYO: It is at the top of page 190.

10 “We can today reveal that Prodigy Business Services, a provider of training and skills services made at least one payment of more than 4 million to one of Moodley’s companies in 2015. The payment was made after Prodigy had earlier secured a contract from PRASA that would ultimately earn the company 82 million.”

ADV SONI SC: And if you look at the first page of that article, which is at page 189, you will see a picture there. Whose picture is depicted there?

MR DINGISWAYO: Chair, it is the picture of Mr Moodley and Ms Jessie Duarte, I think the Deputy Secretary General of the ANC.

20 **ADV SONI SC:** Now this article quotes Ms Nerishni Shunmugan as saying they did not want to go into details of the contract, is that right? If you look at – it is just before that picture on page 190.

MR DINGISWAYO: Yes. Yes, it just says that it is inaccurate and false.

ADV SONI SC: Yes.

MR DINGISWAYO: But she did not answer detailed

queries about Prodigy's payments to Moodley's companies.

ADV SONI SC: Yes and in just under that picture she also demands something from News24. What is it that she demands according to the article?

MR DINGISWAYO: Sources for the story.

ADV SONI SC: Now just in regard to the Prodigy contract – we can finish this quite quickly. Let me ask you, the newspaper article refers to Mr Moodley's connection by virtue of a R4 million payment made to one of his
10 companies, My Prodigy.

MR DINGISWAYO: Yes.

ADV SONI SC: Is there any more direct link between Prodigy and Mr Moodley or was there a more direct link?

MR DINGISWAYO: Chair, the ...[intervenes]

ADV SONI SC: I can just ask you to look at NMD1.

MR DINGISWAYO: 1, yes.

ADV SONI SC: Page 123.

MR DINGISWAYO: Yes, I mean, this came from the payment application, NMD1 is a printout of company
20 information from – I think it is WinDeed.

It sets out the company information of Prodigy Business Services and this came – this document came with a payment application that was launched by Prodigy and it shows that at some point Mr Moodley was a director of Prodigy.

CHAIRPERSON: I am sorry, Mr Soni, the article at page 190 at the bottom refers to Mr Moodley having paid Mr Zuma a salary of R1 million a month.

ADV SONI SC: Yes.

CHAIRPERSON: I seem to remember that at some stage I had in mind that that is what I had read but when you led evidence with regard to what Roy Moodley's company paid the former President I seem to think that what you – the evidence you led seemed to reflect a much lower amount
10 than that per months, about 65 000 or something.

ADV SONI SC: About R65 000 a month and a total of about R1,5 million.

CHAIRPERSON: Altogether?

ADV SONI SC: Altogether.

CHAIRPERSON: Yes. So do we know whether this was just a mistake on the part of the author or could that be other payments that have not – were not been – the Commission has not been told about?

ADV SONI SC: Chairperson, may I put this as elegantly
20 or as neutrally as possible.

CHAIRPERSON: Ja.

ADV SONI SC: The figures we have given are perhaps more accurate from the information that has been given.

CHAIRPERSON: Yes, okay, okay, thank you. And they were from the bank.

ADV SONI SC: That is right, yes, yes.

CHAIRPERSON: Ja, okay.

ADV SONI SC: Now just coming back to the contract, the Prodigy contract. There are two things I want to raise with you. One is, there was a report on the contract, is that correct? That report was done by Mr Majola. You referred to it at different parts of your affidavit.

MR DINGISWAYO: Yes.

ADV SONI SC: But in paragraph 15 of your affidavit you
10 say the report is annexed as NMD2.

MR DINGISWAYO: Yes.

ADV SONI SC: And you give details about what is contained in the report. Chairperson, with respect, it may not be necessary to do that for two reasons.

I could just alert Mr Dingiswayo to particular paragraphs of the report and then what the status of the Prodigy dispute is at the moment, we circumvent having to deal with those matters.

So would it be correct, Mr Dingiswayo, that the
20 document at NMD2 at page 128 is the report you are talking about, the Majola report?

MR DINGISWAYO: That is correct, Chair.

ADV SONI SC: If you look at the conclusion at page 135, I just want to start off with – we do not have to go through all of them, at 5.1 what does he say?

MR DINGISWAYO: It reads, Chair:

“There is a number of witnesses who are yet to be interviewed and submit statements to this matter. On statements obtained it is clear that former PRASA technical CEO Mr Saki Zamxaka’s statement will be critical to this matter.”

ADV SONI SC: Yes and then 5.2?

MR DINGISWAYO: It says:

10 “There is host of documents and records still to be retrieved from different offices or employees in order to complete this investigation as per the scope.”

ADV SONI SC: And 5.4?

MR DINGISWAYO: It says there’s a general feeling from some managers that Prodigy training of PRASA employees was not worth the money which they have been paid to them as it did not benefit the business in any way.

ADV SONI SC: And 5.5?

20 **MR DINGISWAYO:** Although the investigation process has not been completed it is confirmed through the statements obtained that there was no SCM or tender process followed to employ the services of Prodigy for this training program.

ADV SONI SC: I just want you to stop there for a moment. What is contained in 5.5, how does that compare with your view about the SCM process?

MR DINGISWAYO: Chair it agrees with my view that there was no SCM process.

ADV SONI SC: And then 5.6?

MR DINGISWAYO: 5.6 says Ms Nerishni Shunmugam has been contacted on a number of occasions for a meeting so that she could present her side of the matter, and submit a presentation to clarify the issues in dispute and she wrote in a letter via BVM Attorneys dated 13 September 2017 stating that she is not willing to give an interview.

10 **ADV SONI SC:** And then if you could read the first sentence of paragraph 5.7.

MR DINGISWAYO: Ms Shunmugam's reluctance to be interviewed for the purpose of this investigation appears to be in contravention of the partnership agreement which she signed together with Mr Lucky Montana and other witnesses dated 11.10.2010 and quotes 6.1 which says:

20 "The provider will provide internal auditors of PRASA with all necessary support, facilities and access to information pertaining to PRASA and these services in accordance with legislative requirements, appropriate assurances will on request be provided to PRASA's internal auditors regarding the controls instituted in respect of the provider systems which provides services to or interface with PRASA."

ADV SONI SC: Yes, now do you know whether the further interviews were conducted and the further documents were retrieved as is suggested in 5.1 and 5.2?

MR DINGISWAYO: I don't know Chair, I don't think they were.

ADV SONI SC: But can I just ask you finally in respect of that, what is the position with regard to the dispute between Prodigy and PRASA?

MR DINGISWAYO: Chair the – they made application, we
10 submitted an answering affidavit, just before I was
suspended I was finalising an affidavit for the – an affidavit
to review the – for the Court to review and set aside the
contract, based on legality, so I think that there is a lot of
work in the organisation at the moment and I do not think
anyone has really gotten to that, but that was the next
stage, and I think the other thing is that at some point
Prodigy's lawyers had withdrawn, so it looked like the
matter had died and Prodigy was trying other avenues. I
think Chair we learnt from the dispute between the COO in
20 the Office of the Public Protector and the Public Protector,
the COO that was dismissed that the Public Protector was
trying to fast-track the investigation of Prodigy.

They went to National Treasury to say they have not been paid and we wrote back to National Treasury and said we are disputing the payment and they went also to the

Department of Transport to try and get paid.

So after the lawyers withdrew it looked like they were looking at other avenues to try and get payment.

ADV SONI SC: And you say that Prodigy went to the Public Protector, you recall you said earlier that the former Public Protector, Ms Thuli Madonsela, had filed her report “Derailed” which was in 2015, 2014 sorry.

MR DINGISWAYO: Yes that is correct.

ADV SONI SC: Now when Prodigy went to the Office of
10 the Public Protector who was the Public Protector?

MR DINGISWAYO: It was Advocate Busisiwe Makhwebane.

ADV SONI SC: That is the person who succeeded Ms Madonsela?

MR DINGISWAYO: That is correct.

CHAIRPERSON: We are at quarter past five.

ADV SONI SC: Yes.

CHAIRPERSON: How much time do we still need?

ADV SONI SC: Yes, Chairperson can I place this on
20 record that the other matter that Mr Dingiswayo is to deal with is the Siyaya matter concerning Judge Makhubela.

CHAIRPERSON: Yes.

ADV SONI SC: Now he to a large extent confirms what Ms Ngoye said in her evidence and the first two documents she dealt with.

CHAIRPERSON: Yes.

ADV SONI SC: And then there is PRASA's then attorney, Mr Makashwa who has filed an affidavit which largely is in line with what Mr Dingiswayo has said.

CHAIRPERSON: Yes.

ADV SONI SC: May I make the suggestion, and I could do a small synopsis of what is there and ask at some stage that that part of Mr Dingiswayo's affidavit be dealt with purely by way of affidavit.

10 **CHAIRPERSON:** Yes.

ADV SONI SC: Because there is nothing controversial, even in terms of what Judge Makhubela says in her response to the various affidavits.

CHAIRPERSON: Yes, ja I think insofar if Mr Dingiswayo is not going to be adding anything in regard to the Siyaya matter but will just be largely corroborating what Ms Ngoye has said then until what we can do is wait and see whether Judge Makhubela disputes any of that, and if therefore there is a need for corroboration then he can be called. So
20 you could put in an affidavit that confirms that part.

ADV SONI SC: Yes.

CHAIRPERSON: And then if at a later stage the version that he was going to corroborate is disputed then if need be he can be called back but having I wonder how much dispute there will be, but we will see, we do not know.

ADV SONI SC: Yes, but Chairperson may I make this point, we will know next week because we are consulting with Judge Makhubela next week.

CHAIRPERSON: Yes.

ADV SONI SC: So we will put Mr Dingiswayo's affidavit to her so we will know if there is a dispute and that will just narrow things down. In fact, it will save the Commission valuable time in that regard.

CHAIRPERSON: Yes.

10 **ADV SONI SC:** And we just concentrate on anything that is serious merit.

CHAIRPERSON: Yes, so on Siyaya we do not need to bother to cover that part insofar as he is concerned?

ADV SONI SC: That is so.

CHAIRPERSON: Yes, what else would still be outstanding that needs to be covered?

ADV SONI SC: That is all, that is the rest of his affidavit, but before we ...[intervenes]

20 **CHAIRPERSON:** Yes, but I don't want to – I do not want us to do injustice to anything important that might still have to be covered, but if we have covered the important things then it would be fine. But you have something to raise?

ADV SONI SC: I just wanted to say Chairperson when I asked Mr Dingiswayo about the status of the Prodigy

dispute I wanted to place on record that in PRASA Bundle B Exhibit SS3 from page ...[intervenes]

CHAIRPERSON: Is that the same file we have been looking at?

ADV SONI SC: No, no, no it is the ...[intervenes]

CHAIRPERSON: A different bundle?

ADV SONI SC: It is the Bundle B – you need not go there Chairperson.

CHAIRPERSON: Oh I don't need to go look at it, okay,
10 alright.

ADV SONI SC: No, it is just to say that this matter is before the High Court.

CHAIRPERSON: Yes.

ADV SONI SC: And the papers in the High Court are before the Commission.

CHAIRPERSON: Oh, okay.

ADV SONI SC: We have included it, just like we did with the Siyangena matter.

CHAIRPERSON: Okay, no, no, for the sake of
20 completeness ja.

ADV SONI SC: Yes.

CHAIRPERSON: Ja, okay, no that is fine. So the Prodigy matter is before the Court, the Siyangena matters are before the Court.

ADV SONI SC: Siyaya is before ...[intervenes]

CHAIRPERSON: Siyaya matters, I do not know if they are before the Court because hasn't Siyaya been liquidated?

ADV SONI SC: Yes, but the liquidators ...[intervenes]

CHAIRPERSON: The liquidators are still pursuing that?

ADV SONI SC: Yes.

CHAIRPERSON: Okay that is before the Court, Swifambo there was a High Court judgment and an SCA judgment saying that the contract was invalid but the money hasn't been recovered and very little, if anything has happened to
10 get the money back.

ADV SONI SC: That was the issue you raised yesterday.

CHAIRPERSON: Yes, yes. When you combine all of these amounts, the Swifambo amount is what, four comma something?

ADV SONI SC: The Swifambo is R3,5billion.

CHAIRPERSON: R3.5billion and ...[intervenes]

ADV SONI SC: Siyangena is in the region of about five – perhaps with – but if I could just put the contracts it is R4billion.

20 **CHAIRPERSON:** It is about R4billion?

ADV SONI SC: Yes.

CHAIRPERSON: So that is about seven and a half or something billion and the Siyaya?

ADV SONI SC: Siyaya is that R50million.

CHAIRPERSON: About R50million.

ADV SONI SC: Sorry R60million.

CHAIRPERSON: R60million?

ADV SONI SC: Yes.

CHAIRPERSON: Is there one that we are leaving out, is it all of them there?

ADV SONI SC: Yes and then of course the Prodigy one ...[intervenes]

CHAIRPERSON: Oh the Prodigy how much is that?

ADV SONI SC: It is about what PRASA is doing is it
10 wants to review and set aside the whole contract with the
intention of claiming back all the money and the
...[intervenes]

CHAIRPERSON: Yes and how much was involved in Prodigy?

ADV SONI SC: Hundred and – sorry R82million.

CHAIRPERSON: R82million, so all of these entities the amounts involved must be somewhere just above R7billion?

ADV SONI SC: It is about – it is closer to R8billion than R7billion.

20 **CHAIRPERSON:** It is close to R8billion, ja. Yes okay, no that is alright, so would that be the end of what we need to cover with him?

ADV SONI SC: With Mr Dingiswayo.

CHAIRPERSON: Is there something that we might be missing Mr Dingiswayo that you feel is important that

should be covered, that you – in terms of your own evidence apart from ...[intervenes]

MR DINGISWAYO: Yes.

CHAIRPERSON: What you might have wished to say on Siyaya?

MR DINGISWAYO: Chair on – it is on Siyaya.

CHAIRPERSON: It is on Siyaya?

MR DINGISWAYO: Yesterday, I think it was yesterday when we were told that there was an inquiry, a liquidation
10 inquiry.

CHAIRPERSON: Ja.

MR DINGISWAYO: And where there was a number of concessions that were made by PRASA employees.

CHAIRPERSON: By employees, ja.

MR DINGISWAYO: What you are not told is that the star witnesses who made those concessions where Lucky Montana, Daniel Mthimkhulu and a gentleman called Mayishepo Papi so what to make of those concessions is ...[intervenes]

20 **CHAIRPERSON:** Yes, yes.

ADV SONI SC: If I could and I know it is comment Chairperson, it is like Mr Montana coming and saying these Prodigy contracts are good because I signed them.

CHAIRPERSON: [laughing]

ADV SONI SC: That is exactly what happened in the

inquiry and at the right time Chairperson you will be given, when Ms Makhubela comes, you will be given a copy of the Commission's ...[intervenes]

CHAIRPERSON: Ja, no, that is fine, because we have got the transcript of the proceedings, we have got the interim report as well.

ADV SONI SC: Yes.

CHAIRPERSON: So we have got a lot that. Okay, otherwise you are covered?

10 **MR DINGISWAYO:** I am okay Chair.

CHAIRPERSON: Yes, okay. No thank you very much Mr Dingiswayo for coming through to give evidence, if necessary you will be called back but I think there probably is still a lot that you need to – that the Commission would need to – would need you for in terms of other issues that have been raised by you and Ms Ngoye and maybe other people, but thank you very much for coming to give evidence.

MR DINGISWAYO: Thank you Chair.

20 **CHAIRPERSON:** I guess that at some stage, ja if you are needed certainly you will be asked to come back. Okay.

MR DINGISWAYO: Thank you sir.

CHAIRPERSON: Thank you very much. So tomorrow we do not have a sitting.

ADV SONI SC: No.

CHAIRPERSON: We do not?

ADV SONI SC: No.

CHAIRPERSON: And then I need to just announce for purposes of the media, so tomorrow we won't have a sitting but next week we will continue, on Monday we will hear evidence from – I will hear evidence from Mr Frolick, a member of Parliament, we will deal for most of the week I think we will deal, or maybe half of the week we will deal with some Bosasa related persons or implicated persons.

10 There will be I think other Bosasa related witnesses during the week and implicated persons will give evidence for most part, for most of next week.

Okay, we adjourn.

ADV SONI SC: As it pleases Chairperson.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 6 JULY 2020