IN THE COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM

In the matter between:

OUPA BROWN MOGOTSI Applicant

and

MATTHEW CHASKALSON SC First Respondent

THE COMMISSION Second Respondent

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THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE CRIMINAL JUSTICE SYSTEM

HELD AT PRETORIA

In the matter between:

OUPA BROWN MOGOTSI — **APPLICANT**

And

ADV. MATTHEW CHASKALSON SC — **FIRST RESPONDENT**

THE COMMISSION — **SECOND RESPONDENT**

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SIGNED AND DATED AT JOHANNESBURG ON THIS 30TH DAY OF APRIL 2026.

[SGD] MAKAU WILLIAM SEKGATJA

RADASI SEKGATJA INC ATTORNEYS

[redacted]

APPLICANT'S ATTORNEYS

[redacted]

SANDTON,2196

AND

40 CORNER CROWN AND ALBERTINA

SISULU ROAD, FORDSBURG

JOHANNESBURG,2031

[redacted]

[redacted]

[redacted]

Ref: MR. Sekgatja/Mogotsi

TO: : THE MADLANGA COMMISSION OF INQUIRY

HELD AT THE BRIGITTE MABANDLA JUSTICE COLLEGE IN PRETORIA

[redacted]

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dmmc@criminaljusticecommission.org.za

[redacted]

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[redacted]

[redacted]

[redacted]

[redacted]

Commission Secretary

Email: secretary@criminaljusticecommission.org.za

AND TO: ADV MATTHEW CHASKALSON SC

Email: chaskalson@criminaljusticecommission.org.za

HE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,

CORRUPTION AND FRAUD IN THE CRIMINAL JUSTICE SYSTEM

HELD AT PRETORIA

CASE NO:

In the matter between:

OUPA BROWN MOGOTSI APPLICANT

And

ADV. MATTHEW CHASKALSON SC FIRST

RESPONDENT

THE COMMISSION SECOND RESPONDENT

NOTICE OF MOTION: APPLICATION FOR THE RECUSAL OF ADV. MATTHEW CHASKALSON SC AS EVIDENCE LEADER

BE PLEASED TO TAKE NOTICE that the Applicant hereby applies to this Commission for an order in the following terms:

1. That the Commission respectfully order the recusal of Adv. Matthew Chaskalson SC as Evidence Leader in these proceedings.
2. That an independent person be appointed as Evidence Leader in relation to the Applicant's evidence.
3. Granting the Applicant such further and/or alternative relief as the Commission deems fit.

TAKE NOTICE FURTHER THAT The accompanying affidavit of Oupa Brown Mogotsi will be used in support of this Application.

DATED AND SIGNED IN JOHANNESBURG ON THIS THE 29TH DAY OF APRIL 2026.

[redacted]

RADASI SEKGATJA ATTORNEYS

Attorney's for the Applicant

[redacted]

Sandton and;

40 Crown Road Fordsburg

[redacted]

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[redacted]

admin@rsinclaw.co.za

Ref: MW Sekgatja/Mogotsi

TO: THE MADLANGA COMMISSION OF INQUIRY

HELD AT THE BRIGITTE MABANDLA JUSTICE COLLEGE IN PRETORIA

[redacted]

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[redacted]

[redacted]

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Commission Secretary

Email: secretary@criminaljusticecommission.org.za

AND TO: ADV MATTHEW CHASKALSON SC

Email: chaskalson@criminaljusticecommission.org.za

In the matter between:

OUPA BROWN MOGOTSI	APPLICANT
And	
ADV. MATTHEW CHASKALSON SC	FIRST RESPONDENT
THE COMMISSION	SECOND RESPONDENT

FOUNDING AFFIDAVIT

I, the undersigned

OUPA BROWN MOGOTSI

[redacted]

do hereby make oath and state as follows:

1. INTRODUCTION

1.1 I am an adult businessman , and a witness that has volunteered to assist with evidence of impropriety at the Madlanga Commission of Inquiry ("the Commission").

1.2 The facts contained herein are, unless otherwise indicated, within my personal knowledge and are both true and correct.

1.3 The purpose of this affidavit is to support my application for the recusal of Adv Chaskalson SC as evidence leader in the Commission on the grounds of actual bias and/or a reasonable apprehension of bias.

1.4 Where I make legal submissions I do so with the assistance and advice of my legal representative, which advice I accept as true.

2. PARTIES

2.1 The Applicant is Oupa Brown Mogotsi, an adult male who appears before the Commission as a witness and who has a direct and substantial interest in the relief sought.

2.2 The First Respondent is Adv. Matthew Chaskalson SC, an adult male practising as Senior Counsel and appointed as Chief Evidence Leader of the Commission.

2.3 The Second Respondent is the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Criminal Justice System, chaired by Acting Deputy Chief Justice Mbuyiseli Madlanga, cited in its institutional capacity.

3. LOCUS STANDI

3.1 The Applicant has locus standi to bring this application as a witness who has participated in the proceedings of the Commission and whose rights to fair treatment and impartial evidentiary handling are directly implicated.

3.2 The Applicant has a direct and substantial interest in ensuring that the proceedings are conducted fairly and without bias.

4. LEGAL BASIS

4.1 The applicable test is whether a reasonable, objective and informed person would reasonably apprehend that the decision-maker or functionary will not act impartially.

4.2 This principle is set out in President of the Republic of South Africa v South African Rugby Football Union.

4.3 Although the First Respondent is not the presiding officer, his role as Chief Evidence Leader requires strict adherence to independence, fairness, and impartiality.

5. BACKGROUND AND CONTEXT

5.1 The Commission was established by President Cyril Ramaphosa to investigate the alleged infiltration of criminal syndicates into law enforcement, intelligence services, prosecuting authorities, the judiciary, and correctional services. Its mandate includes assessing the effectiveness of oversight mechanisms, reviewing the adequacy of existing legislation, and making practical recommendations to address these issues.

5.2 I have voluntarily participated in the Commission's proceedings as a witness and interested person , and my legal representatives withdrew from the matter on or about January 2026.

5.3 Following this, I engaged directly with Adv Chaskalson SC, the appointed evidence leader for the Commission.

5.4 I have already filed with the Commission an affidavit in respect of my complaint and while I do submit this founding Affidavit I do so in pursuit of my Application for the recusal of the Respondent.

5.5 I therefore submit that the contents of the aforesaid affidavit already filed be incorporated and read herein.

Which Affidavit I enclose as annexure **"OBM1"**.

6. DETAILED FACTUAL BASIS FOR APPLICATION

6.1 My direct interaction with Adv Chaskalson SC commenced after my attorneys of record withdrew. This coincided with the period during which Mr Sulliman appeared before the Commission on 9 and 10 March 2026.

6.2 During this period, Adv Chaskalson SC and I had various WhatsApp telephone and WhatsApp text conversations concerning Mr Sulliman and his evidence. The tone and content of these conversations caused me grave concern regarding Adv Chaskalson SC's impartiality.

6.3 On 9 March 2026 at 20h56, I attempted to call Adv Chaskalson SC, who returned my call. The call lasted approximately 3 minutes. During this call, he told me:

> "Get me anything against Sulliman and I will help you."

He further stated that Sulliman had implicated me and that I should find a way to defend myself. He expressed his belief that Sulliman was lying, that Sulliman had "thrown me under the bus," and that he wanted me to do the same to Sulliman.

6.4 I asked Adv Chaskalson SC whether he would postpone Sulliman's testimony so that I could provide more information against him. He said he would try his best to postpone and agreed to talk again when I had more information.

6.5 I was left with the distinct impression that my protection from adverse findings by the Commission was being made conditional upon my willingness to provide information and documentation to assist Adv Chaskalson SC in "finishing off" Mr Sulliman Carrim.

6.6 After the call, I became concerned about the nature and tone of Adv Chaskalson SC's approach. I sent him messages enquiring about how he would protect me, and also a message stating "this guy Sana tyk me down," referring to Sulliman, based on Adv Chaskalson SC's assertion that Sulliman had implicated me.

6.7 Although we agreed that he would postpone the conclusion of Sulliman's evidence, this changed. On 10 March 2026, it became apparent that Adv Chaskalson SC was already in possession of the information he had mentioned the previous night (bank statements and payment information). I informed him that I needed protection, and he assured me he would "sort me out," but again pressed for more evidence against Sulliman.

6.8 On the morning of 10 March 2026, I tried calling Adv Chaskalson SC twice without success. I sent him a message asking whether he was proceeding with

Sulliman or required information from me before continuing. I called again after sending the message, but received no response.

6.9 I sent another message suggesting, "u may need something before u proceed today," while Adv Chaskalson SC had informed me that he had something against Sulliman to embarrass him.

6.10 At 09h03, Adv Chaskalson SC called me. The call lasted for 6 minutes. I began by suggesting he ask about a meeting between myself, Morgan Maumela, and Sulliman , a meeting which never took place. I did this deliberately to encourage him to postpone Sulliman's testimony, as I was already concerned about the Commission's treatment of me and its focus on issues outside its mandate.

6.11 Adv Chaskalson SC again pressed me for any information or documentation that could further implicate Sulliman. I specifically mentioned the Northwest Health Department tender court application and possible involvement of Sulliman and Morgan Maumela, hoping to delay the proceedings.

6.12 At 13h50, after hearing Adv Chaskalson SC refer to my late-night call to him during Sulliman's testimony on television, I sent him a message asking him to

"talk to me." At 14h59, Adv Chaskalson SC called to say he was busy but suggested we meet at the Commission. I called him again at 16h13, but he did not answer. He later messaged me:

> "Can we aim for 10 tomorrow morning at the Commission. If you call when you are 15 minutes away I will arrange for someone to be there with an entry card for you."

6.13 On 11 March 2026, Adv Chaskalson SC called me for 2 minutes. The purpose of the meeting was for me to give him information on Sulliman. He insisted the meeting be at the Commission at 14h00, despite my concerns about privacy and media attention.

6.14 I did not attend the meeting, and on 12 March 2026, I received a string of messages from Adv Chaskalson SC regarding my non-attendance.

6.15 We subsequently discussed my subpoena and dates for my evidence. I reiterated to him, "you can help me," to which he responded,

> "I think so too. But you can't mess me around."

6.16 This I respectfully submit confirmed that his willingness to "help" me was conditional on my providing information against Sulliman.

6.17 I attempted to call Adv Chaskalson SC again on or around 26 March 2026 without success, and followed up with a message. I did not hear from him until 31 March 2026, when he called me from a private number.

6.18 It is noteworthy that Adv Chaskalson SC went to such lengths to "finish" a witness. Ironically, he had earlier when I was testifying called me a liar and dishonest, yet reached out to me for information against Sulliman under the promise of protecting me.

6.19 From his tone and conduct, it was clear that Adv Chaskalson SC intended to tarnish Sulliman's reputation in public hearings and before the media, potentially harming his business dealings. I told him I was prepared to meet him immediately but required confirmation of my protection and to be excused from the Commission.

6.20 I also wish to record that Adv Chaskalson SC's representation during Sulliman's questioning that he (Chaskalson) had spoken to me the night before

10 March 2026 and that I had confirmed to him during that call that I met with Sulliman and Mr Maumela shortly after "this tender" is a blatant lie.

We never discussed this during our conversation on 9 March 2026. The conversation about the meeting with Sulliman and Morgan Maumela only took place on the morning of 10 March 2026, when I deliberately mentioned it to prompt a postponement of Sulliman's testimony. Adv Chaskalson SC knowingly alternatively without any confirmation put a factually false statement to Sulliman.

6.21 I attach hereto as annexures true copies of WhatsApp call logs, WhatsApp messages as Annexure **"OBM2".**

7. LEGAL SUBMISSIONS

7.1 *De Lacy and Another v South African Post Office* 4.1 Section 34 of the Constitution guarantees my right to a fair hearing before an impartial tribunal. This right applies to the Madlanga Commission of Inquiry (see 2011 (9) BCLR 905 (CC) para 77).

7.2 *President of the Republic of South Africa and Others v South African Rugby Football Union and Others*4.2 The Constitutional Court has held that the test for recusal is whether a reasonable, objective and informed person would, on the

correct facts, reasonably apprehend that the decision-maker will not bring an impartial mind to bear (1999 (4) SA 147 (CC) at para 48):

> "The question is whether a reasonable, objective and informed person would, on the correct facts, reasonably apprehend that the judge has not or will not bring an impartial mind to bear on the adjudication of the case, that is, a mind open to persuasion by the evidence and the submissions of counsel. ... At the same time, it must never be forgotten that an impartial judge is a fundamental prerequisite for a fair trial and a judicial officer should not hesitate to recuse herself or himself if there are reasonable grounds on the part of a litigant for apprehending that the judicial officer, for whatever reasons, was not or will not be impartial."

7.3 *S v Basson*4.3 While a reasonable apprehension of bias is sufficient, the presence of actual bias is an even stronger ground for recusal (2007 (3) SA 582 (CC) para 21):

> "It is not necessary to establish actual bias; it is sufficient if a reasonable apprehension of bias can be shown. If actual bias is established, the need for recusal is even more compelling."

7.4 *De Lacy*4.4 The requirement of impartiality applies to all those who exercise judicial or quasi-judicial functions, including evidence leaders at commissions of inquiry (, para 77):

> "The requirement of impartiality applies to all those who exercise judicial or quasi-judicial functions, including arbitrators, tribunals, and commissions of inquiry. Impartiality is a fundamental requirement for the validity of all proceedings."

7.5 *Bernert v Absa Bank Ltd*4.5 Both the appearance and reality of impartiality are fundamental to the administration of justice (2011 (3) SA 92 (CC) para 29):

> "The appearance of impartiality as well as actual impartiality is fundamental to the administration of justice. Justice must not only be done but must be seen to be done."

7.6 The Constitutional Court has recently confirmed:

> "The presence of actual bias or a reasonable apprehension of bias is incompatible with the right to a fair hearing. The test is whether a reasonable, objective and informed person would, on the correct facts, reasonably apprehend that the judicial officer has not or will not bring an impartial mind to bear on the adjudication of the case."

Mulaudzi v Old Mutual Life Assurance Company (South Africa) Limited and Others> — [2017] ZACC 28 para 36.

7.7 I submit that the conduct of Adv Chaskalson SC, as detailed above, demonstrates actual bias and/or gives rise to a reasonable apprehension of bias, and as such, he should be recused from acting as evidence leader in the Madlanga Commission of Inquiry.

8. THE PURPOSE OF APPOINTMENT OF EVIDENCE LEADER

The Evidence Leader in the Madlanga Commission of Inquiry (investigating criminal infiltration of South Africa's justice system) is responsible for managing, presenting, and testing evidence, including questioning witnesses during hearings. The evidence leader plays a critical role in navigating the highly sensitive allegations of corruption within the South African Police Service and, as confirmed by, the commission is tasked with managing this evidence to produce a final report for President. Therefore any apprehension of bias or bias in respect of his conduct has the potential of tainting the work of the Commission .

9. THE ROLE OF THE EVIDENCE LEADER IN RESPECT OF THE TERMS OF REFERENCE.

9.1 Inquisitorial Role: The Evidence Leader is mandated to assist the Commission in uncovering the truth and collecting evidence, not to perform the functions of a prosecutor aiming for a conviction.

9.2 Impartiality: They are tasked with approaching responsibilities without preconceived agendas, examining all relevant versions, and reporting findings based strictly on evidence, whether or not it substantiates allegations. Fairness: Evidence leaders must ensure procedural fairness for all parties involved, ensuring those implicated have the right to respond.

9.3 Based on the above stated facts and interaction I respectfully submit that although the conduct may not be ethically reportable it is biased on the basis that it does not conform to the above standards.

10. BIAS AND IGNORANCE OF CRUCIAL INFORMATION AT THE HEARING

10.1 I formally address concerns regarding the handling of investigative leads previously provided to the Respondent and the commission.

10.2 Specifically, credible information was submitted concerning the following matters:

- Crime Intelligence property transactions

- Section 252A operations

- Informant-related issues

- Procurement irregularities

10.3 Despite the relevance of these leads, they have not been meaningfully pursued. Instead, it appears that investigative attention has been disproportionately directed toward specific individuals, such as [Sulliman].

10.4 Furthermore, evidence demonstrating that state funds were used by Crime Intelligence to purchase properties in the names of private individuals has been overlooked. I note with concern that witnesses were not questioned regarding this information during their testimony, despite this evidence having been provided to the evidence leader.

10.5 I request that these leads and the associated evidence be given the necessary consideration and investigated thoroughly through the commission as they have been previously ignored by the evidence leader.

I further refer to my submission that I have indicated and furnished evidence of the purchases which were ignored marked as annexure "**OBM3**'

CONCLUSION

I make this affidavit in support of my application and confirm that the contents are true and correct.

DEPONENT

OUPA BROWN MOGOTSI

SIGNED and SWORN before me at Sandton on this 29TH of APRIL 2026 the deponent having acknowledged that he/she knows and understands the contents of this affidavit, has no objection to taking the prescribed oath, and considers the oath binding on his/her conscience.

COMMISSIONER OF OATHS

Sandton 2026-04-29

(NATURE) COMMISSIONER OF OATHS

NAME AND SURNAME IN BLOCK LETTERS

SA POLISIEDIENS
SA POLICE

SOUTH AFRICAN POLICE SERVICE
CLIENT SERVICE CENTRE
SANDTON
2026 -04- 29
KLIENTE DIENSSENTRUM
SANDTON

ANNEXURE
OBM1

21 14

24

ATTORNEYS INC

Reg. No. 1988/070156/21
BEE No.: BMV4453/9928/12

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Attorneys, Conveyancers & Administrators of Estates
Prokureurs, Aktebesorgers & Boedelberedderaars

Our Ref: N/A
Your Ref: N/A
Date: 21 April 2026

TO WHOM IT MAY CONCERN

RE: CONFIRMATION OF SIGNATURE AND COMMISSIONING OF AFFIDAVIT (STATEMENT OF OUPA BROWN MOGOTSI IN RESPONSE TO ALLEGATIONS REGARDING SULIMAN CARRIM AT MADLANAGA COMMISSION ON 9 MARCH TO 10 MARCH)– MR OUPA BROWN MOGOTSI

We hereby confirm that Mr Oupa Brown Mogotsi appeared before the undersigned in person and duly signed the attached affidavit on 21 April 2026. It is further confirmed that the undersigned duly commissioned the referred to affidavit

Should you require any further information or documentation in relation hereto, kindly contact the writer hereof at 082 927 7655.

Yours faithfully

Louis-Francois Smit

STATEMENT OF OUPA BROWN MOGOTSI IN RESPONSE TO ALLEGATIONS REGARDING SULIMAN CARRIM AT MADLANAGA COMMISSION ON 09 MARCH TO 10 MARCH 2026

I, the undersigned;

OUPA BROWN MOGOTSI

do hereby make oath and state;

INTRODUCTION:

1. I am an adult male, of full legal capacity, the facts herein contained are within my personal knowledge, save where the contrary appears from the context, and are both true and correct.

2. The facts set out in this statement are within my personal knowledge, unless otherwise stated or indicated from the context.

3. I have regard to what Mr. Sulliman Carrim ("Sulliman") said during his testimony on the 09 March 2026 and 10th March 2026 and what was put to him. I have known Sulliman for many years and feel that it is my duty to provide the Commission,at the appropriate time when I am recalled,with this statement that I have prepared to set out the truth about my interactions with Adv Matthew Chakalson SC ("Chaskalson") and his agenda against certain witnesses.

4. This statement is made at my free will on independent advice and intended to deal with allegations and aspersions cast by chief evidence leader Chaskalsonduring the aforementioned hearings. It also addresses my other interactions with Chaskalson.

Chaskalson's Statement on a National TV on 9th and 10 March 2026

5. From the outset I wish to state that Chaskalson was during my initial testimony at the Commission at great pains to label me as being dishonest and a liar. I was subjected to cross examination on issues and evidence not timeously and properly disclosed and subjected to, and still am, substantial stress, trauma and humiliation. After my interactions with Chaskalson since the withdrawal of my attorneys of record I began to understand that Chaskalson is manipulating how evidence is led as he is less interested in establishing the correct lawful picture and more interested in tricking witnesses so that a false narrative is created, in the public eye.

6. When one considers what has transpired with Chaskalson during our telephone conversations and messages exchange it is clear that Chaskalson uses his position improperly and in a calculated and vindicative way against certain witnesses appearing at the Commission. He has a personal vendetta against Sulliman and has told me that he is out to get him. He has now resorted to assuring me that I would be protected from the Commission and would not have any problems from the Commission going forward. He has told me that he will manage the Commission and Judge Madlanga to ensure that I was not implicated any further provided I threw Sullimanunder the bus.

7. I had previously provided the Commission with credible evidence and leads in respect of serious issues that are within the terms of reference of the Commission. Instead of them investigating theevidence and serious leads, the Evidence Leaders seek to targetwitnesses that they don't like and Chaskalson has gone out of his way to selectively target individuals like Sulliman by searching for anything at all even if factually unsound to portray those people in a bad light publicly. This while not following up on the real issues that require full investigation.

8. I set out the examples of leads that were provided to the Commissions evidence leader but not followed up by him:-

8.1 [redacted];

8.2 [redacted];

8.3 [redacted];

8.4 [redacted];

8.5 [redacted]

9. My interaction withChaskalson directly started after the withdrawal of my attorneys of record. During the period when Sulliman appeared to give evidence before the commission on the 09th and 10th March 2026. Chaskalson and myself had various telephone conversations discussing Sulliman and Chaskalson's desire to obtain evidence against him.

10. I attempted to call Chaskalson without success on the 9th March 2026 at 20h56 and he returned the call around the same time. The call was for 3 mins. Chaskalson told me to **"get me anything against Sulliman and I will help you"**. He told me further that Sulliman has implicated me and I should find a way to defend myself. The conversation was about how he believed that Sulliman was lying and that Sulliman threw me under the bus and he wanted me to do the same to Sulliman. I had asked him during our telephone conversation that he would postpone the testimony of Sulliman so that he could get to bring him back to the Commission after I provided him with more information against him so that he can "finish" him off. He then said he would try his best to postpone Sulliman's testimony and further agreed to talk again when I had more information.

11. I was convinced that Chaskalson was going to use me and my protection from him now, was dependent on me providing him with information and documentation to assist him in effectively destroying Sulliman.

12. After the call I was a bit worried as I have never heard Chaskalson speak in this manner and tone. I sent him messages enquiring how he was going to protect me and also a message that "this guy Sana tyk me down" referring to Sulliman. This was based on what I was told by Chaskalson to the effect that Sulliman had thrown me under the bus during his evidence before the Commission.

13. While we agreed he would postpone the conclusion of Sulliman's evidence matter, this changed. If one listens to what happened on the 10th March 2026 it is clear that Chaskalson was in possession of the information he told me about on the 9th March 2026 (bank statements and payment information). I informed him that I needed protection and he assured me he would sort me out but wanted me to get more evidence against Sulliman.

14. The following morning I tried calling him on two occasions. He did not respond. I sent him a message asking him if he was proceeding again with Sulliman or he required the information from me before he continues. I called him againafter I sent the message as he did not respond.

15. I sent another message to him advising that I thought "u may need something before u proceed today", while Chaskalson had informed me that he had something against Sullimanto embarrass him.

16. At 09h03 he called me. The call lasted for 6 minutes and our conversation and I started by saying he must ask about the meeting between myself, Morgan Maumelaand Sulliman, I said that deliberately because I knew that the meeting never took place, and I wanted him to postpone Sulliman's testimony that day as I already realized during Sulliman's session the previous day that the commission was now dealing with issues which were not part of their mandate and that I would be taking the commission to court especially on the treatment that was given to me. He basically wanted me to provide him with any information and documentation that I could find to further implicate Sulliman. I specifically spoke about the Northwest Health Department tender court application and possibly Sulliman and Morgan Maumela's involvement because I wanted him not to proceed with the testimony.

17. At 13h50 after hearing what Chaskalson said to Sulliman about me calling him at night on TV, I sent him a message asking him to "talk to me". At 14h59 Chaskalson called me to inform me that he was busy but we should meet at the Commission. I called him at 16h13 and he did not answer the call. He later sent me a message, informing me " Can we aim for 10 tomorrow morning at the Commission. If you call when you are 15 minutes away I will arrange for someone to be there with an entry card for you".

18. On the 11th March 2026 Chaskalson called me. The call was for 2 minutes. The purpose of the above meeting was for me to give him information on Sulliman. He advised me that I should come to the Commission to meet him and I suggested that the meeting was supposed to be at a different venue as the journalists and people would know that I am meeting with him. Chaskalson said that the meeting needed to be Commission at 14h00 as he had another appointment at 17h00 that day.

19. Chaskalson called me at 13h59 and I did not take the call. I was not comfortable going to the Commission.

20. As I did not honor the appointment I received a string of messages from Chaskalson on the 12th March 2026. It related to my non-attendance at the meeting.

21. We thereafter chatted about the subpoena and dates for my evidence. I again reiterated what he had confirmed to me that "you can help me". Chaskalson's advised me as follows " I think so too But you can't mess me around". His response was confirmation - if I did not provide him with the information on Sulliman he would not help me.

22. I attempted to call Chaskalson thereafter on or around 26th March 2026 but he did not answer the phone. I followed it up with a message and he did not respond to that message. I did not hear from him until 31st March 2026 when he called me. The call came up on my screen was a private number. When I answered it is was Chaskalson.

23. It is noteworthy that Chaskalson has gone to these lengths to "finish" a witness. The irony of the entire matter is that Chaskalson did the same thing to me by calling me a liar and dishonest – yet he reaches out to me to obtain any information and documentation against Sulliman under the promise of protecting me!

24. From his tone it was clear that Chaskalson was serious and was going to tarnish Sulliman in the public hearings and in the media to cause him reputational damage and harm the business dealings he and his companies had with third parties like their bankers. I told him that I was prepared to meet him immediately but required confirmation that I will be excused from the Commission and required protection for myself.

25. I also want to record that Chaskalson's representation during the questioning of Sulliman that he (Chaskalson) had spoken to me the night before the 10th March 2026 and that **I had confirmed to him during that telephone conversation that I met with Sulliman and MrMaumela shortly after "this tender" is a blatant lie! I confirm that we never discussed this during our conversation on the night of the 9th March 2026. I have set out above what we spoke about during that conversation. Chaskalson has lied about our discussion the night before and put a factually false statement to Sulliman knowing it to be false.The conversation about the meeting about Sulliman, Morgan Maumla and myself took place in the morning of the 10th when I deliberately mentioned that as a way to make him delay the testimony on Sulliman.**

Evidence of Mr Suliman Carrim concerning me :

"At the same time, I needed to verify this. I then reached out to a friend of mine, MrOupa Brown Mogotsi, who is from Mafikeng as well, and who is someone that is known, who is connected. I then asked him to please verify and check if really this tender exists, and can he come 20 back to me. Mr Mogotsi then agreed to check for me. He reverted and said, yes, it is a valid contract."

I was becoming despondent due to the nonpayment from Vusi. I again t hen reached out to Mr Brown Mogotsi. I then asked Brown to please check if Vusi is really receiving work and if the contract was going to be paid. Brown confirmed that he is delivering and we will be paid.

I again then reached out to Mr Brown Mogotsi. I then asked Brown to please check if Vusi is really receiving work and if the contract was going to be paid. Brown confirmed that he is delivering and we will be paid.

Brown would always revert back to me based on what he allegedly knew and also I had no way of how Brown was verifying this. I need to place that on record. During these exchanges, Brown confirmed that the t ender was still in operation and that payments were in progress.

I informed Brown of what Vusi informed me and requested him to find out what was happening. Brown then agreed to inquire. Brown then later sent me a 10 20 message stating that he had spoken to the Minister. Brown advised me that in order to keep Vusi, I should inform Vusi that I have a good and direct relationship with the Minister and his office.

I advised Brown that this was a joke because I had no relationship with either the Minister or his office. Brown's reasoning was that I should make Vusi believe that I have a relationship with the Minister's office and that he would communicate directly with the Minister's offices if, when and required.

Brown was clear that this was required and calculated to make Vusi believe that my involvement and Page 27 of 187 on9 MARCH 2026 – DAY 73 my assistance with the Minister and his office would be crucial and therefore Vusi would need to pay me my money. In truth, I did not have any relationship with the Minister. I then advised Brown this did not make sense to me without disclosing his close relationship with Vusi, which I only picked up after the Commission that Brown and Vusi were communicating and I did not know about that. And then Brown advised that I should trust him and that I would be paid these monies owed to me if I followed and did what he suggested."

26. The above extracts from Sulliman's evidence are a true reflection of the facts and impression that I gave him and as I was instructed by my handler so that I was able to get closer to MrVusimusi Cat Matlala ("Cat") during my investigation into the tender in issue.

31. I confirm that as a result of my underground work as a Contact Agent, I conducted myself accordingly. I had to conduct myself in the manner I did with Sulliman and Cat. I could not let them know that I was speaking to both of them at the same time.

32. I unequivocally confirm the following in respect of the evidence of Sulliman:-

32.1 I was contacted by Sulliman prior to him investing his monies in Medicare 24 to verify if the tender awarded to Medicare 24 was indeed valid. I spoke to my contacts and my handler and confirmed to Sulliman that all was in order;

32.2 Suliman had absolutely no part to play in procuring the award of the SAPS tender in issue. **He got involved as an arms length investor after the tender was awarded.**

32.4 Sulliman would contact me and request information in respect of the tender from time to time whenever he needed information especially in respect of when payments were going to be made. I provided him with the

information as soon as I received same. I collected information from my source, a female employee working in the payments section at SAPS.

32.5 Sulliman had no connections with the people I knew and was dependent on my involvement and responses.

32.6 I had knowledge of the investment made by Sulliman and what was going on as I was also talking to Cat and Sulliman. I never let on to Cat that I was talking to Sulliman and *vice versa*.

32.7 Repayments on the investment were not being made by Cat to Sulliman and Sulliman was worried. He would enquire if there were any issues with the contract and/or payments to Medicare and complain that Cat was not repaying him but seeking more monies.

32.8 When the news of the termination of the tender wa announced bothCatand Sulliman became anxious for different reasons. Sulliman for the repayment of his monies and Cat for his tender. Cat was not at that stage interested in repaying anyone but only interested in keeping his contract alive.

32.9 Prior to the termination Cat was concerned that he was being sabotaged because he was not getting purchase orders in terms of the tender and wanted to meet the Minister. My handler made it clear that the Minister must never be exposed to or be introduced to Cat. I have lead the evidence in this regard at the Commission.

32.10 To handle the situation and avoid Cat pressurizing me and helping Sulliman I devised a plan to make Sulliman inform Matlala that he (Sulliman) could intervene and speak to the Minister to assist him. When I informed Sulliman of this plan he protested as he had no contact with the Minister or his office. I knew however he was desperate to get repaid by Cat and convinced him to trust me and do what I told him ie. I advised him that he knew that I had the connections but he should in any event convey to Cat that he (Sulliman) was connected so that Cat would make sure he paid Sulliman his monies(if he could create the impression that he could communicate with the Minister). Sulliman was reluctant but desperate and finally agreed to the strategy.

32.11 I would thereafter send him messages and inform him to forward it to Cat to perpetuate the incorrect impression that Sulliman had a direct line to the Minister.

32.12 The message of the 6th May 2025 was sent by me to Sulliman and I told him to forward it to Cat. I honestly forgot that the message was sent to me by Cat . The message was what Cat wanted the Minister to receive as he was not getting purchase orders and was concerned about the sabotage of his tender. He wanted to continue to render services in terms of the tender awarded to him.

32.13 The tender was ultimately terminated by the National Commissioner and by the time the messages were sent it was too late to do anything. The Minister would not in any event do anything to assist. However, Cat was of the view that the Minister could intervene and assist him. I think his attorneys advised him that the Minister could not help him and that's why he stopped asking for the Ministers help and proceeded with his attorneys in a more formal way.

32.14 Sulliman stated in his evidence to the Commission that he believed he was played by myself and Cat. I had to maintain by secrecy in my mission and could not disclose what my task was to either Sulliman or Cat.

Conclusion

33. I was assured by Chaskalson that I will have no further problems and that he would avoid my reappearance before the Commission if I assisted him in giving information against Sulliman. I however do not have any "evidence" of wrongdoing by Sulliman.

34. It is my clear impression that Chaskalson has an agenda against Sulliman and will do anything to discredit and humiliate him in the Commission hearing and in the public media to achieve his agenda.

35. I wish that the Commission to investigate my previous allegations and these allegations against real corruption.

31 2410

Signed and sworn before me at Mafikeng on this 21 of April 2026.

DEPONENT

BROWN MOGOTSI

CERTIFICATION

I certify that the Deponent has acknowledged that he understands the contents of this affidavit, which was signed and sworn to before me at Mafikeng on this 21 day of April 2026, in compliance with the regulations governing the administration of an oath.

COMMISSIONER OF OATHS

FULL NAMES : Louis-francois Smit

ADDRESS : 29 Warren Street Mafikeng

DESIGNATION AREA/ OFFICE :
Comm of Oaths

LOUIS-FRANCOIS SMIT
29 Warren street, Mahikeng
Komm.van Eds / Comm.of Oaths
PRAKTISEERENDE PROKUREUR
PRACTISING ATTORNEY

ANNEXURE OBM12 35

[redacted] Matthew Cha...

knows

8:56 am

09 March 2026

Voice call
No answer 8:56 pm

Voice call
3 mins 8:56 pm

How do u protect me 9:31 pm

this guy Sana tyk me down 9:31 pm

10 March 2026

Voice call
No answer 8:20 am

Voice call
No answer 8:21 am

R u proceeding with him or u gona need info prior 8:22 am

Voice call
No answer 8:28 a

Message

6:19

[redacted] Matthew Cha...

Voice call
No answer 8:28 am

Thought u may need something before u proceed today 8:31 am

Voice call
6 mins 9:03 am

talk to me 1:50 pm

Voice call
1 min 2:59 pm

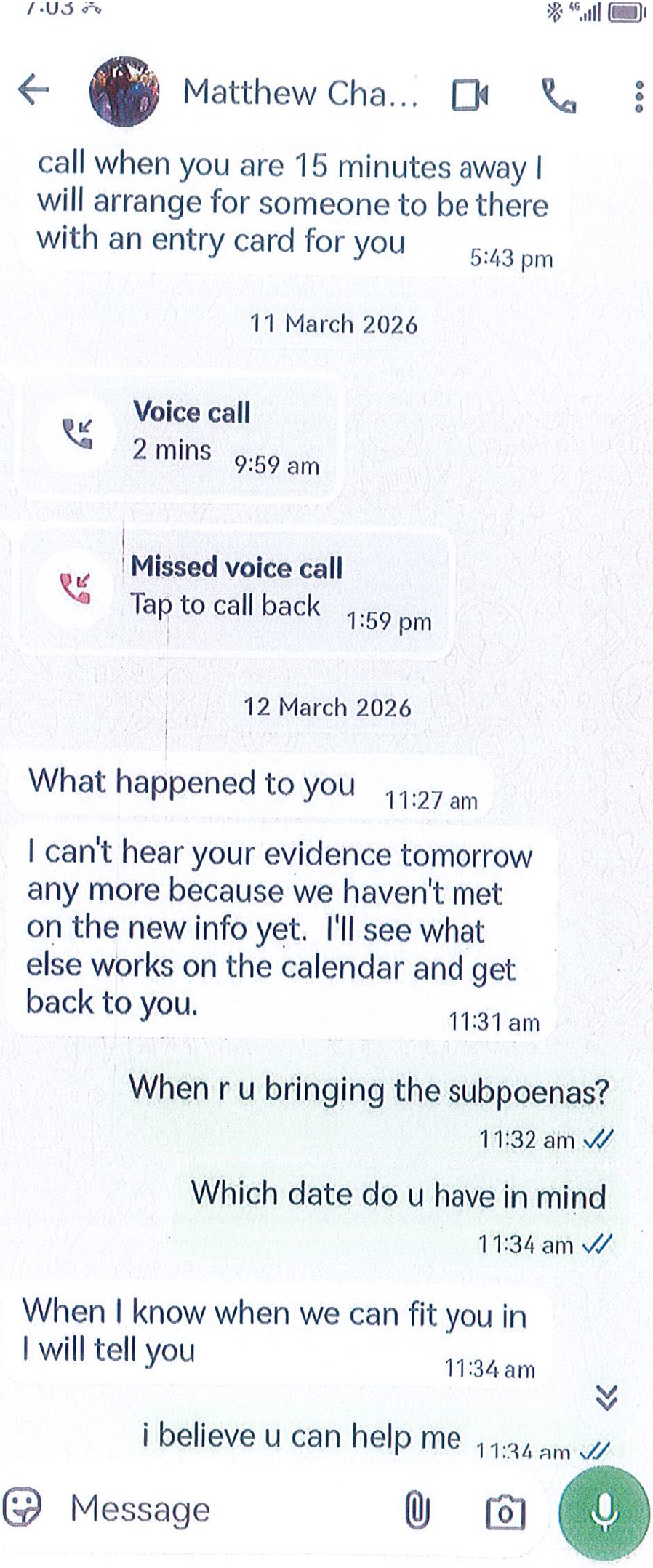
Voice call
No answer 4:13 pm

Can we aim for 10 tomorrow morning at the Commission. If you call when you are 15 minutes away I will arrange for someone to be there with an entry card for you 5:43 pm

11 March 2026

Voice call
2 mins 9:59 am

Message


7:03
Matthew Cha...
call when you are 15 minutes away I will arrange for someone to be there with an entry card for you
5:43 pm
11 March 2026
Voice call
2 mins
9:59 am
Missed voice call
Tap to call back
1:59 pm
12 March 2026
What happened to you
11:27 am
I can't hear your evidence tomorrow any more because we haven't met on the new info yet. I'll see what else works on the calendar and get back to you.
11:31 am
When r u bringing the subpoenas?
11:32 am
Which date do u have in mind
11:34 am
When I know when we can fit you in I will tell you
11:34 am
i believe u can help me
11:34 am
Message

6:19

[redacted] Matthew Cha...

Missed voice call
Tap to call back 1:59 pm

12 March 2026

What happened to you 11:27 am

I can't hear your evidence tomorrow any more because we haven't met on the new info yet. I'll see what else works on the calendar and get back to you. 11:31 am

When r u bringing the subpoenas? 11:32 am

Which date do u have in mind 11:34 am

When I know when we can fit you in I will tell you 11:34 am

i believe u can help me 11:34 am

I think so too. But you can't mess me around. 11:49 am

I'll try to work out when we can fit you into the calendar. It will have to be next month. I'll get back to you next week with possible dates 12:12 pm

Message

ANNEXURE

36

[redacted] Matthew Cha...

Which date do u have in mind

11:34 am

When I know when we can fit you in I will tell you

11:34 am

i believe u can help me 11:34 am

I think so too. But you can't mess me around.

11:49 am

I'll try to work out when we can fit you into the calendar. It will have to be next month. I'll get back to you next week with possible dates

12:12 pm

> Matthew Chaskalson
> I think so too. But you can't mess me around.

How do i get involved and finish , wish i knew wat to do exactly

12:43 pm

Thursday

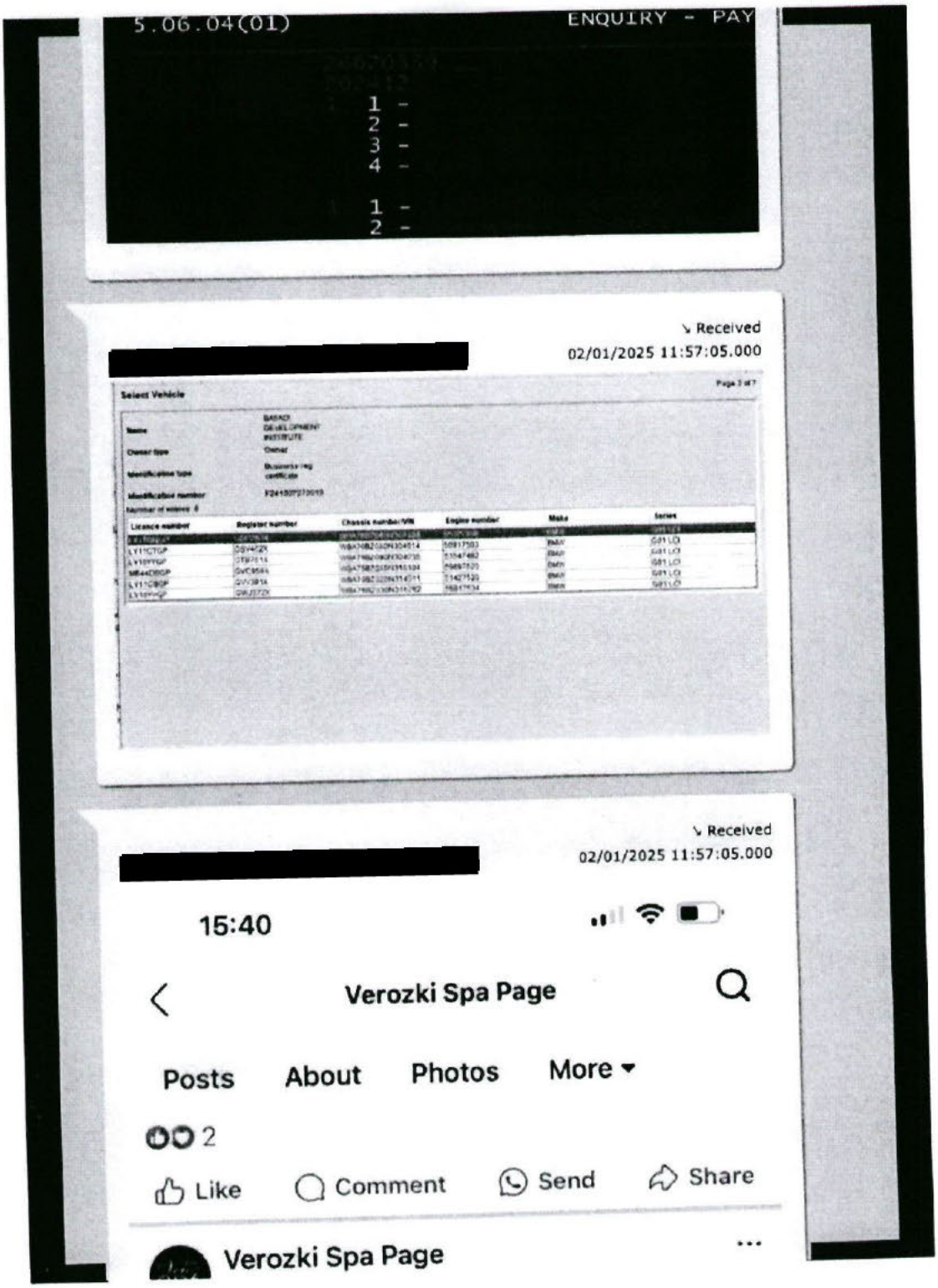
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M soo much under pressure

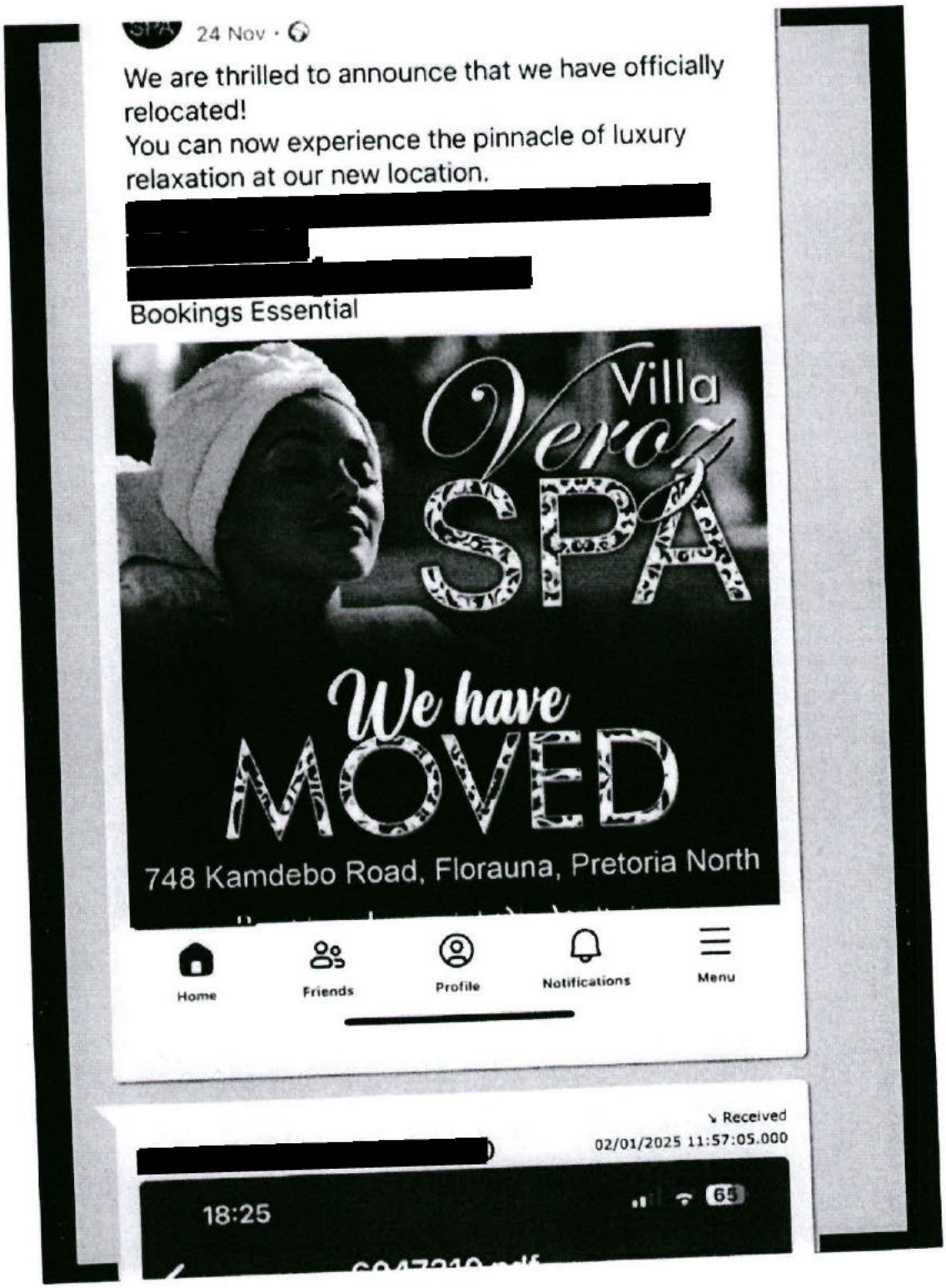
4:19 pm

Message

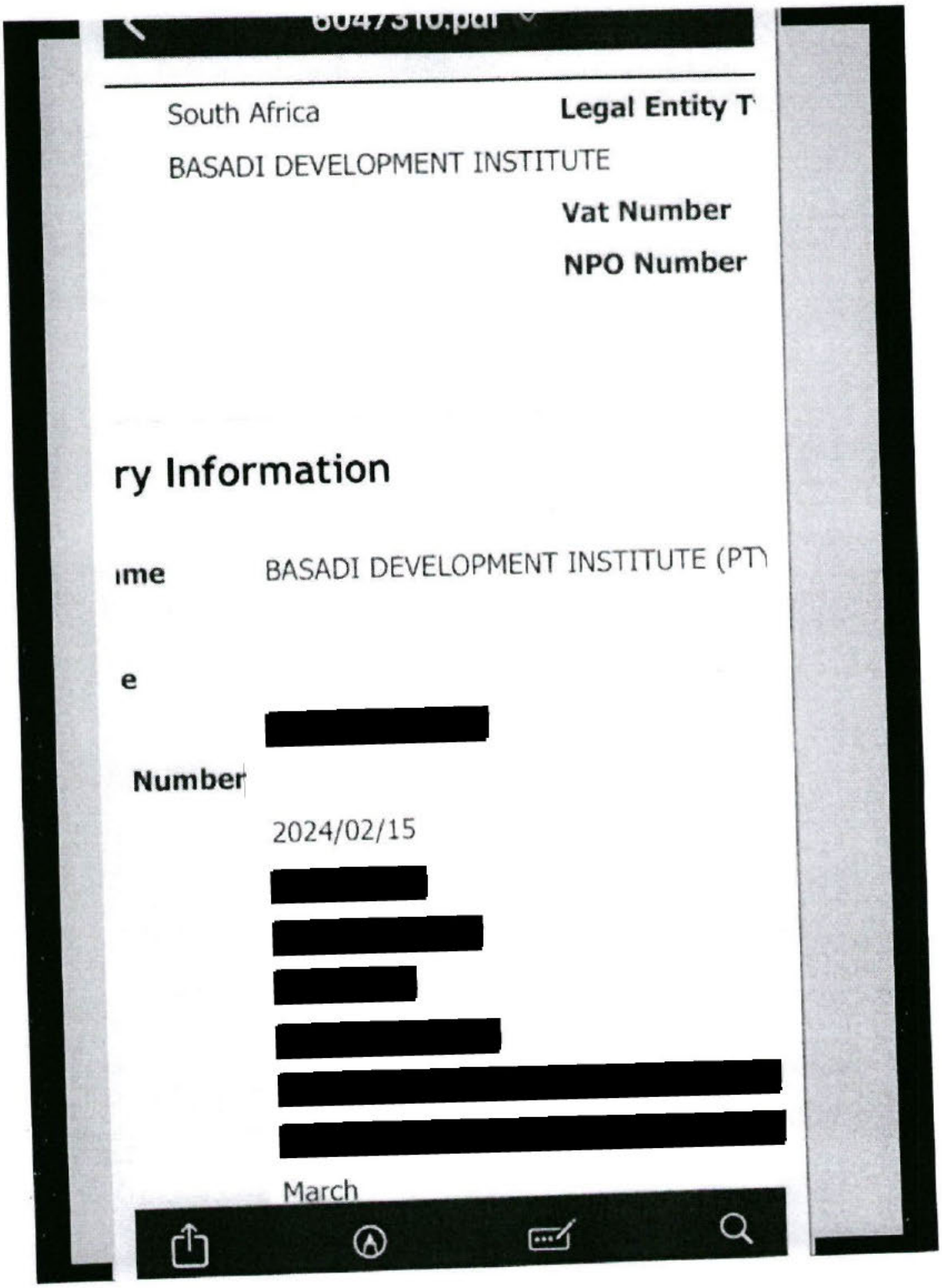
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15:40
Verozki Spa Page
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Verozki Spa Page

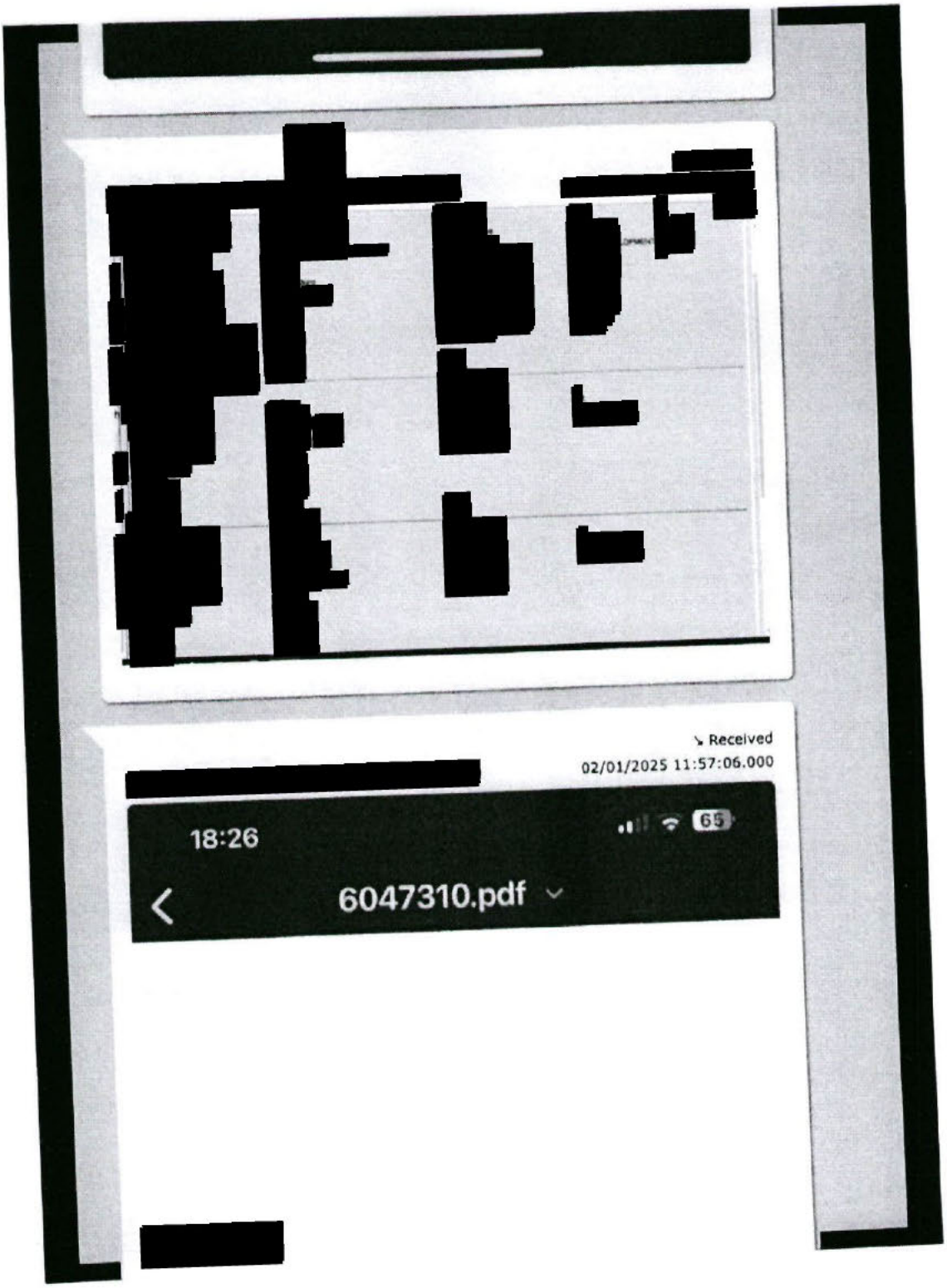
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24 Nov ·
We are thrilled to announce that we have officially relocated!
You can now experience the pinnacle of luxury relaxation at our new location.
[redacted]
Bookings Essential
Villa Vera SPA
We have MOVED
748 Kamdebo Road, Florauna, Pretoria North
Home
Friends
Profile
Notifications
Menu
[redacted]
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18:25

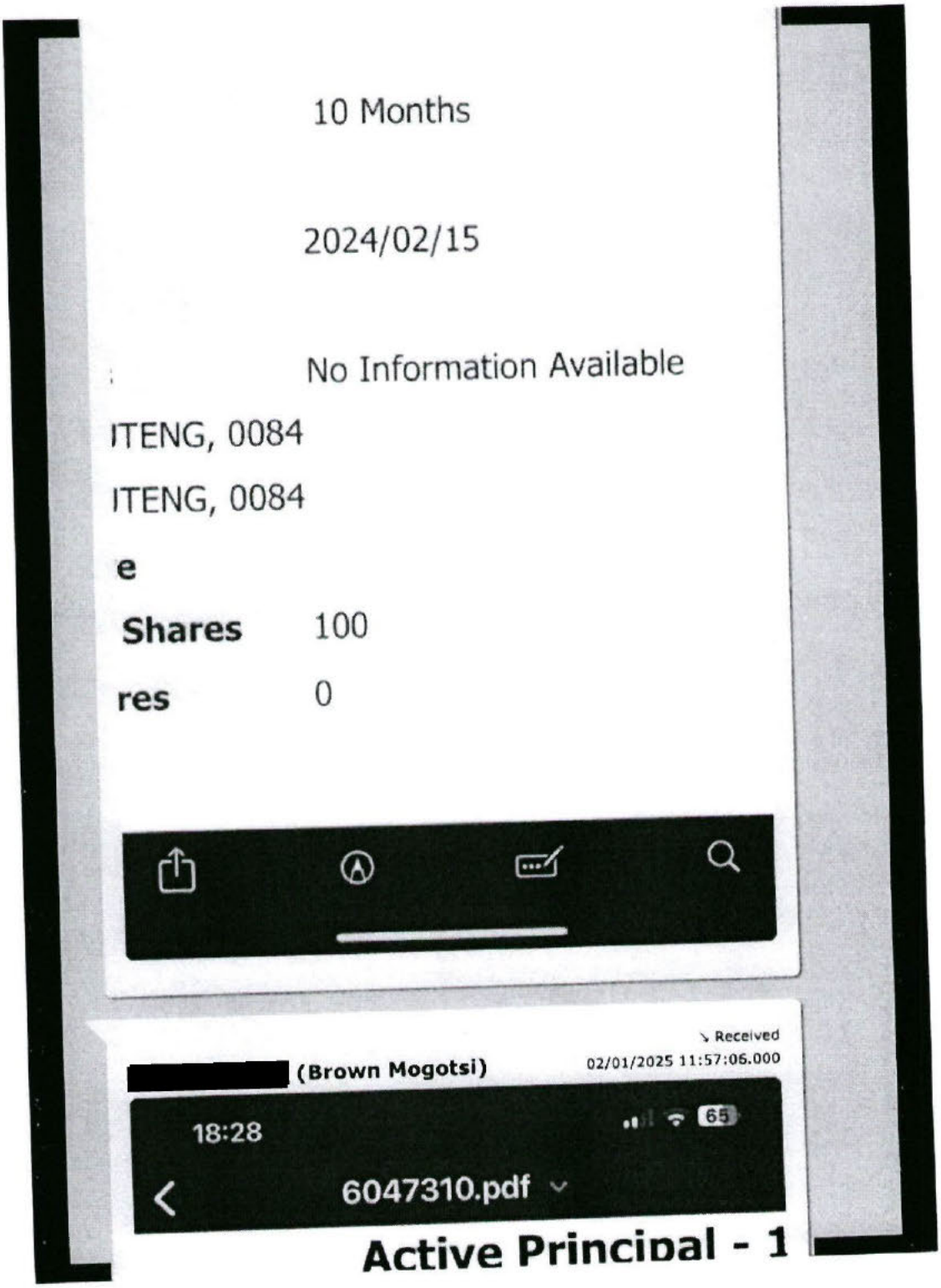
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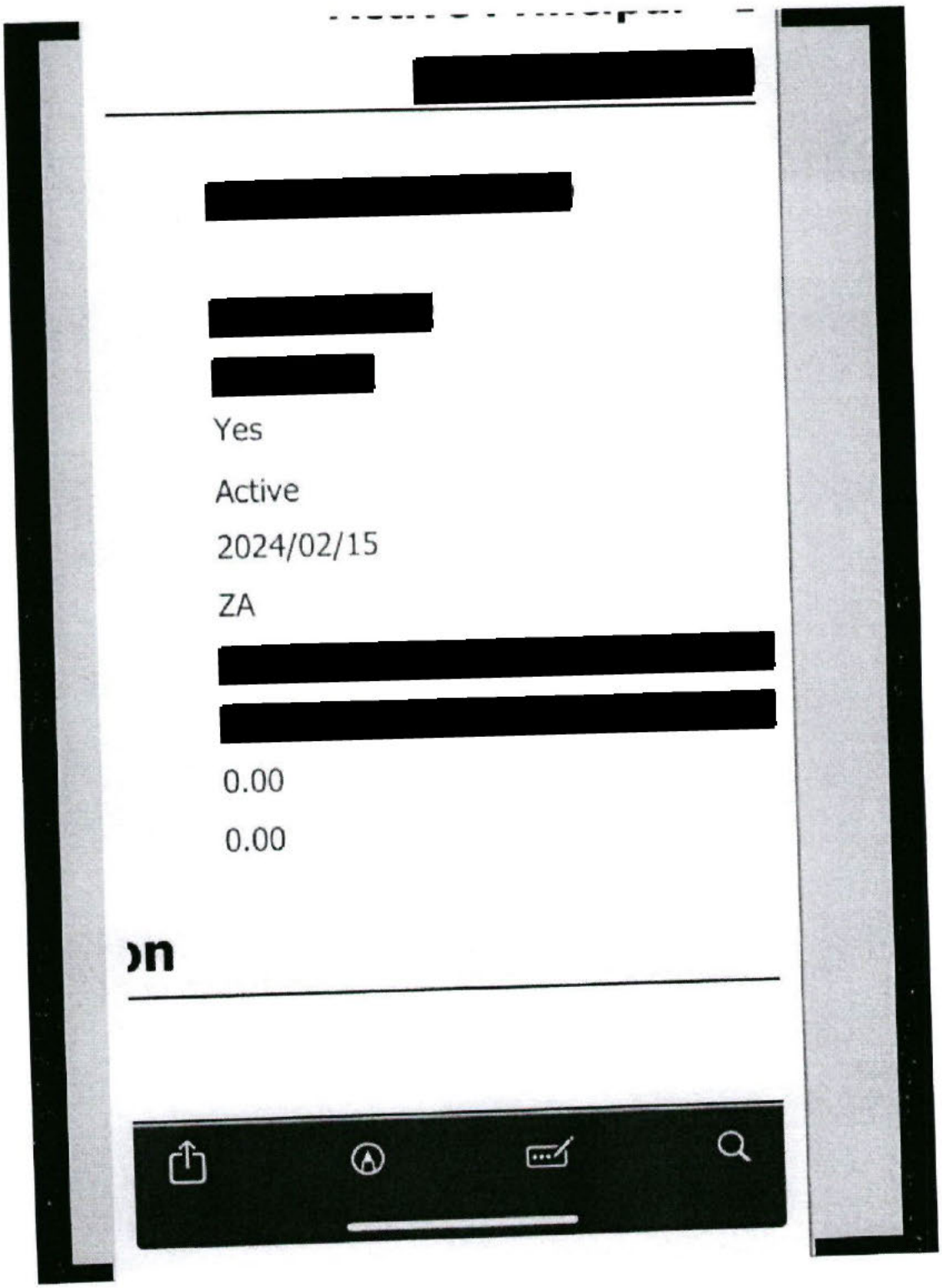
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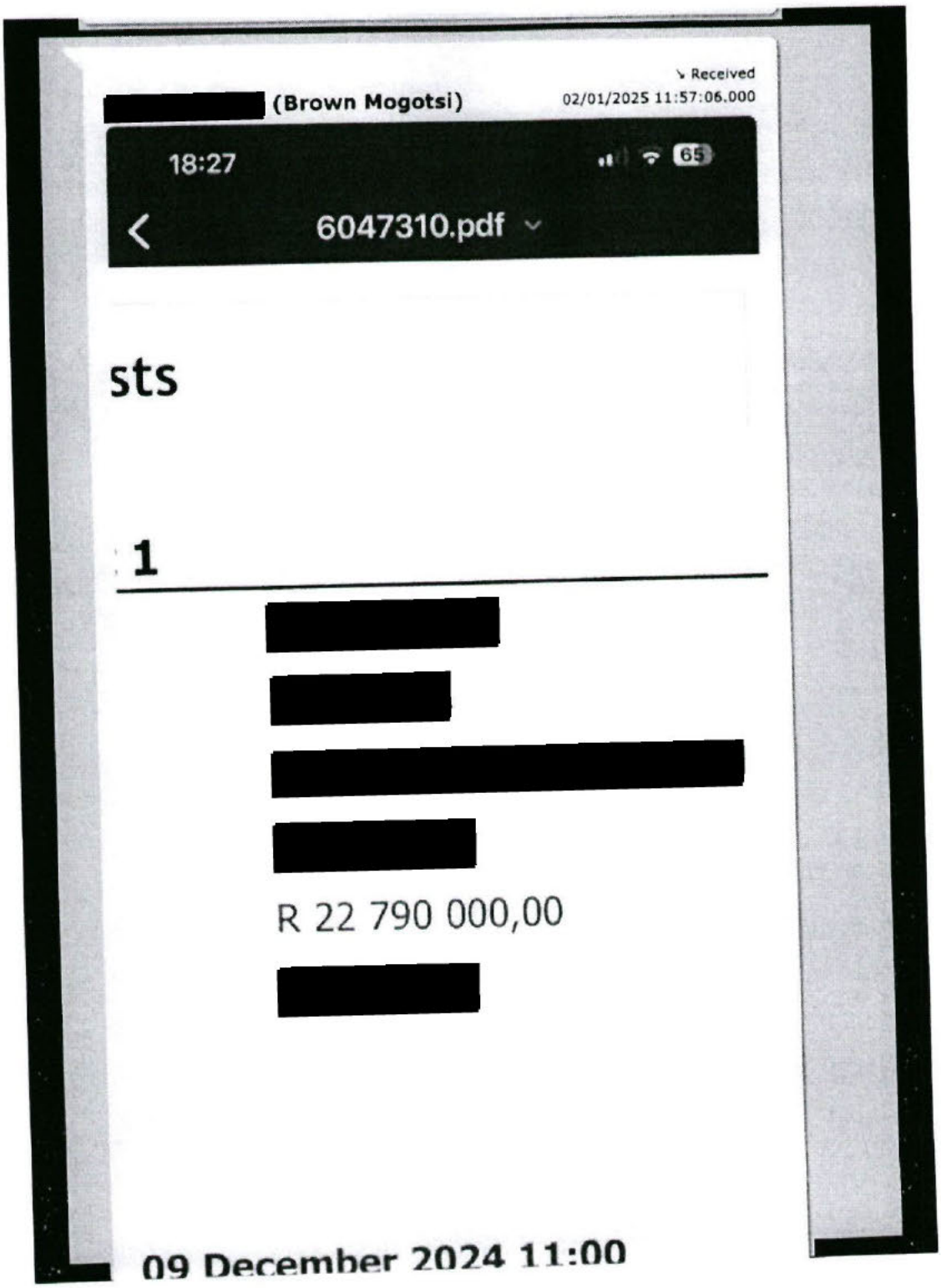
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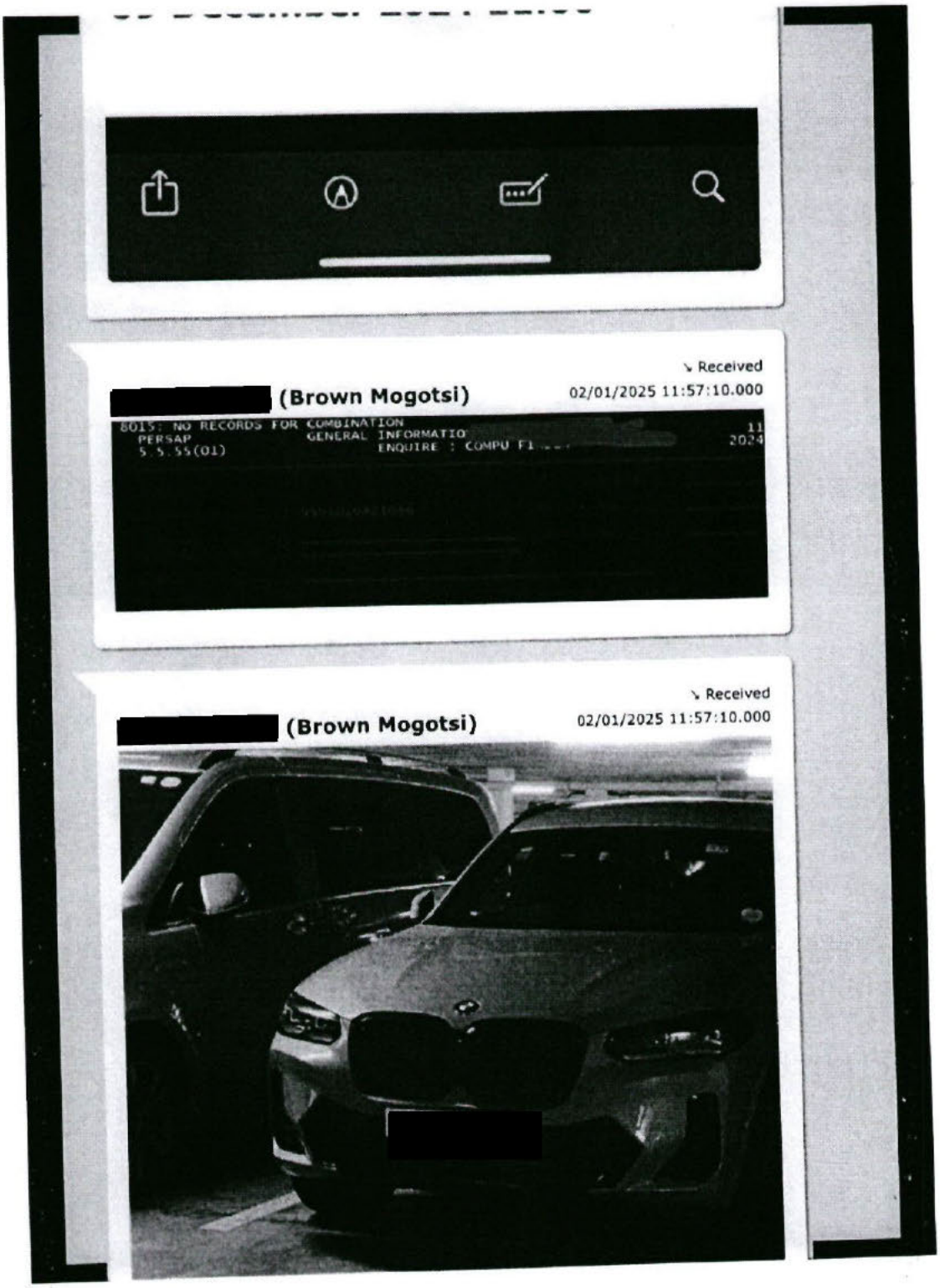
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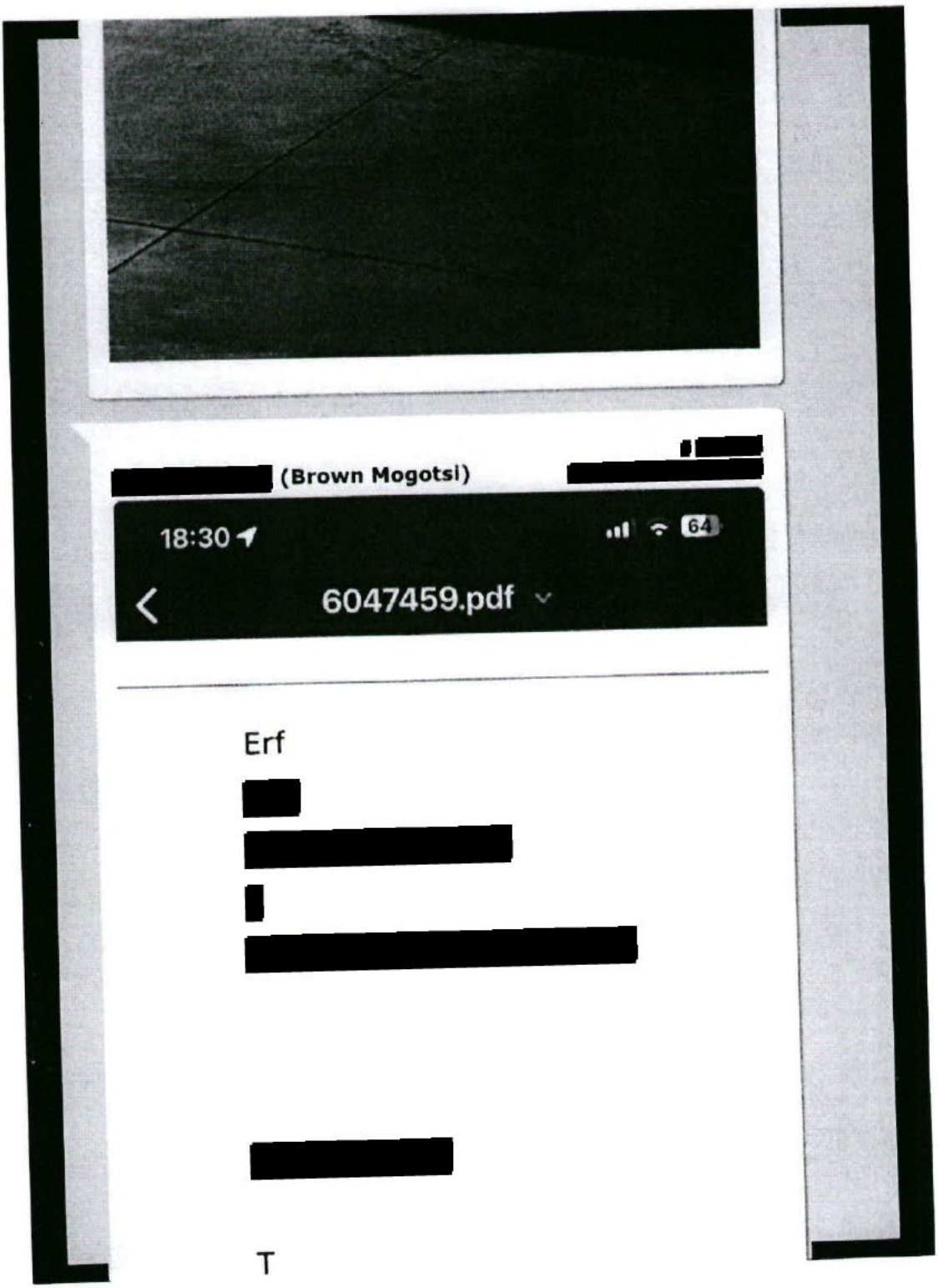
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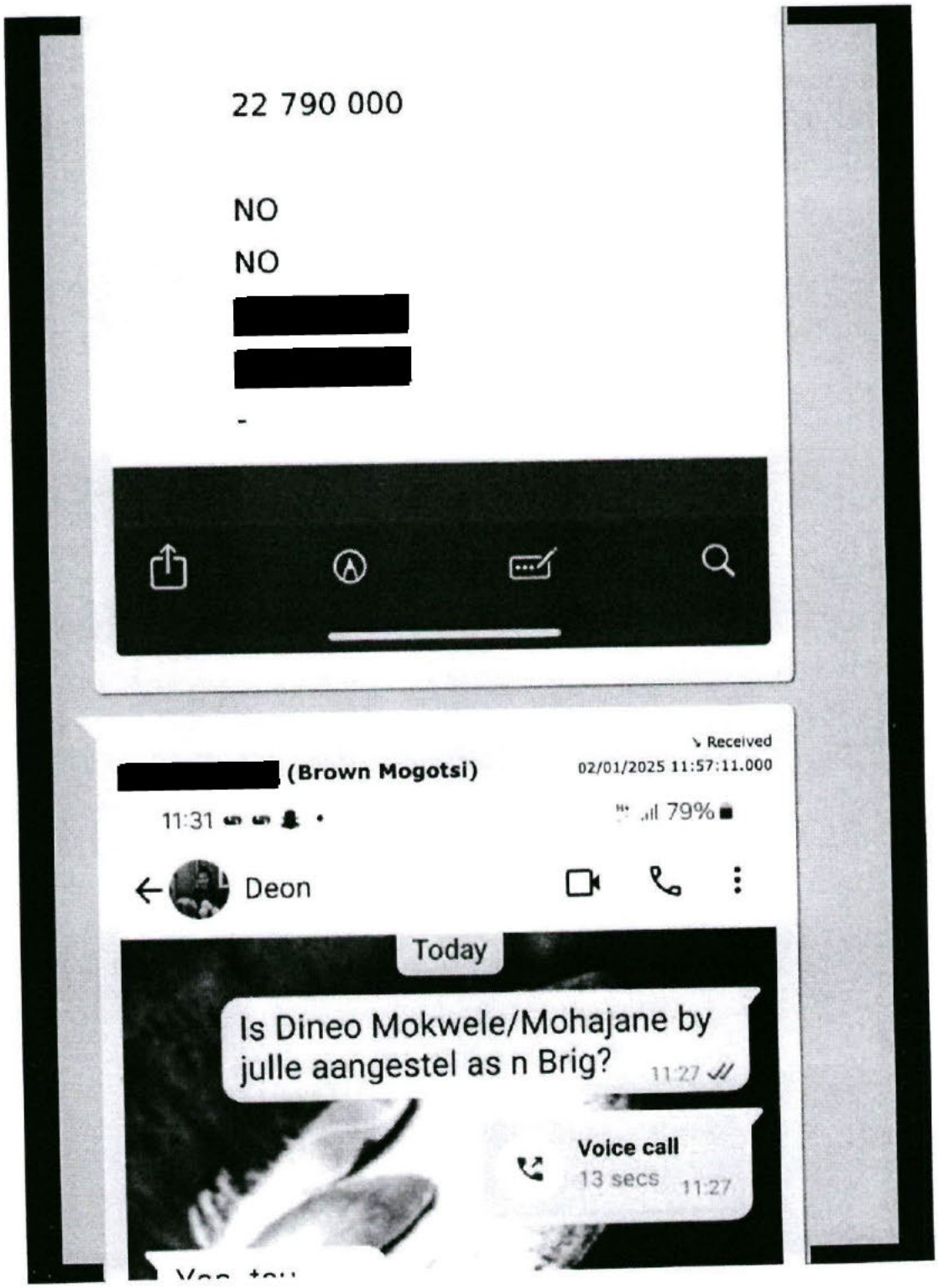
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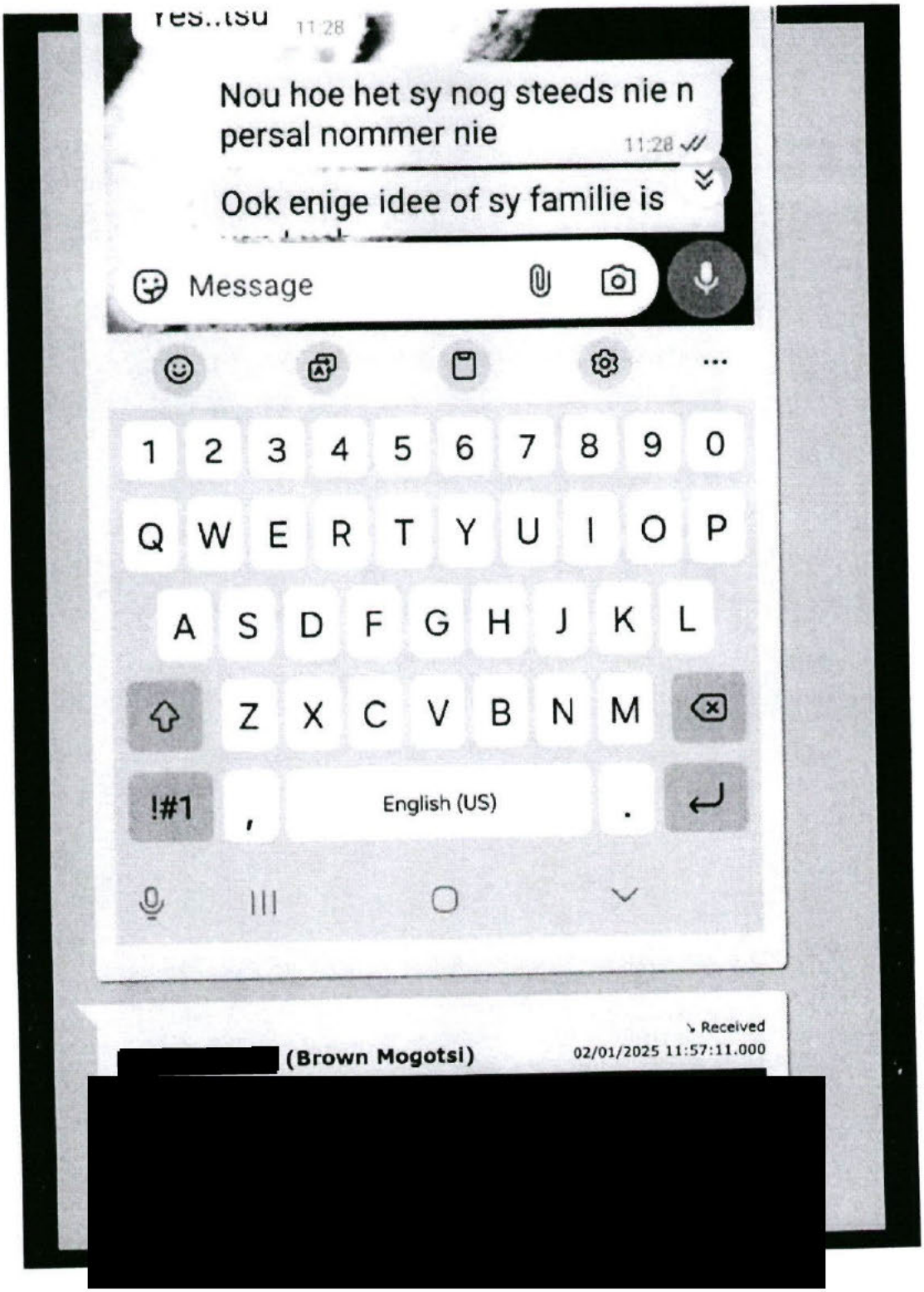
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"BM 7.34"


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Deon
Today
Is Dineo Mokwele/Mohajane by julle aangestel as n Brig?
11:27
Voice call
13 secs
11:27

"BM 7.35"


11:28
Nou hoe het sy nog steeds nie n persal nommer nie
11:28
Ook enige idee of sy familie is
Message
English (US)
Received
02/01/2025 11:57:11.000
(Brown Mogotsi)

"BM 7.36"

[redacted]

↖ Delivered

[redacted] (Dlamini) 02/01/2025 14:11:19.915

What is this things you just sent to me brother,I see it shows several registration numbers of cars and residential addresses?

↘ Received

[redacted] (Brown Mogotsi) 02/01/2025 14:18:32.000

They used state money to buy those properties

↘ Received

[redacted] (Brown Mogotsi) 02/01/2025 14:29:16.000

Audio Call/Video Call

↖ Delivered

27714711413 (Dlamini) 04/01/2025 09:46:34.468

Shocking revelations!

This is the information that I received regarding the Political Killing Task Team from one of the former investigators at the Task Team. They were about to arrest the police officers who were implicated in the killing of Sindiso Maqaqa. I'm told that all reports that were withheld by Bheki Cele have been retrieved and handed over to Minister Senzo Mchunu.

"These 2 man above are hitman and real shooters of Sindiso Magaqa.
Mr Jabulani Mdunge was a registered police informer and was handled in Pietermaritzburg.
He was registered on Thursday 11 May 2017 handled by Capt Pillay together with former Lt Jerry Brooks.
On Thursday 15 June 2017 Capt Pillay,Lt colonel Jerry Brooks,Brig Sthembiso Ndlovu all approved an amount of R15 000 for Jabulani Mdunge to use it to purchase a stolen Mercedes Benz silver in color.
They also approved R2500 for Jabulani Mdunge to buy an unlicensed firearm and AK 47.
They also approved R2000 for Jabulani Mdunge to buy ammunition.
These amounts came from the secret service account known as Slush Fund.
These officials all signed for these amounts.
These amounts were all deposited into Jabulani Mdunge's FNB account on Thursday 15 June 2017 around 5pm.
Mr Jabulani Mdunge bought all these equipments and after that him and his friend Mr Sibusiso Malusi Ncengwa started to target and kill ANC councilors within the province using the very same crime intelligence

THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE CRIMINAL JUSTICE SYSTEM

HELD AT PRETORIA

In the matter between:

OUPA BROWN MOGOTSI **APPLICANT**

And

ADV. MATTHEW CHASKALSON SC **FIRST RESPONDENT**

THE COMMISSION **SECOND RESPONDENT**

APPLICANTS LIST OF AUTHORITIES USED IIN SUPPORT OF FOUNDING AFFIDAVIT

ITEM	DESCRIPTION	PAGE NO.
1.	De Lacy and Another v South African Post Office (2011 (9) BCLR 905 (CC) at para 77.	14
2.	President of the Republic of South Africa and others v South African Rugby Football Union (1999(4) SA 147 (CC) at para 48.	14-15
3.	S v Basson (2007 (3) SA 582 (CC) at para 21.	15
4.	De Lacy and Another v South African Post Office (2011 (9) BCLR 905 (CC) at para 77.	16
5.	Bernert v Absa Bank Ltd (2011(3) SA 92 (CC) para 29.	16
6.	Muluadzi v Old Mutual Life Assurance Company (South Africa) Limited and others [2017] ZACC 28 para 36.	16-17

SIGNED AND DATED AT JOHANNESBURG ON THIS 30TH DAY OF APRIL 2026.

[SGD] MAKAU WILLIAM SEKGATJA

RADASI SEKGATJA INC ATTORNEYS

APPLICANT'S ATTORNEYS

12 SUMMER STREET, RIVONIA

SANDTON,2196

AND

40 CORNER CROWN AND ALBERTINA

SISULU ROAD, FORDSBURG

JOHANNESBURG,2031

[redacted]

[redacted]

[redacted]

Ref: MR. Sekgatja/Mogotsi

TO: : THE MADLANGA COMMISSION OF INQUIRY

HELD AT THE BRIGITTE MABANDLA JUSTICE COLLEGE IN PRETORIA

[redacted]

[redacted]

dmmc@criminaljusticecommission.org.za

[redacted]

[redacted]

[redacted]

[redacted]

Commission Secretary

Email: secretary@criminaljusticecommission.org.za

AND TO: ADV MATTHEW CHASKALSON SC

Email: chaskalson@criminaljusticecommission.org.za

IN THE COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM

In the matter between:

OUPA BROWN MOGOTSI	Applicant
and	
MATTHEW CHASKALSON SC	First Respondent
THE COMMISSION	Second Respondent

FILING NOTICE

KINDLY TAKE NOTICE that the Respondent hereby files the following:

DOCUMENT: **ANSWERING AFFIDAVIT OF MADIMPE MOGASHOA**

FILED BY : **DIALE MOGASHOA ATTORNEYS**

SIGNED & DATED AT PRETORIA ON THIS THE 06TH DAY OF MAY 2026.



DIALE MOGASHOA ATTORNEYS
ATTORNEYS FOR THE RESPONDENT

1st and 2nd Floors, Menlyn Corner
No.87 Frikkie de Beer Street
Menlyn, Pretoria, 0181
[redacted]

TO: **THE CHAIRPERSON**
MADLANGA COMMISSION OF INQUIRY
BRIGITTE MABANDLA JUSTICE COLLEGE
PRETORIA

AND TO: **RADASI SEKGATJA INC ATTORNEYS**
ATTORNEYS FOR THE APPLICANT
12 SUMMER STREET, RIVONIA
SANDTON, 2196
AND
40 CORNER CROWN AND ALBERTINA
SISULU ROAD, FORDSBURG
JOHANNESBURG, 2031
[redacted]

REF: MR. Sekgatja/Mogotsi

IN THE COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM

In the matter between:

OUPA BROWN MOGOTSI	Applicant
and	
MATTHEW CHASKALSON SC	First Respondent
THE COMMISSION	Second Respondent

ANSWERING AFFIDAVIT

I, the undersigned,

MADIMPE MOGASHOA

state under oath that

1 I am an adult attorney and director at Diale Mogashoa Inc, the attorneys of the Commission of Inquiry into Criminality, Political Interference and Corruption in the Criminal Justice System ("the Commission").

2 The facts contained in this affidavit are, to the extent relevant, within my own personal knowledge and are, to the best of my knowledge and belief, true and correct. In dealing with the allegations against Adv Chaskalson SC, I rely in large part on the affidavit of Adv Chaskalson, which is annexed hereto as **"MM1"**.

MM.A.

3 I depose to this affidavit on behalf of the legal team of the Commission.

Introduction

4 Mr Mogotsi applies for the "recusal" of Mr Chaskalson as evidence leader. The application rests on three complaints:[1]

4.1 First, he alleges that Mr Chaskalson treated him unfairly during his questioning before the Commission;

4.2 Secondly, he advances the grave accusation that Mr Chaskalson placed false evidence before the Commission — in relation to a meeting involving Mr Carrim and Mr Maumela — and induced Mr Mogotsi to give false evidence before the Commission against Mr Carrim. The irony is stark. As is evident from Mr Chaskalson's affidavit, in order to support that accusation, Mr Mogotsi has himself placed before the Commission a falsified and materially incomplete record of the relevant communications. That conduct is not merely destructive of the credibility of his application; it is an affront to the integrity of the Commission's processes. It calls for the Commission's firm censure and warrants referral to the South African Police Service for investigation of the offences of perjury, forgery and any related offences, including offences under section 5 of the Commissions Act and Regulation 12 of the Regulations; and

4.3 Third, he also complains that certain "investigative leads" which he says were provided to the evidence leaders have not been sufficiently pursued.

---

1 Paragraphs 6.13 to 6.21 and 10.1 to 10.5 of the founding affidavit.

5 This application should be dismissed. It is legally misconceived, factually fraudulent, and seeks relief without a proper legal foundation. The authorities on which Mr Mogotsi relies — *SARFU*, *Basson*, *De Lacy*, *Bernert* and *Mulaudzi*[2] — concern the recusal of judicial officers or decision-makers. They do not create a legal right to seek the recusal of an evidence leader in a commission of inquiry. An evidence leader is not the Commission. He does not decide admissibility, credibility, liability, culpability, reputation, or the content of the Commission's report. He assists the Commission. The Chairperson remains the decision-maker.

6 The Commission's legal team strongly opposes the application, requests that the Chair dismisses the application and that the evidence of Mr Mogotsi proceeds immediately.

7 In what follows, I begin with the accusation that Mr Chaskalson sought to persuade Mr Mogotsi to provide false evidence against Mr Carrim in return for 'protection' against adverse findings by the Commission. I do so because of the gravity of the allegation.

The allegation of inducement to give false evidence

8 Mr Mogotsi's application is premised on a grave allegation: that Mr Chaskalson, the Chief Evidence Leader, sought to induce him to give false evidence against Mr Carrim and that he misrepresented his communications with Mr Mogotsi in the course of questioning Mr Carrim. In the founding affidavit, Mr Mogotsi relies

[2] Mogotsi founding affidavit, paras 4 and 7

M.A.

substantially on Annexure "OBM2", which he presents as the WhatsApp record supporting his complaint.

9 Mr Chaskalson's answering affidavit demonstrates that this foundation is fraudulent. His answer is not merely a denial. It is a detailed factual account, supported by the true WhatsApp record, Annexure "MC1", and a marked-up comparison, Annexure "MC2", identifying the communications which Mr Mogotsi has fraudulently removed from his Annexure "OBM2"

10 The Commission is therefore not confronted with a simple factual dispute between a witness and an evidence leader. It is confronted with an applicant who seeks the extraordinary removal of an evidence leader while relying on a communication record which is shown to have been selectively altered in precisely those respects that were necessary to support his case.

11 That is fatal to the application. A party seeking relief of this seriousness must approach the Commission with clean hands, full disclosure and reliable evidence. Mr Mogotsi has not done so.

12 The tampering with the WhatsApp record is not a side issue. It goes to the heart of Mr Mogotsi's application.

13 The foundation of Mr Mogotsi's case is that Mr Chaskalson placed improper pressure on him to provide evidence against Mr Carrim and that the evidence leader's "help" was conditional upon Mr Mogotsi implicating Mr Carrim. Mr Chaskalson's answer is that the true record shows the opposite: Mr Mogotsi initiated and pursued the communications; Mr Mogotsi was concerned that Mr Carrim was blaming him; Mr Mogotsi sought assistance to avoid being used as

a scapegoat; and Mr Mogotsi himself offered to provide evidence concerning Mr Carrim and the SAPS / Medicare 24 Tshwane District contract.

14 The alleged deletions are highly probative because they are selective. Mr Chaskalson shows that Mr Mogotsi did not omit immaterial background communications. He omitted:

14.1 three calls he made to Mr Chaskalson on the night of 9 March 2026, at 21h32, 21h33 and 21h36, immediately after sending messages asking "*How do you protect me*" and saying "*this guy Sana tyk me down*";

14.2 three further calls during the lunch adjournment in Mr Carrim's testimony on 10 March 2026, at 13h10, 13h18 and 13h45;

14.3 three "crying with laughter" emojis sent at 13h18 on 10 March 2026, after Mr Carrim had been confronted with the unexplained payments from Tasmica Construction to Medicare 24 Tshwane District; and

14.4 the message of 12 March 2026 at 11h29: "*M worried about coming there, also mentioning that I called u at nyt, thought would be strategic also.*"

15 Those omissions matter. They show that Mr Mogotsi was not a passive or reluctant witness being pressured by an evidence leader. He was actively engaging Mr Chaskalson, calling him repeatedly, expressing concern that Mr Carrim was blaming him, apparently revelling in Mr Carrim's discomfort during his cross-examination, and seeking strategic advantage in how the fact of his late-night calls should be presented.

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16 The omitted 12 March message is particularly damaging. It is consistent with Mr Chaskalson's version that Mr Mogotsi was concerned about how the night-time communications would appear, and inconsistent with the founding affidavit's presentation of events that falsely suggests Mr Chaskalson was the party exerting improper pressure.

17 The omissions are not neutral – they are omissions of precisely the material that provides context for the contested communications and undermines the allegation of inducement.

18 The Commission need not finally find fraud in order to dismiss the application. It is enough that Mr Mogotsi has relied on a materially incomplete and contested record in support of an application carrying serious reputational consequences. That alone means he has not discharged the burden resting on him.

19 Mr Chaskalson gives a direct and categorical denial that he ever invited Mr Mogotsi to give false evidence, or suggested that Mr Mogotsi would be protected from adverse findings if he implicated Mr Carrim. He explains that, given Mr Mogotsi's track record as a witness, the only useful evidence Mr Mogotsi could provide would have been evidence capable of independent corroboration.

20 This answer is inherently plausible. It would make little forensic sense for an evidence leader to solicit uncorroborated false evidence from a witness whose credibility was already highly suspect and whom the evidence leader himself had labelled a professional liar. It would make even less sense to offer him "protection" from adverse findings, when findings are for the Commissioners to make, not the evidence leader.

21 Mr Chaskalson also explains his use of the word "*help*". He says the "*help*" he understood Mr Mogotsi to be seeking was help to avoid being falsely scapegoated by Mr Carrim and possibly by Crime Intelligence officers. That interpretation is supported by Mr Mogotsi's own messages asking "*How do you protect me*" and saying that Mr Carrim was taking him down.

22 The complaint therefore rests on a mischaracterisation of the communications. A willingness to receive relevant, verifiable information from a witness who says he is being falsely blamed is not inducement to give false evidence. It is the ordinary work of an evidence leader in an inquisitorial commission.

23 Similarly, the accusation that Mr Chaskalson put false evidence to Mr Carrim relating to a meeting between Carrim, Mogotsi and Mr Maumela is a distortion of the question that Mr Chaskalson actually put to Mr Carrim. The actual question put to Mr Carrim was:

> "*You say no? Because after your evidence yesterday, Mr Mogotsi called us up and said he had in fact met with you and Mr Maumela shortly after this tender. You have no recollection of that?*"[3]

24 As Mr Chaskalson points out, the word "*yesterday*" qualified Mr Carrim's evidence — not the time of Mr Mogotsi's call. In other words, the question meant: after Mr Carrim's evidence the previous day, Mr Mogotsi contacted the evidence leaders and said that he had met Mr Carrim and Mr Maumela. That is a complete answer to the allegation of falsehood.

25 Moreover, the timing of whether Mr Mogotsi made the statement on the night of 9 March or the morning of 10 March was wholly irrelevant. The material point

[3] Carrim oral transcript, 10 March 2026, p 54, line 23

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was that Mr Mogotsi had conveyed that he had met with Mr Carrim and Mr Maumela after the tender. Mr Mogotsi admits that he did. but states that what he told Mr Chaskalson was false, and that he advanced the falsehood in an attempt to secure a postponement of Mr Carrim's evidence. [4] That admission is serious. It suggests not just dishonesty, but a deliberate attempt to manipulate the Commission's process. Mr Mogotsi's conduct should accordingly be investigated as a possible offence under section 5 of the Commissions Act, 1947, namely wilfully obstructing or hindering the Commission in the performance of its functions. His conduct should also be investigated as a possible offence under Regulation 12(1) of the Regulations of this Commission, including the falsification of evidence, the improper impugning of an evidence leader, and conduct prejudicial to the orderly conduct of the Commission's proceedings.

An evidence leader may robustly question a witness

26 As Justice Nugent indicated in the passage reproduced in paragraph 44 below, the true role of an evidence leaders supports, rather than undermines, robust questioning. Mr Mogotsi himself accepts, in paragraph 9.1 of his affidavit, that an evidence leader is mandated to assist the Commission in uncovering the truth and collecting evidence, and not to perform the functions of a prosecutor aiming for a conviction.

27 Those propositions are correct. But they do not assist the application. They demonstrate why robust testing of evidence is a necessary part of the evidence leader's function.

[4] Mogotsi founding affidavit, para 6.10

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28 The standard is therefore not one of passive neutrality. Evidence leaders must bring "*an open but inquiring mind*" to their work. They must be open to all possibilities, but also entitled to test whether the truth has been told.

29 It follows that the fact that Mr Chaskalson may have questioned a witness firmly, confronted a witness with an adverse proposition, or indicated scepticism about a version, cannot establish bias or unfairness. It is the ordinary work of an evidence leader. Indeed it is the duty of the evidence leader to put adverse propositions to the witness precisely so that the witness is afforded a fair opportunity to answer them.

30 A commission cannot function if every witness may convert firm case-management or questioning into a recusal application. The appropriate safeguard is the Chairperson's control of the proceedings. If a question is unfair, it can be objected to. If a communication requires clarification, it can be placed on record. If a witness needs protection, the Commission can address that separately. None of that supports the removal of the evidence leader.

31 I point out that throughout his questioning by Mr Chaskalson in his evidence before the Commission, Mr Mogotsi was represented by a senior attorney and counsel with twenty five years' experience at the bar. Had Mr Chaskalson's questioning been unfair or improper, Mr Mogotsi's legal team would have objected. That they did not do so is evidence of the abusive nature of Mr Mogotsi's belated complaint about the questioning by Mr Chaskalson.

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The complaint that certain investigative leads were not pursued is not a basis for recusal

32 Mr Mogotsi also complains that credible information was provided concerning Crime Intelligence property transactions, section 252A operations, informant-related issues and procurement irregularities, but that these issues have not been meaningfully pursued. He says that attention has instead been disproportionately directed towards specific individuals, including Mr Carrim.

33 In relation to Mr Mogotsi's s 252A operation, this complaint is simply false. The topic was canvassed extensively in Mr Mogotsi's questioning in November 2025. A transcript of the relevant questioning is attached as Annexure "**MM2**".

34 The only documentary evidence advanced in support of the complaint is false. Annexure "OBM3" to Mr Mogotsi's affidavit is presented by Mr Mogotsi as evidence that he furnished to the Commission and that was not pursued by the Commission. Annexure "OBM3" is not evidence that Mr Mogotsi furnished to the Commission. It is part of the record of WhatsApp communications between Mr Mogotsi and Mr Vusumuzi "Cat" Matlala which the Commission obtained independently of Mr Mogotsi and which the Commission furnished to Mr Mogotsi for his comment. Far from advancing his complaint about the failure to follow leads, Annexure "OBM3" is accordingly destructive of that complaint.

35 In any event the entire complaint is premised on a flawed foundation. The complaint ignores the fact that Mr Mogotsi's questioning by Mr Chaskalson had not been completed when Mr Mogotsi testified in November 2025. Mr Mogotsi's evidence was adjourned in November 2025 to be resumed in 2026. So, the fact that certain topics had not yet been canvassed in evidence with Mr Mogotsi was

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inevitable. It can hardly serve as a basis for suggesting that Mr Chaskalson had deliberately chosen not to canvass those topics.

36 That complaint is also not a basis for recusal. Decisions about which lines of inquiry to pursue, in what order, with which witnesses, and at what level of detail are investigative and case-management decisions. They are for the Commission, assisted by its evidence leaders and investigators, and subject to the Chairperson's direction.

37 A witness does not acquire a right to dictate the Commission's investigative priorities merely because he has provided information. Nor does the fact that a lead has not yet been pursued prove bias. It may be premature, outside the present phase of the inquiry, insufficiently substantiated, already under investigation, better pursued through documentary evidence, better addressed through the evidence of more credible witnesses, or inappropriate for public ventilation at that stage because of witness-safety or criminal-investigation concerns.

No legal basis to remove Mr Chaskalson as evidence leader

The application invokes the wrong legal test

38 We address the legal grounds for the application as they were set out in the founding affidavit. These submissions will be addressed further by an evidence leader at the hearing of this application.

39 The central legal error in the founding affidavit is that it applies the test for judicial recusal to an evidence leader. Mr Mogotsi relies on *President of the Republic of*

South Africa v South African Rugby Football Union[5] for the proposition that the question is whether a reasonable, objective and informed person would reasonably apprehend that the decision-maker will not bring an impartial mind to bear. He then relies on *Basson* (although he cites a non-existent paragraph in *Basson*),[6] *De Lacy*,[7] *Bernert*[8] and *Mulaudzi* (citing this as a Constitutional Court judgment rather than SCA, and referring to a non-existent paragraph)[9] for the same broad proposition concerning actual or apprehended bias.

40 I pause to point out that the quoted passages attributed to *Basson*, *De Lacy*, *Bernert* and *Mulaudzi* do not appear in those judgments in the paragraphs cited, or at all. They appear either to have been drawn from secondary sources without proper attribution, or AI-generated to support a proposition the applicant wished to advance. Either way, this is a serious matter. Legal representatives who settle affidavits filed before this Commission bear a professional duty to ensure that authorities are accurately cited and that quotations attributed to judgments are genuine.

41 In any event, none of the cases assist Mr Mogotsi. They are concerned with whether the decision-maker will bring an impartial mind to the adjudication of the case. That has no direct application to an evidence leader, who does not adjudicate.

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5 1999 (4) SA 147 (CC)

6 *S v Basson* 2007 (3) SA 582 (CC)

7 *De Lacy and Another v South African Post Office* [2011] ZACC 17

8 *Bernert v ABSA Bank Ltd* 2011 (3) SA 92 (CC)

9 *Mulaudzi v Old Mutual Life Insurance Company (South Africa) Limited and Others, National Director of Public Prosecutions and Another v Mulaudzi* 2017 (6) SA 90 (SCA)

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42 The most directly relevant and recent South African authority on this issue is the ruling of Justice Khampepe on the application for the recusal of the chief evidence leader in the TRC Commission of Inquiry.[10] There, the Commission expressly held that evidence leaders are appointed to assist the Commission in the investigation and the presentation of evidence and argument; they marshal and present evidence, but do so subject to the direction of the Chairperson. [11]

43 Justice Khampepe further held that the *SARFU* test is inapplicable to evidence leaders because they are assistants to the Commission and not decision-makers.[12]

44 In the SARS commission of inquiry Justice Nugent said the following regarding the role of evidence leaders:

> "*What is called for from counsel for a commission, and from the commission itself, is an open but inquiring mind, the meaning of which I had occasion to explain in the Supreme Court of Appeal. That case concerned the functions of the Public Protector but it applies as much to a commission of inquiry:*
>
> *'That state of mind is one that is open to all possibilities and reflects upon whether the truth has been told. It is not one that is unduly suspicious but it is also not one that is unduly believing. It asks whether the pieces that have been presented fit into place. If at first they do not then it asks questions and seeks out information until they do. It is also not a state of mind that remains static. If the pieces remain out of place after further enquiry then it might progress to being a suspicious mind. And if the pieces still do not fit then it might progress to conviction that there is deceit. How it progresses will vary with the exigencies of the particular case. One question might lead to another, and that question to yet another, and so it might go on.'*

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[10] Ruling, 4 December 2025 available at https://www.trc-inquiry.org.za/wp-content/uploads/2025/12/RULING-ON-RECUSAL-APPLICATIONS-04-DECEMBER-2025-1.pdf

[11] Para 11

[12] Para 14

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It is in that state of mind that counsel go about their work."[13]

45 In the TRC Commission, Justice Khampepe adopted Justice Nugent's description of the role of counsel in a commission of inquiry. She then determined that the appropriate enquiry for the removal of an evidence leader is not whether the applicant subjectively apprehends bias, but whether the evidence leader's continued role would result in substantive unfairness in the ensuing work of the Commission.

46 That approach follows *Porritt v NDPP*,[14] where the Supreme Court of Appeal held that the role of prosecutors cannot be equated with that of magistrates or judges, and that the *SARFU* test applies only where recusal of a judicial officer is sought. In *Porritt*, the SCA endorsed the position that prosecutors need not be entirely neutral and detached.[15]

47 The SCA held that the correct enquiry, in relation to the removal of prosecutors, is whether their continued involvement would bring about substantive unfairness.[16]

48 Those principles apply with even greater force here. An evidence leader in a commission has less determinative power than a prosecutor in a criminal trial. He assists the Chairperson in an inquisitorial process. It follows that Mr Mogotsi's reliance on the cited authorities is misplaced.

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[13] Para 32, https://www.politicsweb.co.za/news/moyane-vs-sars-inquiry-judge-nugents-ruling

[14] [2014] ZASCA 168, para 21

[15] *Porritt*, paras 15-16

[16] The SCA referred to its earlier decision in *DPP, Western Cape v Killian Director of Public Prosecutions, Western Cape v Killian* 2008 (1) SACR 247 (SCA) for the test of 'substantive unfairness per se.'

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No substantive unfairness has been established

49 The decisive question is whether Mr Mogotsi has shown that Mr Chaskalson's continued participation will cause substantive unfairness in the work of the Commission. He has not.

50 Mr Chaskalson is not required to be detached in the manner of a judge. He must be open-minded, fair and inquiring. Mr Mogotsi's affidavit does not show that he is incapable of performing that role.

51 Properly understood, Mr Mogotsi's application is yet another stratagem to disrupt the work of the Commission, manufacture grounds for further procedural objections by himself and secure delay through postponements.

Delay in bringing the application

52 To the extent that the complaint concerns questioning that took place in November 2025 and events on 9, 10, 11 and 12 March 2026, the application was only signed on 29 April 2026.

53 No adequate explanation appears for why relief of this kind was not sought immediately. Recusal-type complaints must be raised at the earliest possible stage. In the TRC Commission ruling, Justice Khampepe relied on *Bernert v Absa Bank Ltd* for the proposition that complaints of this nature should be raised as soon as the cause for concern becomes known, to avoid delay, inconvenience and prejudice to the work of the forum.[17]

[17] Ruling 4 December 2025, para 64

54 On the very day on which Mr Mogotsi was scheduled to testify, he sought, for the first time, to have Mr Chaskalson removed as evidence leader. He did so not by way of a properly constituted application, but through a request advanced by his legal representatives from the bar. The result was further delay and disruption to the Commission's programme.

55 Delay is particularly prejudicial in a commission with compressed timeframes and a public mandate. It can disrupt scheduled evidence, divert the evidence leaders from their work, and turn the Commission's focus away from its terms of reference. That is precisely why unsupported recusal applications against evidence leaders should be approached with caution.

56 The delay that Mr Mogotsi has caused is further reason that his oral evidence should commence immediately after the Commission's ruling in this application, should the Commission dismiss the application.

Conclusion

57 We respectfully request that:

57.1 the application be dismissed;

57.2 the Commission direct that, if Mr Mogotsi wishes to persist in any allegation concerning the WhatsApp record, he must make his phone available for forensic imaging and analysis, and produce any recordings of his calls with Mr Chaskalson which he may have in his possession; and

57.3 Mr Mogotsi's conduct be referred to the South African Police Service for investigation of possible criminal offences, including perjury, forgery, wilful

obstruction or hindrance of the Commission in contravention of section 5 of the Commissions Act, 1947, and contravention of Regulation 12(1) of the Regulations of this Commission.

DEPONENT

I hereby certify that the above signature is the true signature of the deponent and that he has acknowledged that he knows and understands the contents of this affidavit which affidavit was signed and sworn to before me in my presence at Pretoria on May 2026, in accordance with Government Notice No. R1648 dated 19 August 1977, as further amended by Government Notice No. R1428 dated 11 July 1980, and by Government Notice No R774 of 23 April 1982.

COMMISSIONER OF OATHS

PTA 2026.05.06 12 13

(HANDTEKENING) KOMMISSARIS VAN EDE
(SIGNATURE) COMMISSIONER OF OATHS

MOROMANE ANGEL MAILA
VOLLE VOORNAME EN VAN IN DRUKSKRIF
FULL FIRST NAMES AND SURNAME IN BLOCK LETTERS

137 PRETORIUS STREET
BESIGHEIDSADRES (STRAATADRES)
BUSINESS ADDRESS (STREET ADDRESS)

SAPS PTA CENTRAL

SOUTH AFRICAN POLICE SERVICE
ACCIDENT OFFICE
2026 -05- 06
PRETORIA CENTRAL
SOUTH AFRICAN POLICE SERVICE

IN THE COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM

In the matter between:

OUPA BROWN MOGOTSI	Applicant
and	
MATTHEW CHASKALSON SC	First Respondent
THE COMMISSION	Second Respondent

ANSWERING AFFIDAVIT

I, the undersigned,

MATTHEW CHASKALSON

state under oath that

1. I am an adult advocate practising in the Victoria Mxenge Group of Advocates at 82 Maude Street, Sandton, Gauteng.

2. I am the Chief Evidence Leader in the Commission of Inquiry into Criminality, Political Interference and Corruption in the Criminal Justice System ("the Commission").

M.A. MC

3. The facts contained in this affidavit are within my own personal knowledge and are, to the best of my knowledge and belief, true and correct.

4. I am the first respondent in this application. The Commission is the second respondent in this application.

5. I abide by the decision of the Commission in this application. However, it is necessary for me to depose to this affidavit to set the record straight in respect of false statements in the founding affidavit of Mr Mogotsi in support of his application.

INTRODUCTION

6. In this application the applicant, Mr Mogotsi, seeks my recusal as evidence leader questioning him for the remainder of his evidence before the Commission. Mr Mogotsi's recusal application is underpinned by two propositions:

6.1. First, he lies on oath and puts forward falsified records of WhatsApp chats to contend that I have improperly tried to persuade him to give false evidence against Suliman Carrim; and

6.2. Second, he suggests that I have been unfair in my previous questioning of him before the Commission.

7. The record of my questioning of Mr Mogotsi before the Commission speaks for itself. I did not intend to act unfairly or inappropriately to Mr Mogotsi in my questioning of him. I defer to the decision of the Commission on whether,

notwithstanding my subjective intention, I may have acted unfairly or inappropriately in any way towards Mr Mogotsi in my questioning of him.

8. However, the attempt by Mr Mogotsi to mislead the Commission on the facts of my interaction with him calls for a detailed response from me. I respond below *ad seriatim* to each of the relevant allegations by Mr Mogotsi, which call for a factual response from me. At the outset, however, I emphasize the following:

8.1. I have never suggested to Mr Mogotsi that he should give false evidence to implicate Mr Carrim:

8.1.1. In over thirty years of practice, I have never suggested to any witness that s/he should give false evidence to a Commission, a Court, or any other tribunal;

8.1.2. Moreover, in view of Mr Mogotsi's track record as a witness before the Commission, I was aware that the only evidence he could give me that would have been of any real value to me was evidence that I could corroborate independently;

8.2. The suggestion that Mr Mogotsi could provide evidence against Mr Carrim first came from Mr Mogotsi himself, unsolicited by me;

8.3. Alongside his offer to provide evidence implicating Mr Carrim in matters relevant to the Commission's terms of reference, Mr Mogotsi also offered to provide the Commission with what he believed to be information of which the Commission was unaware concerning Mr Vusimuzi "Cat" Matlala's contract with the South African Police Service (SAPS), the SAPS / Medicare 24 Tshwane District contract;

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8.4. I believed that Mr Mogotsi may well have relevant information relating to the Medicare 24 Tshwane District / SAPS contract;

8.5. I also believed that, by virtue of his relationship with Mr Carrim, Mr Mogotsi would be in a position to provide relevant evidence against Mr Carrim which the Commission might be able to corroborate with its evidence gathering powers;

8.6. To these ends, and in advance of Mr Mogotsi's reappearance at the Commission on 13 March 2026, I set up a meeting for Mr Mogotsi to consult with me and with Mr Dhlamini and Mr Modimogale, two of the Commission's investigators, for 10am on 11 March 2026. However, Mr Mogotsi failed to arrive for the meeting, or even to inform us that he would not be arriving. We wasted several hours waiting for Mr Mogotsi;

8.7. I also deny that I ever offered to protect Mr Mogotsi from adverse findings by the Commission if he could implicate Mr Carrim. I would never offer any witness a "*quid pro quo*" for implicating another witness and I have not done so. In any event, it is the Commissioners, not me, who are responsible for making findings in relation to Mr Mogotsi's evidence, and by 9 and 10 March 2026 it was far too late to "save" Mr Mogotsi from adverse findings by the Commission, unless he was going to renounce large parts of his testimony in November 2025;

8.8. In his efforts to smear me, Mr Mogotsi has not only perjured himself in relation to exchanges between us but has also tampered with the record of our WhatsApp communications that he puts up as Annexure "OBM2" so as to remove several calls and messages that are inconsistent with his false

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narrative, and which he does not want this Commission (and possibly Mr Carrim) to see.

9. The fact of Mr Mogotsi's tampering with the record of the WhatsApp communications between him and me requires a detailed explanation.

9.1. I attach as Annexure **"MC1"**, the true record of our WhatsApp communications from 9 to 26 March 2026, the WhatsApp communications that Annexure "OBM2" purports to reflect;

9.2. I attach as Annexure **"MC2"**, a copy of Annexure "OBM2" which I have amended by adding in the margin all of the WhatsApp calls and messages that ought to have appeared on Annexure "OBM2", but which were removed by Mr Mogotsi when he created Annexure "OBM2". The added chats on Annexure "MC2" are cut and paste from my own records of the chats. As a result, the colour scheme of the added chats is inverted from that of Mr Mogotsi's tampered records in Annexure "OBM2". This is because on my cell phone, the chats are presented with me as the account holder whose messages and calls are displayed in green speech bubbles, and Mr Mogotsi's messages are displayed in white speech bubbles. On Mr Mogotsi's phone, the chats are presented with him as the account holder whose messages and calls are displayed in green speech bubbles and my messages are displayed in white speech bubbles

9.3. As appears from Annexure "MC2", in Annexure "OBM2":

9.3.1. Mr Mogotsi has removed three calls that he made to me on the night of 9 March 2026, which calls I declined to answer. These calls were made at

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21h32, 21h33 and 21h36. I point out that 9 March 2026 was the first day on which Mr Carrim gave evidence;

9.3.2. Mr Mogotsi has removed three more calls that he made to me during the lunch adjournment in the testimony of Mr Carrim on 10 March 2026, which calls I declined to answer. These calls were made at 13h10, 13h18 and 13h45;

9.3.3. Mr Mogotsi has removed the three "crying with laughter" emojis that he sent to me at 13h18, on 10 March 2026, and which presumably represented his response to the evidence given by Mr Carrim on the morning of 10 March 2026. Immediately before the lunch adjournment on 10 March 2026, Mr Carrim had been testifying about two payments of R1 million and R1.12 million that had been made from his company, Tasmica Construction, to Mr Matlala's company, Medicare 24 Tshwane District, and which he had not disclosed to the Commission. His evidence was that he had been entirely unaware of these two payments and that someone in his employ must have made those payments without his knowledge or authority. A copy of the transcript of Mr Carrim's evidence on the morning of 10 March 2026 is attached as Annexure **"MC3"**;

9.3.4. Mr Mogotsi has removed a text that he sent to me on 12 March 2026, at 11h29, in which he stated:

> "*M worried about coming there*" [ie the Commission offices], also mentioning that "*I called u at nyt, thought would be strategic also*"

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It is not clear to me why Mr Mogotsi removed this text. It is possible that he wanted to conceal the reference to his calling me at night.

10. I invite Mr Mogotsi

10.1. to admit that Annexure "MC1" is the true record of our WhatsApp communications from 9 to 26 March 2026; and

10.2. to explain why he has altered the record of our WhatsApp communications in Annexure "OBM2".

11. If Mr Mogotsi disputes that Annexure "MC1" is the true record of our WhatsApp communications from 9 to 26 March 2026, I invite him to make his cell phone available for forensic imaging and analysis to test whether:

11.1. Annexure "OBM2" accurately reflects the record of WhatsApps between him and me on his phone; and

11.2. That the record of WhatsApps on his phone shows no signs of being tampered with.

12. If Mr Mogotsi accepts this invitation, I tender to make my phone available for forensic imaging and analysis to test whether:

12.1. Annexure "MC1" accurately reflects the record of WhatsApps between him and me on my phone; and

12.2. That the record of WhatsApps on my phone shows no signs of being tampered with.

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13. I do not record my WhatsApp or cell phone calls, so I have no recordings of the calls between myself and Mr Mogotsi on the night of 9 March 2026 and the morning of 10 March 2026. Given Mr Mogotsi's line of work as an informant for Crime Intelligence, I believe that he might have recorded those calls. If he has recordings of the calls, I invite him to put up those recordings (together with the original electronic files of the recordings) so that the Commission can have access to those recordings and can test their authenticity.

14. I now proceed to respond to the allegations in the affidavit of Mr Mogotsi that call for a factual response from me. In view of the undesirability of counsel deposing to affidavits in matters in which they act professionally, I do not respond to any allegations of Mr Mogotsi which are capable of being addressed by the deponent to the answering affidavit of the Commission.

15. I emphasize, however, that my failure to answer any particular paragraph of Mr Mogotsi's affidavit:

15.1. should be seen in the light of the approach described in paragraph 14 above, and should not be construed as an admission of the truth of the contents of the relevant paragraph in Mr Mogotsi's affidavit; and

15.2. must be read in the light of what I have set out in paragraphs 8 and 9 above.

AD PARAGRAPH 6.3 OF THE AFFIDAVIT OF MR MOGOTSI

16. Mr Mogotsi initiated the communication on the 9 March 2026 by making a WhatsApp call on my personal cell phone. I missed that call but called him back.

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17. I have no detailed recollection of what was discussed in the call at 20h56 on 9 March 2026, as opposed to the call at 08h03 on the morning of 10 March 2026. So what is set out below is reconstructed from my overall memory of the two calls as informed by the WhatsApp record.

18. The context for Mr Mogotsi's attempt to contact me on the night of 9 March 2026 was the following:

18.1. Mr Carrim had testified for the first time on 9 March 2026;

18.2. In my questioning of Mr Carrim, I had raised a series of his WhatsApp communications with Mr Vusimuzi "Cat" Matlala. In response to many of my questions relating to these WhatsApp communications between Mr" Matlala and Mr Carrim, Mr Carrim had sought to blame Mr Mogotsi for what he conveyed to Mr Matlala;

18.3. Mr Carrim had also testified that he only advanced R10 million to Mr Matlala to finance the start up costs of Medicare 24 Tshwane District for its contract with SAPS after Mr Mogotsi had activated his contacts within SAPS in July 2024 and reported to Mr Carrim that the Medicare 24 Tshwane District contract had already been loaded onto the SAPS system; and

18.4. The general tenor of the evidence of Mr Carrim was to blame Mr Mogotsi for whatever he could in relation to matters which were difficult for Mr Carrim to explain innocently. In colloquial terms, I understood Mr Carrim, through his testimony, to be "throwing Mr Mogotsi under the bus" and this was the term that I used to describe what had taken place in my contemporaneous WhatsApps to Mr Dlamini and Mr Modimogale, the two Commission

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investigators whom Mr Mogotsi was supposed to meet together with me on 11 March 2026. Copies of those WhatsApps are attached as Annexures **"MC4"** and **"MC5"** respectively.

19. In our call at 20h56 on 9 March 2026, Mr Mogotsi conveyed his concern that Mr Carrim had been blaming him for everything for which he could plausibly blame Mr Mogotsi. I agreed and may well have said that Mr Carrim was "throwing him under the bus" because that is what I believed, and that is the phrase that I used in my contemporaneous communications with Mr Dlamini and Mr Modimogale in relation to the matter.

20. In our overall exchanges on 9 and 10 March 2026:

20.1. Mr Mogotsi indicated a clear intention to fight back against Mr Carrim for "throwing him under the bus". He also indicated his enjoyment of Mr Carrim's discomfort in the witness box by WhatsApping me the three "crying with laughter emojis" that he WhatsApped to me in the lunch adjournment on 10 March 2026 and that he appears fraudulently to have removed from the copy of Annexure "OB2" attached to his founding affidavit;

20.2. In this context, Mr Mogotsi definitely offered to provide the Commission with evidence against Mr Carrim and the meeting that he failed to attend on 11 March 2026 was set up *inter alia* for that purpose. It was also convened to go through Mr Mogotsi's remaining evidence with him, as he was now unrepresented and was due to appear before the Commission on 13 March 2026.

MC

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20.3. Mr Mogotsi also indicated that he could provide the Commission with new information concerning the SAPS / Medicare 24 Tshwane District contract both related to Mr Carrim and unrelated to Mr Carrim. The fact that Mr Mogotsi was offering to provide this information is reflected in my WhatsApps to Mr Dlamini and Mr Modimogale on 10 March 2026, Annexures "MC4" and "MC5".

21. I infer from the record of my WhatsApp exchanges with Mr Mogotsi that he had already offered to provide the Commission with evidence against Mr Carrim in the call of 21h56 on the night of 9 March 2026. This inference is based on his message of 08h22 which was sent before any call on that day and which suggests that he had thought that Mr Carrim's evidence may be postponed to allow him to provide evidence to the Commission.

22. I did not discourage Mr Mogotsi from offering evidence to the Commission in relation to the Medicare 24 Tshwane District / SAPS contract and evidence against Mr Carrim. I believed that Mr Mogotsi may well have relevant information relating to the Medicare 24 Tshwane District / SAPS contract. I also believed that, by virtue of his relationship with Mr Carrim, Mr Mogotsi may be able to point the Commission in the direction of relevant, verifiable evidence implicating Mr Carrim in relation to matters the Commission was investigating. I was, however, very clear in my own mind that I could only use evidence given by Mr Mogotsi if it could be verified independently.

23. I would never have encouraged Mr Mogotsi to give false evidence against Mr Carrim, and I categorically deny that:

23.1. I invited Mr Mogotsi to give false evidence against Mr Carrim; and/or

MC

M.A

23.2. I suggested that if he could find evidence to implicate Mr Carrim, I would protect him from adverse findings from the Commission.

24. In this regard, Mr Mogotsi's references to requests for help in the WhatsApps are misleading. The "*help*" that I understood Mr Mogotsi to be seeking from me was help in being protected from being falsely blamed by Mr Carrim for matters that Mr Carrim was struggling to explain innocently. That is evidenced by his WhatsApps at 21h31 on 9 March 2026 asking "*How do you protect me*" "*this guy Sana tyk me down*" ('this guy's gonna take me down').

25. As pointed out above, these texts were immediately followed by three unanswered attempts by Mr Mogotsi to call me on WhatsApp at 21h32 and 21h33 and 21h36. Those three missed calls appear to have been fraudulently removed from the copy of Annexure "OBM2" to his founding affidavit.

AD PARAGRAPH 6.4 OF THE AFFIDAVIT OF MR MOGOTSI

26. The issue of the possible postponement of Mr Carrim's evidence was discussed in my exchanges with Mr Mogotsi on 9 and 10 March.

27. I cannot recall what I stated to Mr Mogotsi in this regard but I certainly did not make any agreement with Mr Mogotsi to postpone the evidence of Mr Carrim to accommodate a consultation with Mr Mogotsi as he suggests in paragraph 6.7 of his affidavit. It is the Commissioners, not me, who decide on postponement applications and I could not possibly have justified a postponement application on the grounds that I needed to consult with Mr Mogotsi in relation to an unspecificied offer by him to provide evidence relevant to Mr Carrim's questioning.

MC

M.A

28. I did, however, expect that Mr Carrim's evidence would be postponed after 10 March because I knew that Mr Carrim was travelling on the evening of 10 March, and I was not confident that my questioning of Mr Carrim would be complete by then.

29. Moreover, by the time of my call with Mr Mogotsi on the morning of 10 March, I anticipated that hearing time would be lost on 10 March because Mr Carrim would ask for the matter to stand down for him to consider his explanation for the two payments of R1 million and R1.12 million that had been made from his company, Tasmica Construction, to Mr Matlala's company, Medicare 24 Tshwane District, and which he had not disclosed to the Commission. The Commission had only alerted Mr Carrim to these two payments at around 06h00 on the morning of 10 March because I had only discovered them shortly before that on the morning of 10 March.

AD PARAGRAPH 6.5 OF THE AFFIDAVIT OF MR MOGOTSI

30. I refer to what I have set out above and deny this paragraph.

AD PARAGRAPH 6.6 OF THE AFFIDAVIT OF MR MOGOTSI

31. I refer to what I have set out above and deny this paragraph to the extent that it is inconsistent therewith.

AD PARAGRAPH 6.7 OF THE AFFIDAVIT OF MR MOGOTSI

32. I refer to what I have set out above and deny this paragraph.

33. I specifically deny that I discussed with Mr Mogotsi in our call of 9 March 2026 the bank records showing the two payments of R1 million and R1.12 million. I

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M.A

could not have done so, because I was not aware of the payments at that time. I only discovered those payments around 05h00 on the morning of 10 March 2026 in the process of preparing for the evidence of Mr Carrim later that day.

AD PARAGRAPHS 6.8 AND 6.9 OF THE AFFIDAVIT OF MR MOGOTSI

34. I refer to what I have set out above.

35. Save as aforesaid, the relevant texts speak for themselves.

AD PARAGRAPHS 6.10 AND 6.11 OF THE AFFIDAVIT OF MR MOGOTSI

36. Mr Mogotsi did tell me about the involvement of Mr Morgan Maumela in the Northwest Health Department Tender and about a meeting between himself, Mr Carrim and Mr Maumela at the relevant time. That is why I raised this with Mr Carrim in my questioning of him on 10 March 2026. I cannot remember whether he did so in the call at 20h56 on 9 March 2026, or the call at 09h03 on the morning of 10 March 2026.

37. Save as aforesaid, I deny these paragraphs.

AD PARAGRAPH 6.12 OF THE AFFIDAVIT OF MR MOGOTSI

38. Save in so far as it is confirmed by the WhatsApp texts in Annexure "MC1" themselves, I deny this paragraph.

39. Mr Mogotsi does not mention his three missed calls to me during the lunch adjournment on 10 March 2026 or the three "crying with laughter emojis" that he WhatsApped to me at 13h18 on that day. As pointed out above, he appears

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fraudulently to have removed all of these WhatsApp exchanges from the copy of Annexure "OBM2" to his founding affidavit.

40. The call at 14h59 was to finalise a consultation with Mr Mogotsi the following day in advance of Mr Mogotsi's scheduled reappearance at the Commission on 13 March 2026 and in the light of the "new" evidence about the Medicare 24 Tshwane District / SAPS contract and about Mr Carrim that he was promising. We provisionally agreed to meet at 10h00 but I had to confirm the availability of the Commission investigators. After Mr Dlamini and Mr Modimogale both had confirmed their availability for 10h00 (see annexures "MC4" and "MC5"), I sent Mr Mogotsi the WhatsApp at 17h43 confirming the consultation for 10h00 on 11 March 2026.

AD PARAGRAPH 6.13 OF THE AFFIDAVIT OF MR MOGOTSI

41. I deny this paragraph.

42. The purpose of my call at 09h59 was to find out where Mr Mogotsi was because I had a member of the Commission staff on standby to go down to the security point with an entry card for Mr Mogotsi for our meeting at 10h00 and Mr Dlamini, Mr Modimogale and I were wanting to know whether we should rearrange our days.

43. Mr Mogotsi gave some explanation for his delay and promised to be at the Commission offices by 14h00.

44. Mr Dlamini, Mr Modimogale and I rearranged our days and expected to meet Mr Mogotsi at 14h00.

ML
M.A

45. At 13h59 I called again for the same reason that I had called at 09h59 and Mr Mogotsi did not answer.

AD PARAGRAPH 6.14 OF THE AFFIDAVIT OF MR MOGOTSI

46. I deny this paragraph.

47. Mr Mogotsi did not receive a string of messages from me. He received one message at 11h28 asking "what happened to you".

48. As pointed out above, he has removed from Annexure OB2 his response to me at 11h29 stating:

> "*M worried about coming there*" [i.e. the Commission offices], also mentioning that "*I called u at nyt, thought would be strategic also*"

49. I then indicated to him in a message at 11h31 that, in view of his failure to attend the consultation, his scheduled appearance on 13 March 2026 would be postponed until after we had consulted with him.

AD PARAGRAPH 6.15 AND 6.16 OF THE AFFIDAVIT OF MR MOGOTSI

50. I admit the exchange of messages referred to in paragraphs 6.15.

51. The "messing around" to which I referred in my message was Mr Mogotsi's conduct the previous day where he wasted the time of Mr Dlamini, Mr Modimogale and me by:

51.1. failing to attend our scheduled 10h00 consultation;

51.2. failing to inform us that he would not be arriving at 10h00;

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M.A

51.3. failing to attend our rescheduled 14h00 consultation;

51.4. failing to inform us that he would not be arriving at 14h00; and

51.5. failing to answer his phone or contact us after he stood us up at 14h00.

52. The only help that I was willing to offer Mr Mogotsi was help to avoid being used as a scapegoat by other witnesses who found it convenient to blame Mr Mogotsi for whatever they could in relation to matters which were difficult for them to explain innocently.

53. I had already witnessed Mr Carrim attempting to scapegoat Mr Mogotsi in this regard. I suspected that the Crime Intelligence officers responsible for Mr Mogotsi's "assignments" might similarly seek to scapegoat Mr Mogotsi.

54. I deny paragraph 6.16.

AD PARAGRAPH 6.17 OF THE AFFIDAVIT OF MR MOGOTSI

55. I did not call Mr Mogotsi on 31 March 2026.

56. I have never called Mr Mogotsi from a private number. I have only ever called him from my WhatsApp number.

57. I certainly did not call him on 31 March 2026. On 31 March 2026 I was away on holiday with family members who had come out from overseas for my daughter's wedding on 29 March 2026.

AD PARAGRAPHS 6.18 AND 6.19 OF THE AFFIDAVIT OF MR MOGOTSI

MC

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58. I admit that in my questioning of Mr Mogotsi, I accused him, on occasion, of being dishonest and a liar. I maintain that I did not act unreasonably or unfairly in so doing.

59. I deny the remaining allegations in these paragraphs.

AD PARAGRAPH 6.20

60. As pointed out above, I cannot recall whether Mr Mogotsi raised Mr Maumela's involvement in the North West Health interdict matter in the call at 20h56 on 9 March 2026 or the call at 09h03 on the morning of 10 March 2026.

61. The suggestion that I put a false version in this regard to Mr Carrim is, itself, false. The record of what I put to Mr Carrim appears at the foot of p 54 of the transcript of his evidence of the morning of 10 March 2026 ("MC3"). I stated the following:

> *"You say no? Because after your evidence yesterday, Mr Mogotsi called us up and said he had in fact met with you and Mr Maumela shortly after this tender. You have no recollection of that?"*

The word "yesterday" qualified the evidence of Mr Carrim when he denied Mr Maumela's involvement in the North West Health interdict matter. It did not qualify the time of Mr Mogotsi's call to me.

62. In any event, whether Mr Mogotsi's call was on the night of 9 March 2026 or the morning of 10 March 2026 was wholly irrelevant to the question.

AD PARAGRAPH 6.21

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63. As pointed out above, Mr Mogotsi has removed from Annexure "OBM2" several WhatsApp communications. He appears to have done so fraudulently.

64. The true record of the WhatsApp call logs and WhatsApp messages is Annexure "MC1" to this affidavit.

AD PARAGRAPH 10

65. In so far as the allegations in this paragraph are directed at me, I deny that I have failed to follow up any relevant leads provided to me by Mr Mogotsi.

AD THE SUPPLEMENTARY STATEMENT OF MR MOGOTSI

66. Mr Mogotsi incorporates his supplementary statement dated 21 April 2026 into his founding affidavit.

67. Much of the contents of Mr Mogotsi's supplementary statement are replicated in his founding affidavit itself. I deny the factual allegations in the supplementary statement save to the extent that they are consistent with what is set out above.

68. I respond specifically below only to certain allegations in the supplementary statement which call for a factual response from me.

AD PARAGRAPHS 3 to 5 OF THE SUPPLEMENTARY STATEMENT OF MR MOGOTSI

69. I refer to what I have stated above and deny these paragraphs.

AD PARAGRAPHS 6 and 7 OF THE SUPPLEMENTARY STATEMENT OF MR MOGOTSI

70. I deny these paragraphs.

MC

M.A

71. I have addressed above the contents of my WhatsApp messages and calls with Mr Mogotsi. The allegations in this paragraph are, to the knowledge of Mr Mogotsi, false.

AD PARAGRAPH 8 OF THE SUPPLEMENTARY STATEMENT OF MR MOGOTSI

72. In so far as the allegations in this paragraph are directed at me, I deny that I have failed to follow up any relevant leads provided to me by Mr Mogotsi.

AD PARAGRAPH 9 OF THE SUPPLEMENTARY STATEMENT OF MR MOGOTSI

73. I deny this paragraph.

74. I have addressed above the contents of my WhatsApp messages and calls with Mr Mogotsi over the period 9 to 10 March 2026.

75. The allegations in this paragraph are, to the knowledge of Mr Mogotsi, false.

AD PARAGRAPHS 10 to 22 OF THE SUPPLEMENTARY STATEMENT OF MR MOGOTSI

76. I have already responded above to the allegations in these paragraphs.

77. Save as aforesaid, I deny this paragraph.

AD PARAGRAPHS 23 to 24 OF THE SUPPLEMENTARY STATEMENT OF MR MOGOTSI

78. I refer to what I have stated above and deny these paragraphs in their totality.

79. In relation to the only fresh allegation of fact in these paragraphs, I confirm that at no stage over the period 9 to 12 March 2026, did Mr Mogotsi seek to be

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M.A

excused from the Commission. Until he failed to arrive at our consultation on 11 March 2026, our common understanding was that he would be appearing on 13 March 2026 to finish his evidence before the Commission.

80. After Mr Mogotsi failed to arrive for the consultation on 11 March 2026, I decided that I would postpone his evidence to a date after we had been able to consult and I informed him of this in the WhatsApp I sent to him on 12 March 2026 at 11h31.

AD PARAGRAPH 25 OF THE SUPPLEMENTARY STATEMENT OF MR MOGOTSI

81. I refer to what I have stated above and deny this paragraph.

AD PARAGRAPHS 33 and 34 OF THE SUPPLEMENTARY STATEMENT OF MR MOGOTSI

82. I refer to what I have stated above and deny these paragraphs.

SOUTH AFRICAN POLICE SERVICE
ACCIDENT OFFICE
2026 -05- 0 6
PRETORIA CENTRAL
SOUTH AFRICAN POLICE SERVICE

DEPONENT

I hereby certify that the above signature is the true signature of the deponent and that he has acknowledged that he knows and understands the contents of this affidavit which affidavit was signed and sworn to before me in my presence at Pretoria on 6 MAY 2026, in accordance with Government Notice No. R1648 dated 19 August 1977 as further amended by Government Notice No. R1428 dated 11 July 1980, and by Government Notice No R774 of 23 April 1982.

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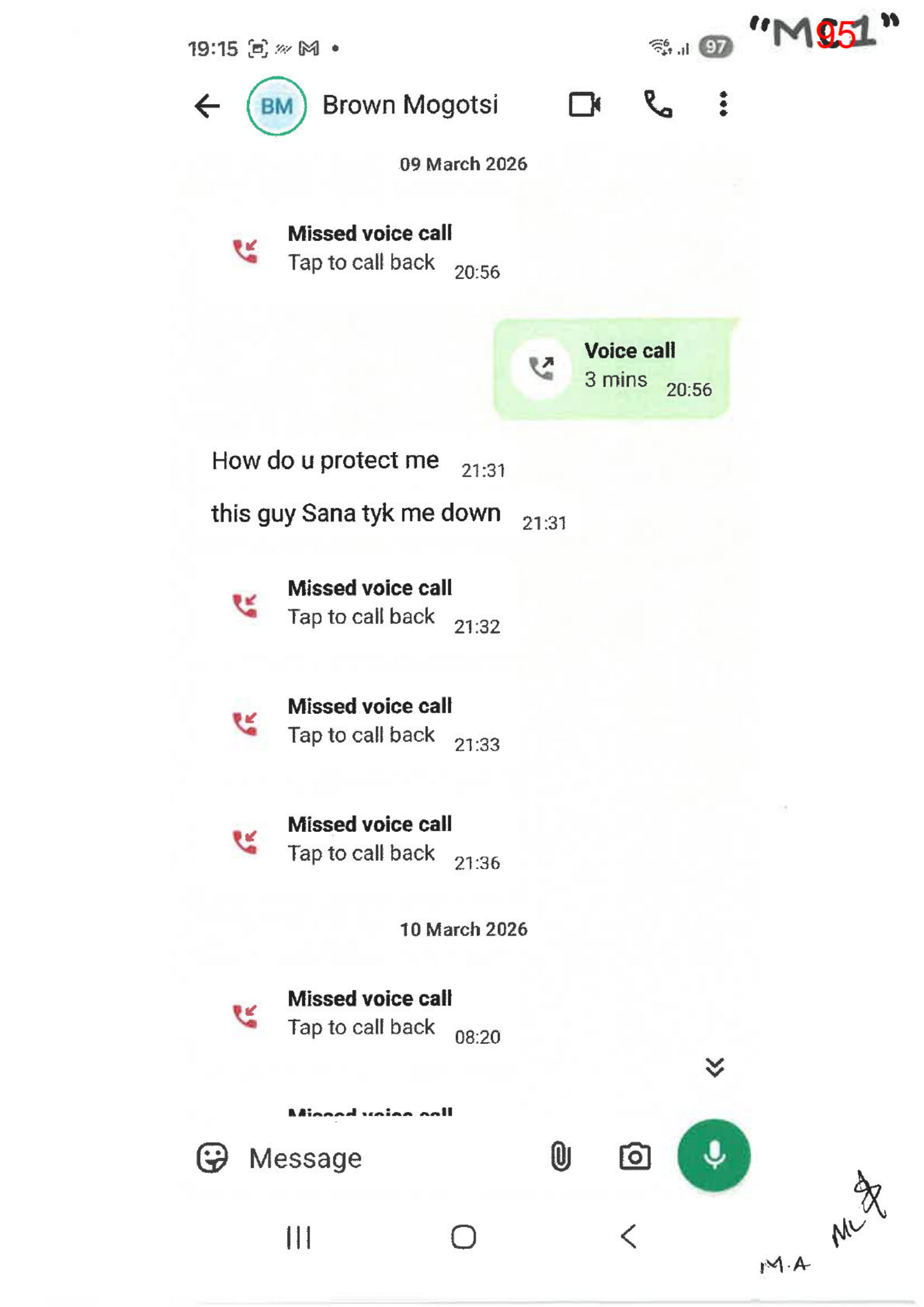
(HANDTEKENING) KOMMISSARIS VAN EDE
(SIGNATURE) COMMISSIONER OF OATHS

MORONGWE ANGEL MAILOU
VOLLE VOORNAME EN VAN IN DRUKSKRIF
FULL FIRST NAMES AND SURNAME IN BLOCK LETTERS

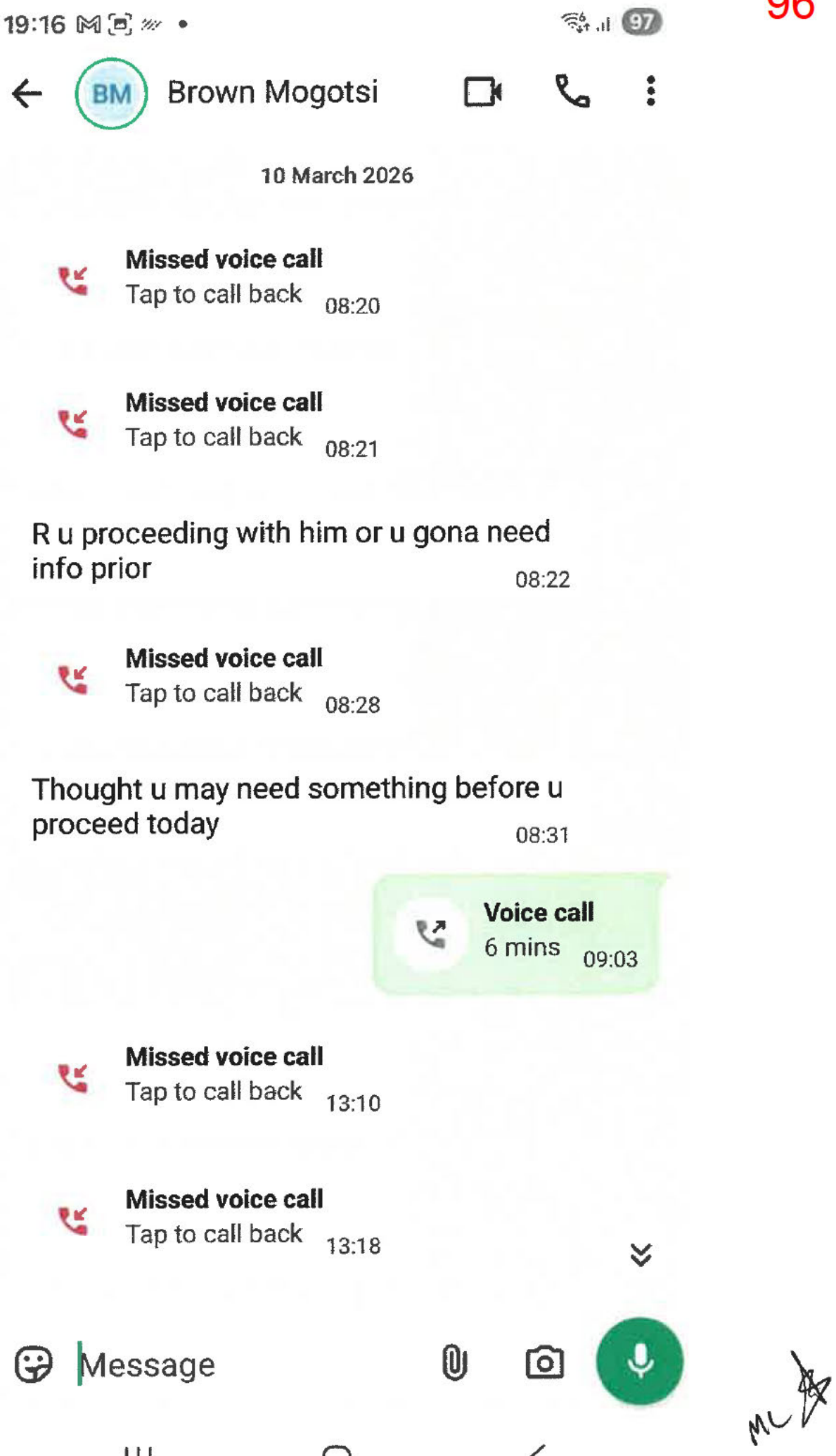
127 PRETORIOUS STREET
BESIGHEIDSADRES (STRAATADRES)
BUSINESS ADDRESS (STREET ADDRESS)

SAPS PTA CENTRAL
CSC

COMMISSIONER OF OATHS


19:15
97
BM
Brown Mogotsi
09 March 2026
Missed voice call
Tap to call back 20:56
Voice call
3 mins 20:56
How do u protect me 21:31
this guy Sana tyk me down 21:31
Missed voice call
Tap to call back 21:32
Missed voice call
Tap to call back 21:33
Missed voice call
Tap to call back 21:36
10 March 2026
Missed voice call
Tap to call back 08:20
Message

M.A


19:16
97
BM
Brown Mogotsi
10 March 2026
Missed voice call
Tap to call back
08:20
Missed voice call
Tap to call back
08:21
R u proceeding with him or u gona need info prior
08:22
Missed voice call
Tap to call back
08:28
Thought u may need something before u proceed today
08:31
Voice call
6 mins
09:03
Missed voice call
Tap to call back
13:10
Missed voice call
Tap to call back
13:18
Message

ML

M.A

20:12

BM Brown Mogotsi

Missed voice call
Tap to call back 13:10

Missed voice call
Tap to call back 13:18

 13:18

Missed voice call
Tap to call back 13:45

talk to me 13:50

Voice call
1 min 14:59

Missed voice call
Tap to call back 16:13

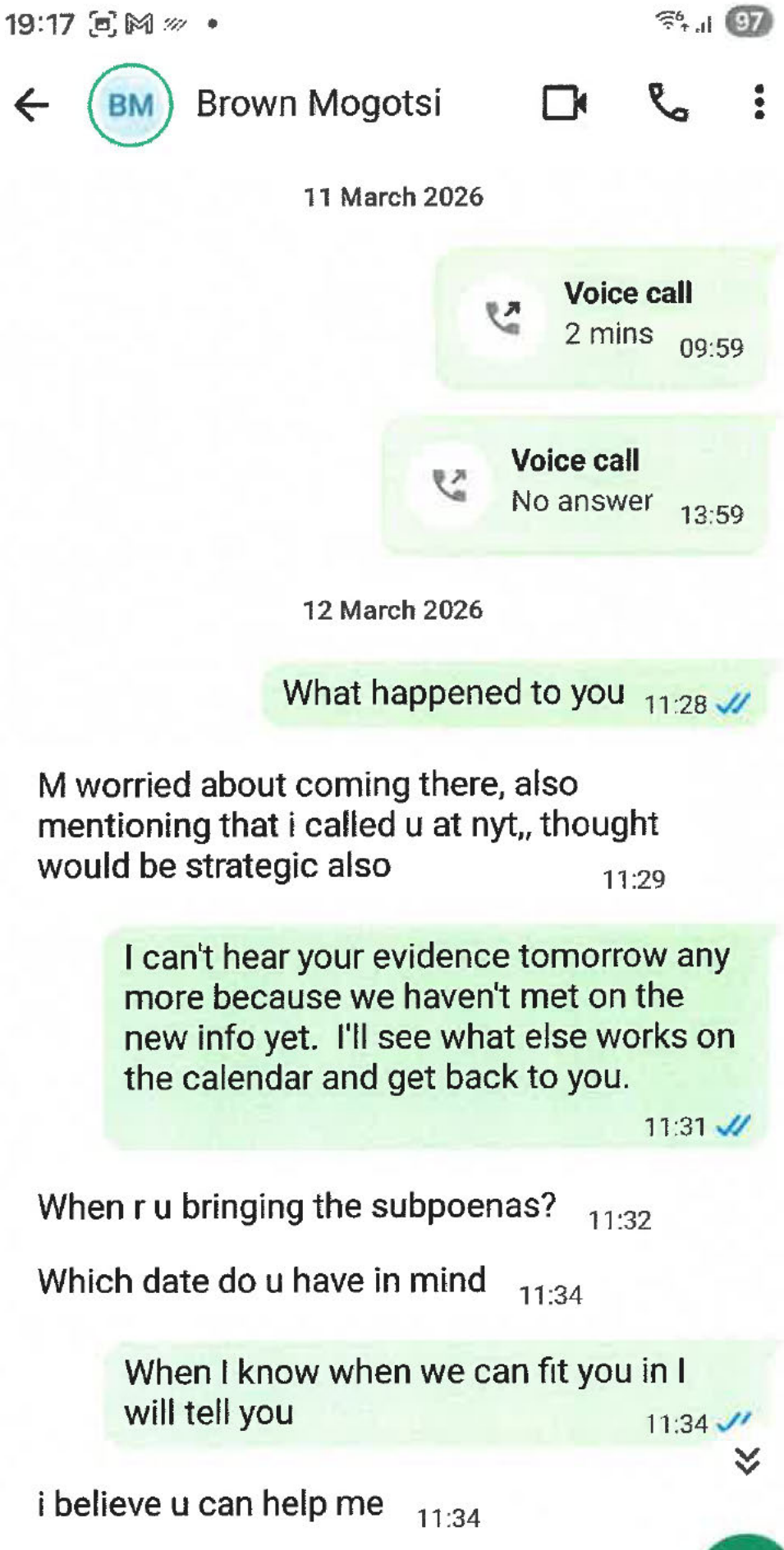
Can we aim for 10 tomorrow morning at the Commission. If you call when you are 15 minutes away I will arrange for someone to be there with an entry card for you 17:43

11 March 2026

Message

ML

MA


19:17
97
BM
Brown Mogotsi
11 March 2026
Voice call
2 mins
09:59
Voice call
No answer
13:59
12 March 2026
What happened to you 11:28
M worried about coming there, also mentioning that i called u at nyt,, thought would be strategic also 11:29
I can't hear your evidence tomorrow any more because we haven't met on the new info yet. I'll see what else works on the calendar and get back to you.
11:31
When r u bringing the subpoenas? 11:32
Which date do u have in mind 11:34
When I know when we can fit you in I will tell you 11:34
i believe u can help me 11:34
Message

ML
M.A

19:18 97

Brown Mogotsi

11:31

When r u bringing the subpoenas? 11:32

Which date do u have in mind 11:34

When I know when we can fit you in I will tell you 11:34

i believe u can help me 11:34

I think so too. But you can't mess me around. 11:49

I'll try to work out when we can fit you into the calendar. It will have to be next month. I'll get back to you next week with possible dates 12:12

> **You**
> I think so too. But you can't mess me around.

How do i get involved and finish , wish i knew wat to do exactly 12:43

26 March 2026

Missed voice call
Tap to call back 16:18

M soo much under pressure 16:19

Message

ML

M.A

"MC 2" 100
ANNEXURE

knows 8:56 am

09 March 2026

Voice call
No answer 8:56 pm

Voice call
3 mins 8:56 pm

How do u protect me 9:31 pm

this guy Sana tyk me down 21:31

this guy Sana tyk me down
9:31 pm

Missed voice call
Tap to call back 21:32

10 March 2026

Missed voice call
Tap to call back 21:33

Voice call
No answer 8:20 am

Missed voice call
Tap to call back 21:36

Voice call
No answer 8:21 am

R u proceeding with him or u gona need info prior 8:22 am

Voice call
No answer 8:28

MC
M.A

6:19

[redacted] Matthew Cha...

Voice call
No answer 8:28 am

Thought u may need something before u proceed today 8:31 am

Missed voice call
Tap to call back 13:10

Voice call
6 mins 9:03 am

Missed voice call
Tap to call back 13:18

 13:18

talk to me 1:50 pm

Missed voice call
Tap to call back 13:45

Voice call
1 min 2:59 pm

talk to me 13:50

Voice call
No answer 4:13 pm

Can we aim for 10 tomorrow morning at the Commission. If you call when you are 15 minutes away I will arrange for someone to be there with an entry card for you 5:43 pm

11 March 2026

Voice call
2 mins 9:59 am

Message

IM.A ML

7:03

Matthew Cha...

call when you are 15 minutes away I will arrange for someone to be there with an entry card for you 5:43 pm

11 March 2026

Voice call
2 mins 9:59 am

Missed voice call
Tap to call back 1:59 pm

12 March 2026

What happened to you 11:27 am

I can't hear your evidence tomorrow any more because we haven't met on the new info yet. I'll see what else works on the calendar and get back to you. 11:31 am

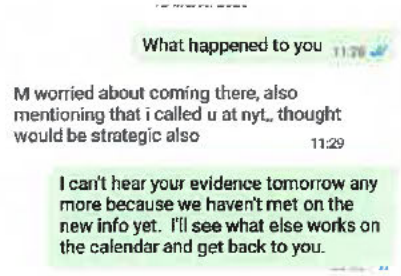
When r u bringing the subpoenas? 11:32 am

Which date do u have in mind 11:34 am

When I know when we can fit you in I will tell you 11:34 am

i believe u can help me 11:34 am

Message



ML

M.A

6:19

[redacted] Matthew Cha...

Missed voice call
Tap to call back 1:59 pm

12 March 2026

What happened to you 11:27 am

I can't hear your evidence tomorrow any more because we haven't met on the new info yet. I'll see what else works on the calendar and get back to you. 11:31 am

When r u bringing the subpoenas? 11:32 am ✓✓

Which date do u have in mind 11:34 am ✓✓

When I know when we can fit you in I will tell you 11:34 am

i believe u can help me 11:34 am ✓✓

I think so too. But you can't mess me around. 11:49 am

I'll try to work out when we can fit you into the calendar. It will have to be next month. I'll get back to you next week with possible dates 12:12 pm

Message

ML

M.A

ANNEXURE

6:19

Matthew Cha...

Which date do u have in mind
11:34 am

When I know when we can fit you in
I will tell you
11:34 am

i believe u can help me 11:34 am

I think so too. But you can't mess
me around.
11:49 am

I'll try to work out when we can fit
you into the calendar. It will have to
be next month. I'll get back to you
next week with possible dates
12:12 pm

> Matthew Chaskalson
> I think so too. But you can't mess me around.

How do i get involved and finish ,
wish i knew wat to do exactly
12:43 pm

Thursday

Voice call
No answer 4:18 pm

M soo much under pressure
4:19 pm

Message

M·A

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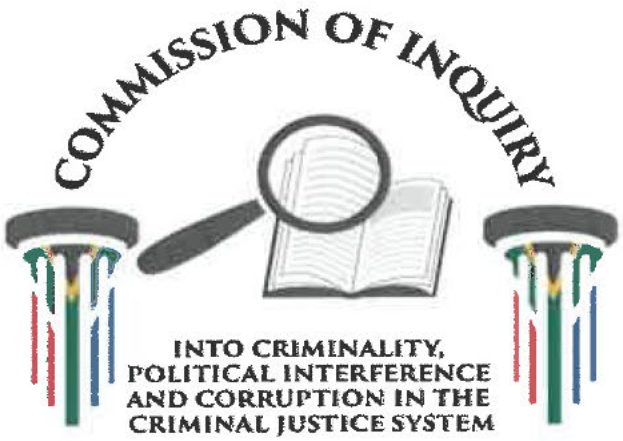
JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM

HELD AT

BRIGITTE MABANDLA JUSTICE COLLEGE

10 MARCH 2026

DAY 74



ML

M.A

PROCEEDINGS HELD ON 10 MARCH 2026

CHAIRPERSON: Good morning, Mr Chaskalson. Good morning, Mr Bhana. Good morning, Mr Carrim.

MR CARRIM: Good morning, Chair.

ADV CHASKALSON SC: Chair, we have been informed that there may be an application for a postponement, I do not know more than that.

ADV BHANA SC: Yes, Chair, thank you. We do require a stand-down to prepare an application for a postponement to inform you about the developments that have led to this, if I can just very briefly tell you this, but I do want to bring a formal application. At about 6 o'clock this morning, we received, my attorney received an email from the Commission's attorney, and the email read:

> "Our instructions are, early this morning, flowing from your client's evidence yesterday, an evidence leader was working through the Medicare 24 Tshwane accounts to identify inflows from SAPS in the period over which your client had site of transaction movements on that account. While looking at these inflows into the Medicare account, the evidence leader identified two additional payments to Medicare from your client,

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M.A

which your client has not disclosed. The payments were in an amount of 1 million on 27 June 2024, and an amount of 1.12 on 7 October 2024. Both payments were made from your client's company, Tasmica Construction. Copies of the relevant Medicare and Tasmica Construction bank statements are attached together with extracts from the spreadsheet of contras for the Medicare account which is provided by FNB. The evidence leaders intend to canvass these payments with your client this morning. If you require time to consult with your client in this regard, we will approach the Commission to arrange a later start to proceedings."

Chair, we all got here between 09:00 and 09:15. We have barely had an adequate opportunity to consult on this. But that said, what is provided to us are several bank statements and a spreadsheet which obviously the Commission had prepared well in advance of this morning at 6 o'clock.

Somebody had done this investigation. We have continuously complained of having documents kept back

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M.A

from us in drip fret, and this is yet another instalment in that. To give background to this, we wrote on the 7th of March and on the 8th of March, I will deal with the correspondence in detail in the postponement application, but essentially on the 7th of March, between those two letters, we asked the Commission, because we were being given things as we said, drip fed, we asked the Commission to please tell us all of the documents that they intended to use and rely on, and we said as reluctant as we were, this conduct of the Commission, obviously of the evidence leaders, was going to give rise to a postponement. That is but one aspect of it.

What also happened is you recall yesterday, you were told that there was one or two pages of documents, additional documents that were found, and our learned friends would not deal with that yesterday, but they would deal with that today. Well, we asked for the documents, they had been sent electronically, I think whilst we were on our way to the Commission yesterday.

It did not help anybody, certainly not us, when you look at the nature of the financial statements, and we asked for hard copies. At approximately 2 o'clock, one copy of this was made available after we had started. At 4 o'clock, we got sufficient copies for our team, and this is what we got. I am holding it up. It is a file full of hundreds of pages

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M.A

of spreadsheets and detailed analysis that had been done.

So we expected to have been sitting here dealing with Mr Suleiman's evidence yesterday, and I said to you, on the roof, expected to go through all of this. Clearly, one can just estimate literally hundreds of pages, and let me show you if you can see from where you are what they look like.

The documents look like this, intense line items of hundreds and hundreds, if not thousands of transactions. Now, it might be that the Commission says it is not intending to refer to all of those transactions, but we have simply not had an adequate or fair opportunity to deal with this. So I want to deal with all of this formally in an application, and I would like to stand down to bring that application. I think for current purposes, if we have until 12 o'clock, we should be able to get the application out.

CHAIRPERSON: Yes, Mr Chaskalson?

ADV CHASKALSON SC: Chair, there are two separate issues to address here. The first is the hundreds of pages that Mr Bhana is brandishing around, and the second is the bank statements for four months of Tasmica Construction in Medicare. Let me deal with the spreadsheet first. We will not refer to a single one of those pages. We have made that clear to Mr Carrim's team.

Why we gave it to them is that there is an

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infographic on page 505 of the bundle that they have had for some time. What we sent them electronically, and the infographics provides a summary of payments from municipalities in the area in respect of which Mr Carrim is the ANC treasurer, to companies owned by Mr Carrim. It gives a breakdown of where the 300, and I think it is R336 million or R332 million that these municipalities have paid to Mr Carrim, where it comes from.

The infographic provides a summary. We thought that Mr Carrim would want to know where we got the infographic from, so we gave him a spreadsheet with line items of every single transaction reflecting a payment from one of those municipalities to a company of Mr Carrim, with tabs broken up by company.

We made clear to him we are not going to refer to any of those line items. They are totalled, but if he wants to total them himself just to check that our numbers on the infographic are right, he can do that. If he wants to dispute any of those transactions, he can do that. He had that electronic spreadsheet, which is really the only sensible ...[intervenes].

CHAIRPERSON: And for how long has Mr Carrim had what you say is at page 505?

ADV CHASKALSON SC: 505 was served with the rest of the bundle on Friday. The electronic spreadsheet was

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emailed to him yesterday morning before the commencement of proceedings. It was always explained to him that we are not going to refer to any line items on the electronic spreadsheet. That leaves the bank statements for Tasmica and Medicare that were provided this morning, and the background to their discovery is the following.

Yesterday in evidence, Mr Carrim told us for the first time that he had had sight of Medicare bank statements over a period in 2024. This was material that should have been put in a statement, which in turn ought to have been furnished Friday, not last week, but the week before. It was not put in the statement, which was furnished five days late on Wednesday.

So, we hear this for the first time yesterday. Following from that, I was going through the Medicare bank statements at 5 o'clock this morning, looking to see what SAPS inflows were there, to interrogate the version of Mr Carrim in relation to the terms of his loan agreement and the idea that he was going to get 10% of all SAPS inflows, but he had waived all of that. I wanted to see how much money he had waived.

While I was looking for that purpose, I stumbled across the fact that there were two substantial payments from Tasmica Construction, another company of Mr Carrim, into Medicare 24, which he did not mention in his statement,

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and which I would like to ask him about because he certainly should have mentioned them in his statement. The one payment is a payment of 1 million on the 27th of June 2024. The second payment is a payment of 1.12 million on 7 October 2024.

There is no innocent explanation for just overlooking the fact that more than R2 000 000 beyond what you have disclosed also happened to be paid. The reason that these documents were made available to his legal team today and not earlier was, first of all, he filed his statement late. Second of all, in his statement he did not disclose these payments. Third of all, in his statement he did not disclose the fact that he had sight of the bank transactions on Medicare 24.

If he had honestly performed his obligations in any one of those three respects, they would have had these bank statements more than a week ago. So they cannot complain about getting them now. And the bank statements really reflect two payments which I have described on both sides.

If they want 45 minutes to take an instruction from Mr Carrim, if they want an hour to take an instruction from Mr Carrim, I can understand that. They need to understand what his version is, whether he was concealing them, whether there is an innocent explanation. But an hour is

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more than enough to do that.

They then make the allegation that the contra spreadsheet that we gave them just to show that not only do these numbers match, but in fact, they are shown by FNB to be the same transaction by virtue of the contras. They make the suggestion that we have had that document and withheld it from them. That is a very irresponsible suggestion.

What we receive from FNB when we get bank statements from FNB is a list of all the contras. So we have contras for the entire Medicare 24 account. Thousands and thousands of transactions. We do not search on that set of transactions for Tasmica Construction unless we have reason to search for Tasmica Construction.

This morning I had reason to search for Tasmica Construction. So I searched for Tasmica Construction and identified the two entries that were provided to them this morning. I then copied those two entries into a separate spreadsheet this morning sometime between 05:00 and 06:00 and gave it to them. Nothing has been withheld from them.

They received that spreadsheet within 15 minutes of its creation. They can look at the metadata of the spreadsheet. So in our view, they are entitled to a short stand-down to take instructions on the documents that they

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withheld from us and that we have now discovered or the information that they withheld from us and we have now discovered. They are certainly not entitled to a postponement. Thank you.

CHAIRPERSON: Thank you, Mr Chaskalson.

ADV BHANA SC: Chair, just to be clear, this is not the postponement application. This is a request for a stand-down to prepare the postponement application. The attitude adopted by the commission leaders is continuously to point fingers to Mr Carrim and his legal team when failings on the part of those evidence leaders are exposed. I am not going to deal again with the statement being late because that is factually incorrect.

But what we are entitled to do is to test what is in the infographic. As our learned friend himself accepts, the infographic is somebody else's creation of a summary. He appreciates that we needed the source documents, yet he put up the infographic as you point out as late as Friday afternoon and with these source documents only coming on Monday morning whilst we were driving to the commission or maybe slightly before.

So it is no satisfactory answer to say we will not rely on any one of these documents. You are relying on the infogram which is the reconstruction or summary of what is contained in here. We are entitled to check that. We are

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entitled to interrogate the infogram and we are entitled to interrogate the information that you rely on for that.

We foreshadowed this yesterday in an attempt to avoid a postponement, which we also alerted the Commission to in the correspondence over the weekend. We said we did not want to apply for a postponement, but if documents and information was going to be withheld, we would be forced to do so. At that stage we were writing about the transcripts pages. We did not know what else they had up their sleeve, but we said:

> "We confirm as a result of your failure to provide us with this information, we are compelled to advise that we may be left with no alternative but to seek a postponement to enable us to properly prepare our client on the supplementary bundle now provided."

That is the Friday bundle. Then, not satisfied that the Commission was playing open cards with us, we wrote on the Sunday and paragraph 6 of that letter and we will make all of this correspondence available in the postponement application:

> "In the circumstances, we require that you unequivocally confirm in writing the following:

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> 6.1. An itemised list of the exact documents upon which you intend to rely for the purpose of questioning our client.
>
> 6.2. Confirmation that no documents or information falling outside the scope of those identified documents will be relied upon for our client's appearance. That this correspondence together with the prior letters referred to will be placed before the Commissioners so that they are fully appraised of the circumstances in which this issue has arisen and the manner in which our client has been required to engage with the process."

Yesterday when we got here, I said to the Commission that we have got these documents, we have not looked through it. In an attempt not to delay, we suggested that we proceed and if we finished early, I said if we finished by 12 o'clock it might give us a chance to look at those documents. As matters turned out, we were here past 4 o'clock, got to Sandton at five, people had to go off to break the fast and for the evening prayers.

So we have not had a sufficient chance to look at this and it does not lie in my learned friend's mouth to say he is not going to refer to it. He has had this, he has

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produced it and it is the basis, as you appreciate Commissioner, that they produced, I think the document page is correct, 501 the infogram. 505, the infogram at 505.

In relation to the spreadsheet, we want our learned friends to go on oath to say the spreadsheet was produced only at past 5 o'clock this morning and we also wish to enquire about what other documents they have had and that they have looked at.

In relation to the issue of Tasmica, our learned friend in his finger pointing, which has become habitual here, suggests that this should have been covered in the statement. Well, we want to remind the evidence leaders of what was asked for in the 10(6) Notice of December, the one which superseded all other notices and in fact they said was the new notice. You will see in paragraph 2.3 we asked, or our client is asked to deal with the nature and extent of relationship with a number of entities, there is six of them. And when you look at that you will not find any mention of Tasmica. So we were hardly required to consider or take instructions on Tasmica.

But, Chair, we have attempted to get on with matters here. The Commission's drip feeding of documents which we have complained about has continued right until this morning. There is an overall interest of fairness that

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has to be applied here. Witnesses cannot be expected to deal with things on the roof or, in our respectful submission, for things to be withheld, whether willingly or unknowingly or unwittingly, and then for us to take instructions on the turn at a very difficult time when people are not readily available at night due to religious commitments and then to say, well, you can have an hour and just deal with this. It is not the way matters should be conducted. This is highly prejudicial to us and we do wish to bring a formal application.

CHAIRPERSON: Thank you.

ADV CHASKALSON SC: Chair, if I can respond just on two issues? I am asked to depose to an affidavit confirming that I ...[intervenes].

CHAIRPERSON: Mr Bhana will have the last ...[intervenes].

ADV CHASKALSON SC: He can have the last, indeed, Chair.

CHAIRPERSON: Yes, yes.

ADV CHASKALSON SC: I have been asked to depose to an affidavit saying that I created the spreadsheet between 05:00 and 06:00 this morning. I confirmed that I created the spreadsheet between 05:00 and 06:00 this morning and that two-line spreadsheet did not exist prior to 05:00 and 06:00, between 05:00 and 06:00 this morning.

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The answer of Mr Bhana is, if Mr Bhana wants to spend two days ploughing through various line items, his client can – I will not touch that issue today and his client can come back on Friday. I am not prepared to make the same tender in respect of the bank statements because they infect all of the questioning and there is, with respect, no reason why we should waste today because those bank statements and those payments were not disclosed.

The client was – the witness was specifically asked to furnish a statement on the nature and extent of his relationship with Medicare 24 Tshwane District. He declined to mention that one of his companies paid over R2 000 000 to Medicare Tshwane District. That should have been in the statement on any scenario.

So we are here today with this problem because the witness did not disclose payments aggregating to 2.12 million into Medicare Tshwane District when he was specifically instructed to furnish a statement about the nature and extent of his relationship with Medicare Tshwane District.

I accept that the witness now and his legal team now need time to consult, but they do not need time. They do not need days to consult. They can stand down, consult for a reasonable period, maybe an hour, and then we are ready to run. We oppose the suggestion that the matter

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should be stood down for a postponement application. If it stands down to 12 o'clock for a postponement application, the process itself achieves the postponement.

CHAIRPERSON: Please remind me again which aspect do you say may be pushed to Friday?

ADV CHASKALSON SC: The infographic and all of the underlying transactions, if they want to interrogate several thousand transactions, they can do so over the rest of the week, but they do not need the rest of the week to get a version on why payments of 2.12 million from Tasmica to Medicare were not disclosed in the statement and what those payments related to.

CHAIRPERSON: Thank you, Mr Chaskalson. Any response?

ADV BHANA SC: Yes. Thank you, Chair. Firstly, our learned friend concedes that the documents given this morning infect all of the questions. That alone should show how significant they are and why we should not be just given an hour to look at the documents and to deal with them.

But secondly, in relation to the point he keeps making, and loosely without referring to what the Commission actually required, the suggestion that because there was a request to deal with the relationship with Medicare, this should have been disclosed. What was not

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asked for in the statement is for any of these companies to deal with their relationship with Medicare, let alone Tasmica, who does not even feature on the 10(6) Notice.

The notice at the relevant paragraphs asks Mr Suleiman Carrim personally to provide a statement and it says the nature of your relationship with Mr Cat Matlala, Senzo Mchunu, and General Feroz Khan, the role you performed for Mr Matlala, and then 2.3, the nature and extent of your relationship with the following individuals. There is no mention here of dealings of his many companies with anyone, let alone with Medicare.

ADV BALOYI SC: Can I ask a question, Mr Bhana, on that last point? If you take that attitude that there is no mention of explaining the relationship of his companies with Medicare, why does he tell us about the Ziggy R10 000 000 payment? Because that is a payment from a company that he is happy to disclose voluntarily.

ADV BHANA SC: Yes.

ADV BALOYI SC: He disclosed it, and please make me understand why does he not think, or why you think that a disclosure about this later payment now does not fall in the same category?

ADV BHANA SC: There are two answers to that, but something else I am going to make in submission. Firstly, when he deals with Ziggy, Ziggy is specifically mentioned in

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the 10(6) notice. But secondly, the fact that he might have been explaining some of these things, dealt with some of the companies, let us assume Ziggy was not there, does not mean therefore I am dealing just with a point to say you should have gone and investigated and disclosed in your statement Tasmica, the culpability point. I am saying there is no culpability here for him not dealing with Tasmica.

ADV BALOYI SC: We are a commission of inquiry, which is fact-finding. We want to know when, I think it does not sit well for a witness, by the way, a witness of the Commission, everyone who is, unless you have a different understanding of the people that are appearing before us here, they are all called by the Commission to come and testify, and Mr Carrim is no different.

For me, that is my starting point, and I hope we have a common understanding about that. And when they are called and they are asked questions or they are asked to address issues, the expectation is they will not be technical, they will not rely on, I will not say that the Commission does not know. They have asked me to come and explain my relationship with Medicare.

If he speaks to Ziggy, clearly, even if the notice from the Commission mentions Ziggy, it is clear from that I would have thought that the Commission is interested in the entities that he has got, his personal relationship and his

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entities. And if he intended to be open with the Commission, I would have expected that he would speak to all the entities, including ones that are not mentioned in that notice, because he accepts that he is being called to come and assist us to determine the facts.

ADV BHANA SC: No, there is a false basis of what you are putting to me, a false premise. The witness is guided by what he is required to deal with in the summons and in the notice ...[intervenes].

ADV BALOYI SC: And now he is here ...[intervenes].

ADV BHANA SC: And not ...[intervenes].

ADV BALOYI SC: Okay, and now he is here ...[intervenes].

ADV BHANA SC: Can I finish ...[intervenes].

ADV BALOYI SC: Okay, let me just clarify myself so that when you finish your story, you can address what I am wanting to clarify, because you are doing this for my benefit, not for your benefit. It is to help me understand what it is we are dealing with here.

The witness is called here to come and assist us in our fact-gathering process. A company is mentioned because that is what we know, what the evidence leaders have found a company through whatever investigative processes. The witness knows something else that relates to the very same question, the relationship with Medicare. He knows something else, and he chooses to hold it back.

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That, to me, is not a witness who is coming to assist the Commission. It is catch me if you can, kind of, when in fact the interest of the Commission is to find out what are the facts that this witness knows or that he has in his possession about the relationship with Medicare.

ADV BHANA SC: Yes. The witness is not going to take a technical attitude to say I am not going to testify to this. What we are discussing is why issues were not in the statement. Now, you may take that position, and that is your view, that the witness was obliged to deal with matters not stipulated in the notice or the summons. My submission to you is that that is an incorrect view.

But be that as it may, it is unfair for you to make the judgment now that he chose to hold back documents when his attention was not directed to that. These are transactions that go back several years. This is a witness who deals in companies that have many transactions. So the premise to say he had a duty, even though there is no mention of Tasmica there, to deal with Tasmica and the fact that he does not, that you can put to me that he chose to hold this back is simply incorrect.

But all of this goes to no more than the criticism to say it should have been in the statement. We say that is an unfair criticism. Our learned friend can ask the questions. We are not taking a technical attitude that because it was

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not there, you are not entitled to ask the questions. But I do that to neutralise the criticism that this had to be dealt with in the statement, and that criticism is simply an excuse for the Commission having produced this at a late stage. Those are my submissions.

CHAIRPERSON: Mr Bhana, my colleague, Commissioner Baloyi, came in when I also wanted to come in and also to raise a similar point. Mr Carrim himself seems to treat his companies basically either as the same entity as it were. I know you are going to raise the legal point that they simply cannot be, but look at who was supposed to loan the money. It was Ziggy, but I think the money did not come from Ziggy.

Yes, some of it came from Tameez. And also I think the payment back, was it not to Tameez as well? Even the payment was not to Ziggy but to Tameez. So he himself is treating his companies in sort of a jumble as it were. So it seems highly technical, as Commissioner Baloyi suggests, for Mr Carrim to now adopt through you this technical legal position that no, no, no, we are dealing with separate legal entities.

Tameez is separate from Ziggy, Ziggy is separate from Tameez, and Tameez, or rather both of them are separate from Tasmica. That to me in the circumstances of what has been happening here is, I feel, subject to what you say is highly, highly technical.

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ADV BHANA SC: Chair, we are not suggesting, and I take your point that he has not always kept the distinctions clear. All we are suggesting is that the criticism that he deliberately withheld information from his statement is not one that can be made. And if that is going to be advanced, and particularly listening to the debate with the Commissioners, it is all the more reason why we need time to deal with this carefully and properly.

Because you are going to draw inferences, we can see that happening already, from aspects which we say you should not. But the point I am making is this, we do not suggest that he is not entitled to be questioned. Your point is correct that he does not always keep a strict distinction, but the submission goes to the criticism that somehow all of these entities that are not mentioned in the statement, I say all, but what applies in respect of Tasmica would apply to his other entities, somehow created an obligation on him to deal with whatever was done internally or otherwise, we do not know, between those companies and himself or Ziggy.

CHAIRPERSON: That is something else altogether, I do not know if Commissioner Khumalo wanted to come in on the same issue. Something different altogether. What is your position with regard to the separation suggested by Mr Chaskalson? That is issues relating to, is it the infographic, and the schedule. If those are pushed over to Friday and

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that everything else be dealt with today still ...[intervenes].

ADV BHANA SC: Chair, firstly, we are not available on Friday. I am in the High Court on the matter and I have not canvassed my legal team's availability, but Mr Carrim has me here representing him for this leg. So I am not available on Friday, but we are happy to agree a date as soon as possible that suits diaries.

We say there is no prejudice in holding over all of this to when Mr Carrim comes back. It is clear his evidence cannot be completed today. It is clear that with a stand-down, we in any case are going to eat up into a substantial portion of today. My learned friend suggests a 45 minute or a one hour stand-down. It is not in his mouth to suggest that. I do not know how long I am going to need, but I am going to do this carefully and I am going to take proper time to do so.

CHAIRPERSON: If we are not inclined to adjourn so that you should prepare a postponement application, if our inclination is to give you time to consult, what time would you suggest? Mr Chaskalson has suggested 45 minutes to an hour. What would you suggest?

ADV BHANA SC: Chair, I think at least two hours and I will come back to you if I need more time. But I do want to say it seems then that you have prejudged an application ...[intervenes].

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COURT: Mr Bhana, I take strong exception to that. You know, and you are an experienced counsel, you know that people presiding, let me use the example of courts, you know that judges will engage you during argument, engage you to an extent that you will think they are against you, but in the end, you are surprised that the judgement is in your favour. Engaging counsel has nothing to do with matters being prejudged and you know that. I take very strong exception to that.

ADV BHANA SC: I do not ...[intervenes].

CHAIRPERSON: In fact, I find it unprofessional for you to say that I have prejudged issues purely because I am engaging you. I take strong exception to that.

ADV BHANA SC: I do not think that you should take exception and ...[intervenes].

CHAIRPERSON: I do, I do.

ADV BHANA SC: Can I respond, Chair? What you put to me was that you were not going to allow an opportunity for the postponement application ...[intervenes].

CHAIRPERSON: I did not. I did not say I am not. I never said so. We can play back the tape, we can play back the recording ...[intervenes].

ADV BHANA SC: Then I was mistaken.

CHAIRPERSON: So that is – I can actually, to be rough, I can say you are lying.

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ADV BHANA SC: No, then I was mistaken. I understood you to say that you were not prepared to allow a stand-down for the postponement application to be brought, but you were ready to consider the stand-down to deal with the documents. If I was mistaken in that, then I am mistaken, but that is clearly how I understood it.

CHAIRPERSON: You are, you definitely are. I did not. It was an if situation, which arises all the time during an argument.

ADV BHANA SC: Then I accept that.

CHAIRPERSON: Thank you. And you apologise for what you said, because you basically suggested impropriety on my part, that I have prejudged issues whilst the matter is being debated. Are you tendering an apology for that?

ADV BHANA SC: Yes, if I misunderstood it, then I tender an apology. But as you say, the record will indicate, and my recollection is that you said if you are not ...[intervenes].

CHAIRPERSON: So you are tendering a qualified apology, a conditional apology?

ADV BHANA SC: Chair, if I am mistaken ...[intervenes].

CHAIRPERSON: You are tendering a ...[intervenes].

ADV BHANA SC: I apologise, but that is not what I heard.

CHAIRPERSON: You are saying if the recording can, what, what, so you are tendering a conditional apology ...[intervenes].

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ADV BHANA SC: [Indistinct]... put to me as well that the recording will reflect what happens. What is good for you is good for me.

CHAIRPERSON: So I am not accepting the so-called apology. Thank you very much. Any further submissions?

ADV BHANA SC: No, I did say if I misunderstood, I apologise ...[intervenes].

CHAIRPERSON: I am saying I am not – let us step off that. I am saying I am not accepting it, so let us step off that. Any further submissions?

ADV BHANA SC: No further submissions.

CHAIRPERSON: Thank you very much. We will take a short adjournment. We will indicate when we are ready.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Mr Bhana?

ADV BHANA SC: Thank you, Chair. May I just say the apology is unconditional. I did not hear the "if" when you made the statement, and what you correctly pointed out is you said if we are not inclined to adjourn and I understood that you said you were not inclined to adjourn. So the apology is unconditional.

CHAIRPERSON: Now the apology is accepted, Mr Bhana.

ADV BHANA SC: Thank you, Chair.

CHAIRPERSON: Thank you. We have considered what

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you submitted, Mr Bhana, and also the responses by Mr Chaskalson. Our decision is to afford you and your team an opportunity to consult with Mr Carrim. At this stage, not necessarily on the aspect relating to the infographic, and what is it, or rather and the documents you showed us earlier this morning.

So that will have to stand over to some other day. And seeing that you said you are not available on Friday, then dates will have to be discussed between you and Mr Chaskalson with regard to that outstanding issue. As for the rest, the decision is to give you time until 11:45 to consult with Mr Carrim. At 11:45, we proceed with the hearing. Let us adjourn until 11:45.

ADV BHANA SC: Chair?

CHAIRPERSON: Yes?

ADV BHANA SC: Just for clarity so we do not misunderstand, is the direction that you are going to proceed with him and we are not entitled to bring an application for a postponement?

CHAIRPERSON: Yes, that is the effect of it, yes. Let us adjourn until 11:45.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Mr Bhana, can we start? I assume you are ready?

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ADV BHANA SC: Yes, sir.

CHAIRPERSON: Thank you, thank you. Mr Chaskalson.

ADV CHASKALSON SC: Chair, just before we start, we asked at the end of the hearing yesterday for a series of documents from Mr Carrim. The one was a two-page agreement with Mr Maumela in relation to the mining venture. The one was a draft agreement that Ziggy had with Medicare 24. Then there were the details of the accounts and to instruct that Mr Matlala should pay Tameez not Ziggy. And lastly, we wanted to hear back from him after he consulted with his attorneys in relation to accessing his WhatsApp's from 2024-2025 with Mr Mogotsi and Mr Matlala. I wonder if we can just get a response on the record from his legal team in that regard.

CHAIRPERSON: Mr Bhana.

ADV BHANA SC: I think we can just ask, you can just go through it with a witness, and you will hear it from him first hand.

ADV CHASKALSON SC: Sorry, if we can go through the ...[intervenes]

ADV BHANA SC: Yes, he has not been able to get the two agreements. He needs to go to Mafikeng. He will tell you the name of the accountant. I have forgotten the name. And he will also tell you the position with his messages.

ADV CHASKALSON SC: Thanks, Mr Carrim. Can we take

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them one by one, and can you just explain to me what the position is? The first is the draft agreement with Medicare 24.

MR CARRIM: It is two documents. We can deal with the two.

ADV CHASKALSON SC: Okay, Medicare 24 and ...[intervenes]

MR CARRIM: Those documents are Mafikeng. At the moment my offices are closed because of the threats. So, I have those documents. Once those threats just subside, my office is working remotely now. My people are working remotely. But those documents will be made available as soon as I get to Mafikeng. As soon as it just comes on. Maybe the next week we can have it.

ADV CHASKALSON SC: Thank you. So that is both the Maumela agreement relating to ChromeCore and the draft agreement with Medicare 24.

MR CARRIM: Yes.

ADV CHASKALSON SC: Then the accountant who advised you in relation to payments from Mr Matlala.

MR CARRIM: My legal team will send an email to the instructing attorneys with the email address and the contact details. You can just send your request there.

ADV CHASKALSON SC: Thank you very much. And then lastly the issue of WhatsApp's with Mr Mogotsi and Mr

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Maumela in 2024 and 2025.

MR CARRIM: I have checked my iCloud. I do not do backups. I do not have any chats on my current cell phone from then.

ADV CHASKALSON SC: So, your WhatsApp's for that period are not available?

MR CARRIM: I do not have backups. So, they do not backup and I changed my phone.

ADV CHASKALSON SC: And would you give us your authority to approach Apple so that Apple can search on their backups?

MR CARRIM: I will speak to my legal team about that, and they will refer it to you.

ADV CHASKALSON SC: Thank you. When we left off yesterday, we were dealing with the payments to Mr Maumela or to Luthaga for Mr Maumela that were made by Tameez from the proceeds of payments from Medicare. Now at the time that you entered, I want to stay with the issue of Mr Maumela for a while. At the time that you started this business relationship with Mr Matlala, I assume that you were aware that Mr Maumela had been a business associate of Mr Matlala.

MR CARRIM: At that point he did not disclose that to me.

ADV CHASKALSON SC: No, but you had read articles. We discussed earlier that from, I think it was April 2024,

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you had read articles about allegations in relation to Mr Maumela and Mr Matlala at Tembisa Hospital.

MR CARRIM: Yes, we never discussed those relations. He never brought Mr Matlala up to me.

ADV CHASKALSON SC: Yes, but I am asking were you aware that there was a business relationship between the two of them?

MR CARRIM: At that point I saw articles but there was no direct link between them.

ADV CHASKALSON SC: I see, so all you knew is what you had read in the press about them.

MR CARRIM: That is correct.

ADV CHASKALSON SC: Did you at any other stage find out about business relationships between Mr Matlala and Mr Maumela?

MR CARRIM: When I concluded the agreement or when we had the handshake or the verbal agreement with Mr Matlala in June, around August, I then asked Mr Maumela, look you have never raised Mr Matlala with me. Are you and Mr Matlala associates? What is the issue? He then said to me, yes, we are. So, I asked him, but you never told me this. He said, yes, look, I do not think it was important for you to have met this man through me. And that was his stance. He said, look, I did not want to introduce you to Mr Matlala. I said, why? He just said, no, I did not want to

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introduce you to Mr Matlala.

ADV CHASKALSON SC: At a certain point, Mr Matlala must have established that you and Mr Maumela knew each other.

MR CARRIM: Not that he told me of, unless Mr Maumela discussed it with him.

ADV CHASKALSON SC: Well, your Morgan Sorted email suggests that he knows that you know who Morgan is.

MR CARRIM: Yes, remember he then said, I must make a payment to Morgan Maumela.

ADV CHASKALSON SC: And at that point, did he not know that you knew Mr Maumela?

MR CARRIM: Well, he also played to me as if he did not know that me and Mr Maumela are friends.

ADV CHASKALSON SC: So, from your perspective, someone was asking you to make a payment to a third party who, as far as you were aware, they regarded as a complete stranger to you. So, when you were asked to pay Mr Maumela, Mr Matlala did not give any indication that he knew that you and Mr Maumela were friends?

MR CARRIM: No. Between the two of them, and I observed this, they did not raise how deep their relationship was to me. They did not.

ADV CHASKALSON SC: But Mr Maumela was also calling you at the same time and pressurising you to get Mr Matlala

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to pay him. What was he saying in that regard?

MR CARRIM: No, he said he is asked this man to give him money. So, this man is to pay him this money. He is aware that this man is going to pay me and I should then please give him the money once I receive it.

ADV CHASKALSON SC: So, by this stage, this is after August 2024, it is well after August 2024, February 2025. So, by this stage, you have discussed with Mr Maumela that you are now in business with Mr Matlala. And he said, well, I did not think it was important for me to introduce you, did not want to introduce you to him. But he now in February starts calling you and saying, Mr Matlala is going to pay you, you must pay me. Is that what happened?

MR CARRIM: They had an arrangement. Mr Matlala, he asked to borrow money from Mr Matlala. I do not know what it was exactly. But according to him, Mr Matlala needed to pay him. Either money is owed or money is borrowed. I just cannot remember what it was, but yes.

ADV CHASKALSON SC: So, you cannot remember whether this was money that was being borrowed or money that was being paid out as an amount due to Mr Maumela?

MR CARRIM: Yes, I cannot remember.

ADV CHASKALSON SC: Can I take you to some other chats in relation to yourself, Mr Matlala and Mr Maumela. Do you recall in January 2025, there was an exchange

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between you and Mr Maumela, sorry, and Mr Matlala, in which he asked you to check how far payment was.

MR CARRIM: Can we go to that document?

ADV CHASKALSON SC: Yes, we can. The document is on page 4.

MR CARRIM: Page 4 of? Okay.

ADV CHASKALSON SC: Part 1, the evidence bundle.

MR CARRIM: Yes.

ADV CHASKALSON SC: And we went through this yesterday. You get called on the 30th of January by Mr Matlala:

> "Salaam brother, can you please check with your guys how far is the payment?"

You come back saying:

> "Checking."

He says - and you say:

> "Will revert."

He says:

> "Okay, thanks."

Next morning, you say:

> "Morning, they say payment is done. I am waiting for the remittance."

If we go at this point to page 538, that is File 2.

MR CARRIM: Sorry, I am just trying to do that once again.

ADV CHASKALSON SC: No problem.

MR CARRIM: 5?

ADV CHASKALSON SC: 538.

MR CARRIM: I am at 414 of 407.

ADV CHASKALSON SC: Does your file not go to 538? File 2? Possibly in a supplementary file?

MR CARRIM: Yes.

ADV CHASKALSON SC: So at 538, we see that on the same day, the 31st of January, after you have said I am waiting for the remittance, and in fact, after Mr Matlala has responded, okay, I will be waiting, and has asked you, you are winning with the remittance, which was at 15:15 on the 31st of January. A minute later, he sends a screenshot of that chat to Mr Maumela. You see that?

MR CARRIM: Yes, I see that.

ADV CHASKALSON SC: This is his chat with Mr Maumela.

MR CARRIM: Yes.

ADV CHASKALSON SC: And the date is the 31st, and the time is 15:16:10. So, he is copying his chat with you to Mr Maumela.

MR CARRIM: I have no idea why he would do that.

ADV CHASKALSON SC: Well, let us go further. If we go back to page 5, you see 40 seconds after he sent the screenshot to Mr Maumela, which ends with you winning the remittance, you are winning with the remittance, you responded, not yet. He sent that screenshot at 15:16:10.

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You respond at 15:16:52, 42 seconds later, and then you say:

> "The lady insists this paid. I am just waiting for some proof."

We go back to 05:39, and we see that after you have answered his question, you are winning with the remittance, and you have said, not yet, the lady insists this paid. I am just waiting for some proof. He emails that chat to Mr Maumela. So, he is now emailed to Mr Maumela an updated version of his chat with you.

MR CARRIM: He mailed or ...[intervenes]

ADV CHASKALSON SC: Sorry, WhatsApp.

MR CARRIM: WhatsApp.

ADV CHASKALSON SC: And straight after WhatsApp-ing to Mr Maumela at 15:29:23, we go back to 5, he says at 15:29:46, he says to you:

> "Okay, we will see when it appears in the account."

MR CARRIM: Yes.

ADV CHASKALSON SC: So, he is having a conversation with you, and he is essentially copying that conversation as it develops to Mr Maumela.

MR CARRIM: I see that, yes.

ADV CHASKALSON SC: And you have no idea why he would be here.

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MR CARRIM: I have no idea. It is the first time I am seeing this. I do not know why I would take my chats and pass them over to Mr Maumela.

ADV CHASKALSON SC: I see. Let us look at a second instance of this. Can we go to page 11? And there we see at the top of page 11 on the 18th of March, at 10:22 and 10:23 there are calls from Mr Matlala to you, and at 10;40, you respond saying:

"Salaam, I will call you at 12."

And he immediately responds to you at 10:41, saying:

"WLKMSLM."

Which I understand to be Wa-Alaikum-Salaam.

MR CARRIM: Yes.

ADV CHASKALSON SC: If we then go to 05:44, we see that as soon as he has said Wa-Alaikum-Salaam to you, he again WhatsApp's a screenshot of that chat, which just shows two empty voice calls, Salaam, I will call you at 12, Wa-Alaikum-Salaam to Mr Maumela. And if we go down, we see at 10:41:43 there is an immediate response from Mr Maumela he calls Mr Matlala back. You see that?

MR CARRIM: Yes.

ADV CHASKALSON SC: And do you have any idea of what you were discussing on 18 March 2025 that may have been of such importance that Mr Maumela wanted to screenshot that exchange, sorry, Mr Matlala wanted to screenshot that

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exchange to Mr Maumela, and Mr Maumela immediately responded to the screenshot of what just says voice call, voice call, Salaam, I will call you at 12. He immediately responded. Any recollection of what you would have been talking about on 18 March?

MR CARRIM: No, I do not know why he was sending Mr Maumela my screenshots. I cannot recall of anything important that we were discussing with Mr Matlala.

ADV CHASKALSON SC: Let me try to jog your memory. If you go to 05:43, you will see that almost immediately after your voice calls with Mr Matlala, which were at 10:22, those voice calls that we just saw on the screenshot, a series of visitor codes to Zimbali Estate, well, let us go, were WhatsApp'd from Mr Maumela to Mr Matlala. That help you remember anything?

MR CARRIM: No, I do not know why he was sending them to Zimbali. At this point, I was not even in Zimbali.

ADV CHASKALSON SC: You were not in Zimbali?

MR CARRIM: Yes, yes, but I do not know why he was sending these.

ADV CHASKALSON SC: No, he was not sending them to you.

MR CARRIM: Yes, he was sending them to, yes.

ADV CHASKALSON SC: So, Mr Maumela sends them to Mr Matlala.

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MR CARRIM: Agreed, but I have no idea why these were sent.

ADV CHASKALSON SC: Okay. Well, the evidence will be that one of these entrance codes that Mr Maumela sent to Mr Matlala immediately before that, those calls, those voice calls to you that were then screenshot and WhatsApp'd to Mr Maumela, one of those entrance codes was forwarded by Mr Matlala to General Cele and was then used by General Cele to enter the Zimbali Estate. So, at 10:41, when Mr Matlala WhatsApp'd Mr Maumela your exchanges, saying that you would call at 12, it seems that they knew that Mr Matlala was likely to be meeting with General Cele at the time. Was any of this discussed with you?

MR CARRIM: No, nothing. I know nothing about this, any meetings. I knew nothing about this, not at all.

ADV CHASKALSON SC: You did not know about that?

MR CARRIM: Not at all.

ADV CHASKALSON SC: And in due course, you did call back at 12:28. We see that at 11. Go back to page 11.

MR CARRIM: Yes.

ADV CHASKALSON SC: And you have no recollection of what transpired in that call?

MR CARRIM: I cannot recall what we were talking about.

ADV CHASKALSON SC: And no one mentioned anything about General Cele to you?

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MR CARRIM: I knew nothing about this meeting.

ADV CHASKALSON SC: But what it does appear is that Mr Maumela and Mr Matlala knew that Mr Matlala would be meeting with General Cele at the time that you were likely to call. And they did not seem to make any attempt to stop your call. Have any comment on that?

MR CARRIM: Yes, but it was definitely, definitely not related to General Cele. I did not know about this meeting.

ADV CHASKALSON SC: You did not know about that?

MR CARRIM: No, I did not know about this meeting.

ADV CHASKALSON SC: Let us go to another issue in relation to Mr Maumela. In your witness statement at page 5, paragraph 47, you talk about that interdict.

ADV BALOYI SC: What paragraph?

ADV CHASKALSON SC: Paragraph 47, page 9 of the witness statement.

CHAIRPERSON: You said 5.

ADV CHASKALSON SC: I apologise I apologise. Page 9.

MR CARRIM: Page?

ADV CHASKALSON SC: Page 9.

MR CARRIM: Paragraph 1.

ADV CHASKALSON SC: Of the witness statement part.

CHAIRPERSON: Sorry, sorry, Mr Chaskalson. I see from the heading it is a totally different subject. May I just ask two or so questions around the issue of the payment. Mr

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Carrim, you will remember that yesterday I asked you and I think Commissioner Baloyi also asked you questions along the same lines. I asked you as to why Mr Matlala had not paid directly to Mr Maumela. And I think you did not really have an explanation for that. Am I correct?

MR CARRIM: No, I did counsel.

CHAIRPERSON: You did. All right. What was the explanation?

MR CARRIM: No, I said he insisted and I said to him on numerous occasions, you can do it yourself. You can pay this money.

CHAIRPERSON: Yes.

MR CARRIM: Why do you want me to pay this money? He said, look, you need to help me. You need to pay this money. I am under pressure. I need to pay him this money. And that was the explanation that he gave me.

CHAIRPERSON: That is not really an explanation. That is just an insistence that you must do it instead of him. So, it does not really explain why you and not him. So, I guess that is why I was saying and you did not really have an explanation.

MR CARRIM: Yes.

CHAIRPERSON: Yes. Now, it seems to me that this gets complicated in the sense that Mr Maumela, I will paraphrase, of course, I will not use the exact words that

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you use. You said something like Mr Maumela said to you this man had to pay him and that you must pay him after you have been paid. Am I correct? Is my paraphrase correct?

MR CARRIM: No, I am saying the arrangement was between them. And once Mr Matlala ...[intervenes]

CHAIRPERSON: I am talking about – am I correct that there was communication between you and Mr Maumela in relation to the payment? Am I correct?

MR CARRIM: Before that, him and Mr Matlala were discussing the payment.

CHAIRPERSON: But now I am talking about ...[intervenes]

MR CARRIM: Me and Mr Maumela, yes.

CHAIRPERSON: Yes, and as I say, I mean, I took cryptic notes. But what I captured was you said something like this man, this man being Mr Matlala must pay him, must pay Mr Maumela. And also, that once you have received payment from Mr Matlala, you must then pay Mr Maumela. Am I correct?

MR CARRIM: Correct.

CHAIRPERSON: Yes, so, I am saying this, in a sense, gets complicated in addition to the questions I asked yesterday. I am wondering in my mind, Mr Maumela already knows that he is going to be paid out of monies that have been paid to you. And I am wondering, why is he not saying

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to Mr Matlala, pay me? And did you ask, why must it be these secateurs? Why must it, instead of the direct payment, let me, as Mr Carrim, just get my money. And that is it. I have nothing to do with you. Get your money directly from Mr Matlala. Do you have any idea why it had to be secateurs?

MR CARRIM: Like I said, Commissioner, I kept on saying to them.

CHAIRPERSON: Now, no, no, no. I am addressing between you and Mr Maumela now.

MR CARRIM: Yes, it had to go. I agree that rightfully, Mr Matlala had to pay him. But like I said, they put me under pressure for me to have paid him. And I think I did not refer to a document yesterday. If I can just take you to this document on the messages. So, he wanted me to pay him. And at the same time, you can just go to the messages.

ADV CHASKALSON SC: Which page?

MR CARRIM: When he called me to make this payment, he then called me and said, look, I have got more invoices ...[intervenes]

CHAIRPERSON: You are talking Mr Matlala?

MR CARRIM: Yes, Mr Matlala. So, in order for him to make me or to force me to pay, he said to me, there is another R13 million going to be paid. So please, if you can pay this, and I will see you good on the next payment.

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Because at that point, I was still asking, why do not you pay directly? You cannot pay directly. He said, no, you must pay him. Please help me pay him.

CHAIRPERSON: It would have been much, much easier and quicker for Mr Matlala to pay directly to Mr Maumela. I am sure you would agree.

MR CARRIM: Yes, I agree.

CHAIRPERSON: Yes, yes. And did you ask Mr Maumela why the payment had to be secateurs?

MR CARRIM: According to him, he said that was the instructions from Mr Matlala that the payment will come via me.

CHAIRPERSON: But did you ask Mr Maumela?

MR CARRIM: Yes, I asked him, why do not you ask Mr Matlala ...[intervenes]

CHAIRPERSON: To pay you?

MR CARRIM: Yes, to pay you. Why is he paying me? He said, no, Mr Matlala said, you are going to make the payment. So that is why I am calling you. Please, when you receive this money, make my payment.

CHAIRPERSON: But that does not answer the question, but why me instead of directly? Did you answer it?

MR CARRIM: I have asked him. Like I have said, I have asked Mr Maumela.

CHAIRPERSON: You see, the thing is, being told that Mr

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Matlala said he will pay you and you will pay me does not answer the question, but why is the payment not direct? Do you get what I mean?

MR CARRIM: Yes.

CHAIRPERSON: Did you ask why is the payment not direct?

MR CARRIM: I did ask. I just did not get a response from Mr Matlala was just insistent. He would just be insistent. He would say, please, you just have to do this. He would not even give a reason. And I asked him, you can make this payment directly. You do not need me to pay him. Why must I pay him? And he gave Mr Maumela the same story and said, just call Carrim and tell Carrim to make the payment.

CHAIRPERSON: So, you basically have no explanation from Mr Matlala. You also have no explanation from Mr Maumela. Did you not become suspicious of all this?

MR CARRIM: No, Mr Matlala's explanation, like I said, he either owed, I cannot remember correctly, either owed or loaned something to that effect.

CHAIRPERSON: Earlier I asked you and what you said was not really an explanation. And I said to you in so many ways when we commenced with this debate, I said, but that was not an explanation.

MR CARRIM: Yes, he did not give me an explanation.

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CHAIRPERSON: So, my question then is, you have no explanation from Mr Matlala. You have no explanation from Mr Maumela. Did you not become suspicious about this secateurs mode of payment and why it had to be so?

MR CARRIM: Yes, I did. But like I said, on Mr Matlala's instructions, there was more money to come. So, I did not want to upset him so that I do not get money on the next payment.

CHAIRPERSON: So, you say you did have a suspicion. What was that suspicion?

MR CARRIM: No, the suspicion was that why would he not pay directly? Why would he want to pay me?

CHAIRPERSON: What was the nature of the suspicion that you had? What did you suspect?

MR CARRIM: No, I just suspected between the two of them, why were they using me? They could have just dealt directly. And then Mr Matlala then says to me, look, there is another payment coming in of 13 million. I will see you good there. So please just do this for me. And when the next payment comes in, I will sort you out.

CHAIRPERSON: And then despite that suspicion, you just went ahead and paid as requested by Mr Matlala.

MR CARRIM: Correct.

CHAIRPERSON: Thank you. Thank you. Thank you.

ADV CHASKALSON SC: You were referring to the chats.

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Are you referring to the chats of the Morgan Sorted payment, which are on page 7?

MR CARRIM: No, no, no. Can we just go back to your question? We were busy with the chats.

ADV CHASKALSON SC: No, no. I am just following up on the question the Chair's asked you at this stage and your answer to the Chair. So, you said at the start of your answer you wanted to refer to the chats, and you talked about a call that you had with Mr Matlala. And if I understood your evidence correctly, that was the call when Mr Matlala said just do this and now there is more money coming. I will pay you out of the next payment.

MR CARRIM: Yes, I was going back to the issues of, I think was it the chats between Morgan and between Mr Maumela and Mr Matlala?

ADV CHASKALSON SC: Which chats? There was the chat in relation to invoicing at the end of January. And then there was the chat that happened to be on the same day that Mr Matlala met General Cele at Mr Maumela's house in Zimbali. Which of those chats were you referring to?

MR CARRIM: I wanted to go back to where Mr Matlala then sends me a payment screenshot on the 7th of March.

ADV KHUMALO SC: Sorry, look at page 6. Is that the screenshot you are looking for? The one that shows the payments that I went to reflect on the phone?

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MR CARRIM: No, I was going to the one of the 7th of March on page 8.

ADV CHASKALSON SC: Yes.

MR CARRIM: Where he mentioned to me that these payments are coming and then he then sends me the screenshot of these payments coming.

ADV CHASKALSON SC: I just did not understand your reference.

MR CARRIM: I was just trying to say that the reason I made that payment was because he tangled this in front of me and said, here is more money coming, make this payment for me.

ADV CHASKALSON SC: Which payment are we talking about now?

MR CARRIM: I am talking about when we go back to the 5th of Feb.

ADV CHASKALSON SC: Yes.

MR CARRIM: That is the first payment.

ADV CHASKALSON SC: Yes, but that screenshot is sent to you on the 7th of March sometime after you paid R500 000 to Mr Maumela.

MR CARRIM: Yes, but I am saying he knew about this payment then already. So, he called me about this payment of 13 million and said there is a payment of 13 million coming and I was like, can you send me something? And as

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time went on, I said to him, you said I must pay Mr Maumela and there is money coming. You have to reimburse my money. That is when he sent me this screenshot to try and convince me in March that money is coming.

ADV CHASKALSON SC: But then after you have seen that screenshot, he asks you to pay more to Mr Maumela.

MR CARRIM: Yes, another 250.

ADV CHASKALSON SC: Yes, and you do.

MR CARRIM: Yes, because he then says to me, I am giving you money, here is money coming. If you can recall, counsel, yesterday I said the initial amount they wanted me to pay was 750. Which I refused on their first payment.

ADV CHASKALSON SC: Yes, I understand that. But if I understood your evidence correctly now, what you were saying is he offered you the prospect of more money coming so that you could pay Mr Maumela the 500 that you had now agreed to pay and he would give you back that 500 and more with your further payments.

MR CARRIM: Yes, he said that, but he did not give it back to me.

ADV CHASKALSON SC: Yes, but then why in the face of that, when the next payment comes through and is only 1 million, so you are now in a net position where that payment is really only 500 000 because 500 000 of it really has already been paid by you to Mr Maumela. Why do you go

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ahead and then pay half of your net proceeds to Mr Matlala, 250?

MR CARRIM: It was 250 from a million.

ADV CHASKALSON SC: No, no, but 500 of the million, 500 of the million was what you were owed from the first payment, was it not?

MR CARRIM: Yes, when I asked him, he then said to me, I will make a follow-up payment, which did not happen, and then he then said to me, I think if we can go to page 9, is it the 10th of March? This was the 7th. There is another one here also related to payments.

ADV CHASKALSON SC: Are you talking about the screen at 17:43 on the 10th of March?

MR CARRIM: Yes, at the bottom there. He then says to me, no, that is still coming in. That will be still in the system, and I will see you good.

ADV CHASKALSON SC: Mr Carrim, I do not want to traverse ground that we traversed yesterday, but when we dealt with this stuff yesterday, I put it to you that you do not strike me, one, as a naive businessman, two, as a businessman who lets people walk all over you, and your response to that, and I must say, I was convinced, I mean, I found it an honest response, and the response that I accepted was, yes, but I now was a bit scared, because I had seen press reports, and I had seen press reports, I did

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not know if they were true or not, but I was scared. They may have been true. I wanted to protect my family and myself. Now, is that what your evidence is? Is your evidence that you paid Mr Maumela the 500 and the 250 principally because you were scared not to comply with what Mr Matlala was telling you to do?

MR CARRIM: Yes, I was, counsel.

ADV CHASKALSON SC: Because then I think, let us just be clear about that, and, you know, promises of future money and the like, they are not really convincing, and I can accept that answer. I would also have been scared.

MR CARRIM: Okay, thank you.

ADV CHASKALSON SC: But I now want to go back to the Maumela relationship, and if we go to page 9 of your statement, you talk about this Brown-Mogotsi Foundation interdict.

MR CARRIM: Yes.

ADV CHASKALSON SC: And you say in paragraph 47:

> "Brown approached me for financial assistance regarding litigation to review and set aside a tender that was prejudicing the people of the Northwest. I agreed to assist them financially, because businesses in the Northwest are consistently overlooked when tenders are

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awarded despite tender documents that award points to Northwest-based business. This does not contribute to economic growth from the Northwest. I am from the Northwest, and this is a matter I care deeply about."

So, what you are saying is that the contribution to the Brown, your funding of the Brown-Mogotsi Foundation Interdict was really because you are wanting Northwest money to stay in the Northwest.

MR CARRIM: That is correct.

ADV CHASKALSON SC: Now, if we go to page 507, we see that although the litigant in this case was the Brown-Mogotsi Foundation, your payments did not go to the Brown-Mogotsi Foundation. They went to Gotlhe Specialists. Is there a reason why you did not pay the litigant? You paid, as it were, the principal officer of the litigant's wife, or the wife of the principal officer of the litigant. Why were these payments channelled through Gotlhe? Why did they not go straight to Brown-Mogotsi Foundation, or indeed to the attorneys?

MR CARRIM: Brown-Mogotsi Foundation did not have a bank account, according to what Mr Mogotsi said. He then asked me to please put these funds into Gotlhe Specialists, and that he would transfer them to the attorneys, Tau

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Matsimela Attorneys.

ADV CHASKALSON SC: So, this was an indirect payment which was made because you understood that Brown-Mogotsi Foundation did not have a bank account.

MR CARRIM: That is what he told me.

ADV CHASKALSON SC: That is what you have been told. Why did not you pay directly to the attorneys?

MR CARRIM: Because I needed to show Brown said to me, they were going to refund me this money. He was approached by a few business firms, and together they would then refund me the refund, this money, at a later stage. So, I then agreed to give it via his vehicle that he chose, so that he can be a responsible person.

ADV CHASKALSON SC: Now, if we go to page 511, we see the judgment in the case. It is a judgment of Brown-Mogotsi Foundation versus MEC for Health and Mediware. Mediware was the successful tenderer that was interdicted. Is that correct?

MR CARRIM: Counsel, if you go into my statement, I clearly say there I said to Brown I will assist them, but I do not want to be part of the litigation. So, I am not aware. I do not know about Mediware and who he was taking to court.

ADV CHASKALSON SC: So, you would assist. You were not even aware whether Mediware was a local company or

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not?

MR CARRIM: No, no, I did not get involved in the actual litigation. I said to him, I do not want to be part of the litigation, and they went ahead with this. I was not party to this.

ADV CHASKALSON SC: So, you put up funds for litigation to protect local businesses without even knowing whether the successful bidder was a local business?

MR CARRIM: Like I said, I did not want to be part of the litigation, so I did not want to check what, I did not even check who is going to court, who is not going to court.

ADV BALOYI SC: But Mr Carrim, considering what you say in your statement, the reason for providing financial assistance is to make sure that business stays in the Northwest. I would expect that you would have looked at who is the winning bidder, because your interest, your declared interest in paragraph 48 is to make sure that business, that kind of business stays in the Northwest.

MR CARRIM: Yes, he approached me, he did not give me details, he just said to me, there is these business forums, there were three or four business forums with him on the day of the meeting, they all requested that I assist them, and I said, okay, it is fine, I will assist you, but I do not want to be part of the litigation, I will assist you and you guys can then proceed. And they then agreed with Brown

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that they will use his foundation.

ADV BALOYI SC: Yes, no, I have heard you say you did not want to be involved in the litigation I have heard that part. I am asking a different question, following up on what Mr Chaskalson is discussing with you, that in paragraph 48, you say you provide assistance because you want business to stay in the Northwest, it must be business granted to Northwest-based businesses, that is what you say. So, what I am putting to you is that you surely would have satisfied yourself that the winning bidder is not a Northwest business.

MR CARRIM: Brown just told me it is a company from outside, I agreed with him and I assisted him with the funds.

ADV BALOYI SC: So, you knew it was a company from outside?

MR CARRIM: That is what he told me.

ADV BALOYI SC: Yes, so you knew that ...[intervenes]

MR CARRIM: From what Brown told me I knew that.

ADV BALOYI SC: Thank you.

ADV CHASKALSON SC: And now, did Brown ever meet with you and Mr Maumela?

MR CARRIM: No.

ADV CHASKALSON SC: You say no? Because after your evidence yesterday, Mr Mogotsi called us up and said he had in fact met with you and Mr Maumela shortly after this

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tender. You have no recollection of that?

MR CARRIM: No.

ADV BALOYI SC: You have no recollection or you deny that that meeting?

MR CARRIM: I did not meet with Mr Maumela and Mr Mogotsi.

ADV CHASKALSON SC: So, you deny that such a meeting took place?

MR CARRIM: Yes.

ADV CHASKALSON SC: Do you know who Aloo Construction is? A-L-O-O?

MR CARRIM: No.

ADV CHASKALSON SC: Can I take you to page 399? Maybe 398 is where to start. And the document on 398 is the preservation order that SARS obtained against Mr Maumela. If you go down to 399, you see that the 11th respondent on that preservation order was Aloo Construction.

MR CARRIM: Yes, I see that.

ADV CHASKALSON SC: Now, Aloo Construction is alleged in this preservation application to be a company of Mr Maumela. Were you aware of that?

MR CARRIM: No.

ADV CHASKALSON SC: You were not. Aloo Construction was also one of the losing bidders in the Mediware tender

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that was interdicted with your money. Were you aware of that?

MR CARRIM: No.

ADV CHASKALSON SC: You see, Mr Carrim, I find this quite difficult to believe because this interdict is an interdict that is funded over the period August and September. Well, let us go back to the dates. Your payments, your first payment comes in on the 10th of August.

MR CARRIM: Which document?

ADV CHASKALSON SC: Page 507. The 507, your first payment to Gotlhe is on the 10th of August and your second payment is on the 19th of September.

MR CARRIM: Yes, I see that.

ADV CHASKALSON SC: You see that.

MR CARRIM: Yes.

ADV CHASKALSON SC: Now, your evidence yesterday was that over the period August to October 2023, you and Mr Maumela were busy putting together a joint venture in a chrome mining operation. Do you recall that?

MR CARRIM: Yes.

ADV CHASKALSON SC: And you had already become friends because you purchased his house the previous year, in 2022.

MR CARRIM: Yes.

ADV CHASKALSON SC: So, what you are saying to us

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today is that in August and September 2023, you put up funds to interdict the award of a tender to a party other than Mr Maumela's company who had lost the tender. You successfully interdicted that, or your funds successfully contributed to the interdicting of that award. You were engaged in a joint venture with Mr Maumela at the same time, a R50 million joint venture about a chrome mine. You had become friends because he had sold the house to you. But you had no idea that this interdict that you were running in the Northwest just happened to assist his company, Aloo Construction, to have another attempt at winning the tender. Is that your evidence?

MR CARRIM: Yes.

ADV CHASKALSON SC: I am afraid I have to put it to you that that evidence is false.

MR CARRIM: No, sir, that is not what happened.

ADV CHASKALSON SC: So, Mr Maumela never mentioned to you that in your backyard he was bidding for a contract with the Department of Health.

MR CARRIM: No, he did not.

ADV CHASKALSON SC: And you just were not aware when you put up this money to fund the litigation that just happened to be of great assistance to Mr Maumela that you were helping out your good friend and current business partner. You were not aware.

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MR CARRIM: No.

ADV CHASKALSON SC: I see. I am going to move away from Mr Maumela now, so if there are any questions that anybody wants to ask, then let me move. Can we go back now to discuss your arrangements with Mr Matlala around the Medicare contract? You deal with them in your statement from paragraph – sorry, if you can just bear with me for a minute.

ADV KHUMALO SC: Sorry, can we put File 2 away? We need to make some space here. It gets a bit ...[incomplete]?

ADV CHASKALSON SC: Yes, we might need to come back to File 2, I think about 10, 15 minutes. The version in your statement about your arrangement with Mr Matlala was that this was – and it is in paragraphs 11 and 12 on page 3 of your statement. It was a relatively simple agreement. You advance 10 million. You will be repaid – you will get a return of an additional 10 million over the three-year contract, and repayments will take the form of 10 percent of all payments. And you explain the monies that you advanced in respect of that agreement. That was the version in the statement. You said that you had no relationship with Mr Matlala, or no commercial relationship with Mr Matlala before, so you were dealing with him in a commercial context for the very first time.

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MR CARRIM: Yes.

ADV CHASKALSON SC: And he made an unsolicited approach to you for the money. An unsolicited approach to you. It is not that you approached him, he approached you.

MR CARRIM: He approached me, yes.

ADV CHASKALSON SC: And on what – how did he introduce himself? How did he say – how did he say he came to you?

MR CARRIM: I explained that yesterday, counsel.

ADV CHASKALSON SC: Yes, you just say he knew you from the security industry and he arrived up in a Rolls Royce.

MR CARRIM: No, I said he contacted my one of my security personnel who was on the website and requested my number there.

ADV CHASKALSON SC: Yes, so, it was – he knew you from the security industry, which is how he, at any rate, said that he came to you.

MR CARRIM: Yes.

ADV CHASKALSON SC: You took no security for your loan, the 10 million that you were lending. There was no security.

MR CARRIM: No.

ADV CHASKALSON SC: You did not conclude a written contract in respect of the loan. We covered this yesterday.

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I am just setting up the curious features of this. That was the version that we saw in the statement, but it turned out that the statement did not describe the whole story because you amplified considerably in your evidence. Your first piece of amplification was that you explained that for a while Mr Matlala asked you for help with an accountant.

MR CARRIM: That was much later into the contract, much later. It was around October.

ADV CHASKALSON SC: October. So, he asked you for help with an accountant to assist him with his business and that was in October.

MR CARRIM: End of October, yes.

ADV CHASKALSON SC: Yes, but you did not mention that in your statement.

MR CARRIM: Yes, that was not in my statement.

ADV CHASKALSON SC: Is there any reason why you did not mention it?

MR CARRIM: No, I – there is no reason.

ADV CHASKALSON SC: And you said that you had Mr Mohammed sitting on a board committee of Medicare 2024 for a while to look after your interests.

MR CARRIM: It was not on the board. It was a finance, like a finance committee.

ADV CHASKALSON SC: A finance committee. So, it was not the board itself. Was it a committee of the board or just

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a committee, an executive committee?

MR CARRIM: No, a finance committee looking at invoices going to SAPS.

ADV CHASKALSON SC: So, he was looking at invoices going to SAPS and he was there to protect both of your interests in that regard.

MR CARRIM: Yes.

ADV CHASKALSON SC: And we saw – but that was also not mentioned in the statement. Is there any reason you did not mention it in the statement?

MR CARRIM: No reason.

ADV CHASKALSON SC: No reason. And we saw Mr Matlala expressly asking you for help with invoicing when you had already gone off to Cape Town for the January 8th celebrations. Do you recall that?

MR CARRIM: He was not asking for help with invoices. At that specific time, Mr Matlala needed more funding. He wanted a meeting so that he could show me how much invoices are going in so that he could get a top-up. At that time, he was looking for an additional R10 million.

ADV CHASKALSON SC: Let us look at that message because I do not think that answer is consistent with the message. Go to page 2. His message to you is at 701.41. It is the green message on page 2:

"Salaam, brother. Now is the time to

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start invoicing. Was wondering if I can see you before we send invoices. I can even come to your place. Please advise."

He wanted to see you before he sent the invoices.

MR CARRIM: Correct. He wanted to show me what he is going to be submitting, how much invoices he is going to be submitting, and then show me that that is why he needed the additional funding because we are going to have to wait for this money again and he needed to service and pay more of his subcontractors.

ADV CHASKALSON SC: But if that was all that he wanted to do, why did he need to see you and why did he need to see you before he sent the invoices? Why did not he just show you the invoices?

MR CARRIM: He needed to come because he asked me over the phone for the money. I said no. He said, so can I please come see you? Can I please come and show you what I need to do or what I am going to be doing? This is what I am doing. Can I come? He wanted a face-to-face meeting for that.

ADV CHASKALSON SC: I can understand why he might have wanted a face-to-face meeting, but surely, he would have been in a better position on that face-to-face if he had already sent invoices.

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MR CARRIM: He wanted to show me. That is what he told me.

ADV CHASKALSON SC: So, you are saying he was not asking for help with invoices in this message?

MR CARRIM: Even when Mr Mohammed sat on his committee, Mr Mohammed was not in charge of assisting with the invoices, only to sit there and have a look and see what they are doing. We had absolutely no access to his invoicing. Myself and Mr Mohammed.

ADV CHASKALSON SC: So, what do you think Mr Maumela, sorry, Mr Matlala was wanting to show you? Was he wanting to show you draft invoices?

MR CARRIM: He wanted to show me all the invoices, the amounts of all the invoices that he was going to submit.

ADV CHASKALSON SC: And what did you expect to see?

MR CARRIM: Invoices.

ADV CHASKALSON SC: Invoices that had not been sent?

MR CARRIM: I am not sure if he had sent them or not sent them yet.

ADV CHASKALSON SC: He had not sent them because he says before we send invoices.

ADV BALOYI SC: Sorry, Mr Chaskalson. Mr Carrim, this discussion about this additional loan that you say this WhatsApp message was about, when did that discussion happen?

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MR CARRIM: It started around December when he wanted more funding.

ADV BALOYI SC: Okay, and you say it started in December and continued when? To when before this WhatsApp message?

MR CARRIM: Yes, he continued post this message as well. He was looking for more funding.

ADV BALOYI SC: Yes, you see, I am asking because on that page 2, you have an afternoon, you send to him good afternoon on the 30th of December and the next thing that happens in the series of communication is that WhatsApp message on the 7th of January. So, there is no intervening communication between the two of you that accords with the explanation you are giving now about this WhatsApp message. Do you understand what I am saying?

MR CARRIM: No, I do not understand, Counsel, Commissioner.

ADV BALOYI SC: You say, you explain this WhatsApp message of the 7th of January as being about him wanting to talk to you about a loan.

MR CARRIM: Yes.

ADV BALOYI SC: And what I am saying to you, what I am not seeing is a trail of communication between the 30th of December, which was the last message from you in 2024, where you say afternoon, and the next message from him on

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the 7th of January, there is nothing in between the two communication or pieces of communication which accords with your explanation or your attempted explanation of the message of the 7th. I would have expected to see either missed telephone calls in between, and then you would then testify and say, well, in those telephone calls, he told me he wanted to come and talk about the R10 million, but we do not have that.

MR CARRIM: There is a call on the 30th.

ADV BALOYI SC: Yes, what about it?

MR CARRIM: I am saying there is a call on the 30th. There were a few calls. We spoke about this additional funding, and I see my messages only start from the 11th of December, but there is many calls prior to this, and I am sure if we can get his records, and even when he comes here, I am sure he will be able to tell you that he really needed extra funding. He was looking for that 10 million to top up.

ADV BALOYI SC: Yes, he may well have needed extra funding, and he may well have had that conversation with you, but your explanation of the WhatsApp of the 7th of January that it was to talk about the funding, it does not accord with this series of communication on the 30th of December, and then you get a message that is very specific. He wants to speak to you to see you before he

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sends invoices. That is what he says to you, and then you say, well, it was about funding. It had to do with the additional funding. I do not understand that explanation. At least it is not reflected in these communications.

MR CARRIM: He wanted to show me the invoices. We spoke about this. He wanted to show me and say, here is invoices. Let us discuss. I am sending these invoices in. Can you, based on what I am sending in, can you then top up so much or so much, because here are the invoices going in. I assisted him in no way to submit any invoices.

ADV BALOYI SC: My point exactly, that you know that he wanted to, he is telling you about seeing you before he sends invoices. You know that he wants to show you the invoices because he wants to back up a request for payment, I mean a request for a further loan, but there is nothing in this correspondence that supports that. You are giving an explanation to a message of the 7th, which is not backed up by anything that is on the face of that message.

MR CARRIM: But that was what transpired. We did not even meet after that.

ADV BALOYI SC: But do you accept that this message, on the face of it, it does not convey what you are saying. As I understand it, what you are conveying is he wanted to show you these invoices before he sends them off because he wanted to back up his request for funding, for further

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funding. That is what you are saying. Do you accept what I say to you but this message itself, when you read this message, together, especially together with your last message to him, there is nothing that backs up that explanation you are giving.

MR CARRIM: I am sure when he comes in, he will be able to back this up, definitely.

ADV BALOYI SC: Thank you.

ADV CHASKALSON SC: If we go back to what actually happened in the operation of the contract, your evidence yesterday was, although the agreement was that you would get 10 percent of the income that you were entitled to when SAPS started paying in September, you did not take it because you let Mr Matlala keep that because he had cash flow problems.

MR CARRIM: He wanted to recover his state establishment costs.

ADV CHASKALSON SC: Yes, but in terms of your agreement with him, you were entitled to take 10 percent. You had put up 10 million and you were going to get paid back 10 percent of all revenue that the contract generated.

MR CARRIM: Yes.

ADV CHASKALSON SC: And you elected essentially to waive that right.

MR CARRIM: We had a meeting and in that meeting we

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agreed that we will allow that one to pass. But there were other invoices that were paid which was not disclosed to me.

ADV CHASKALSON SC: Other invoices that were paid when?

MR CARRIM: I am not sure, but in between the periods where my people were removed or my person was removed. That is what I suspect. I do not have the proof of that, but that is my suspicion.

ADV CHASKALSON SC: And have you managed to pin down those dates with better particularities to when your people were there and when they were not?

MR CARRIM: I have requested them, I should be getting those, and I will hand them over to you.

ADV CHASKALSON SC: Thanks. If we move on, it says, well, when we move on, we see that when you finally start getting your payments, you agreed to act as a conduit for Mr Matlala to pay Mr Maumela a third of the first payment and a quarter of the gross second payment, which was in fact the same as 50 percent of the net second payment.

MR CARRIM: Councillor, I never said that yesterday. I was given two options by the Commissioner yesterday and I refused to accept that I was a conduit. There were two options given to me yesterday and if we can go back to the transcripts, I had said I took the first option. I just need to

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go there and tell you what it was, but I did not say that I was a conduit.

ADV CHASKALSON SC: Well, we can see what the record says yesterday. Let us frame it this way. You agreed to take the payment that Mr Matlala made to you of one and a half million and to spend 500 000 of that paying Mr Matlala's debt or loan to Mr Maumela.

MR CARRIM: Yes.

ADV CHASKALSON SC: Yes, and then when the second payment came in, you paid 250 000 of that to discharge Mr Matlala's obligation or to advance a loan on his behalf to Mr Maumela.

MR CARRIM: Yes.

ADV CHASKALSON SC: And this had nothing to do with your relationship with Mr Maumela, it had to do with Mr Matlala's relationship with Mr Maumela.

MR CARRIM: Yes.

ADV CHASKALSON SC: So essentially, you took 750 000 of your money to pay to Mr Maumela at the request of Mr Matlala.

MR CARRIM: It was not my money. I was going to be replaced. It was not my money. He asked me, he said, I am giving you this money and I am going to top you up, I am going to make good on it.

ADV CHASKALSON SC: So, either it was your money, in

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which case you were not a conduit, or it was Mr Matlala's money, in which case you were a conduit. Because if it was Mr Matlala's money all along, then you were really acting as a conduit for Mr Matlala to pay Mr Maumela. If it was your money, then you have elected, essentially, to use your own money to pay Mr Maumela, because that is what Mr Matlala wants you to do, and you will now have an additional claim against Mr Matlala to claim that back.

MR CARRIM: Mr Matlala asked me to pay their monies and said he will replace those monies.

ADV CHASKALSON SC: So, was it Mr Matlala's money that you were paying to Mr Maumela, or do you accept that it was your own money that you were paying to Mr Maumela?

MR CARRIM: It was my own money.

ADV CHASKALSON SC: So that was the version of how the contract operated when we had regard to your testimony and the statement, but it now seems that you did not tell us the full extent of your payments. Because the documents that we discovered this morning show that on the 27th of June, there was a 1 million payment from Tasmica, another one of your companies, or let us clarify, is Tasmica Construction one of your companies?

MR CARRIM: Yes.

ADV CHASKALSON SC: And did Tasmica pay Medicare

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R1 million on the 27th of June 1994?

MR CARRIM: Counsel when we received ...[intervenes]

ADV KHUMALO SC: 2024.

ADV CHASKALSON SC: Sorry, 2024.

MR CARRIM: When we received your documents this morning, for me, this was something I was confused because I had instructed my office to make payments from Ziggy Investments and Tameez Investments, 5 million from Ziggy and 5 million from Tameez. When I saw those payments, I then made a call to my office to find out because the instruction I gave was 5 and 5, and I am still saying 5 and 5. That payment of Tasmica, I need to go, that is why I asked for more time, I needed to go now and check in my office who actually authorised those payments because I have got two people in the office or four people in the office that deal with payments. I gave them an instruction, I said 5 and 5. At no point did I give them an instruction to pay from Tasmica.

ADV CHASKALSON SC: So, are you now saying that that 1 million payments on the 27th of June 2024, was a payment made without your authorisation?

MR CARRIM: I give them instructions, they have access to the bank, they process payments, and they send me ...[intervenes]

ADV CHASKALSON SC: I am sorry to interrupt you Mr

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Carrim, but this is a very simple question. Did you or did you not authorise the payment of R1 million from Tameez that was paid on 27 June 2024?

MR CARRIM: Not Tasmica, not Tasmica.

ADV CHASKALSON SC: Did you authorise the payment of 1 million from anyone for payment on the 27th of June?

MR CARRIM: I give instructions, they authorise payments, they do the payments.

ADV CHASKALSON SC: No, we are talking past each other. Did you instruct anybody to pay an additional R1 million to Medicare 24 on the 27th of June?

MR CARRIM: No.

ADV CHASKALSON SC: So, somebody inside your organisation took it upon themselves to pay R1 million of your company's money without your knowledge or consent?

MR CARRIM: Yes, I am confused. Hence, I said to my legal team that I need to get hold of my office, I need to get the people in my office and find out exactly who authorised the payment, because my instructions were very clear. My investment was 10 million. When these payments came, I then tried to call them this morning, they are working remotely, but I need to find out who authorised this payment from my office and who made this payment from my office.

ADV CHASKALSON SC: So, who have you tried to call today to find this out?

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MR CARRIM: I phoned my payments manager, Mr Hein Van Vuuren.

ADV CHASKALSON SC: And have you spoken to him today?

MR CARRIM: Well, I have tried to get hold of him on two or three occasions now, and we have been busy in here, so.

ADV CHASKALSON SC: Well, you were told about these payments, or your attorneys were told about these payments sometime around about 6 o'clock this morning, and you were aware of them before we started. Had you tried to get hold of Mr Van Vuuren before we started?

MR CARRIM: Yes, yes, I have tried.

ADV CHASKALSON SC: Then there was an adjournment to 11:45. Have you spoken to him since you first tried to get hold of him?

MR CARRIM: In consultation with my legal team, we said once we break here, we need to call him, once we break for lunch.

ADV CHASKALSON SC: I see, so you still have not spoken to Mr Van Vuuren?

MR CARRIM: No, I have called, I have not spoken to him yet.

ADV CHASKALSON SC: I see. Well, Chair, we are a couple of minutes before the lunch break, this might be a good opportunity to give Mr Carrim a chance to call Mr Van

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Vuuren.

ADV KHUMALO SC: Sorry, on this point, I am just trying to understand, is this payment by Tasmica Construction part of the 10 million, or is it over and above the 10 million reflected in paragraph 12 of your statement?

MR CARRIM: I would have to go and check, because my instructions to my office was 5 and 5. That was my agreement, 10 million and nothing more. So, I need to get hold of Mr Van Vuuren and Mr Sayed, who are then in charge of payments in my office, and a certain lady by the name of Shakira, and find out who authorised this payment from Tasmica.

ADV CHASKALSON SC: Can I just follow up, because I can clarify Commissioner Khumalo's question. If you go to page S3, three of your statement bundle.

MR CARRIM: Yes.

ADV CHASKALSON SC: There you will see how the 10 million that you refer to there is made up. It is 5 million from Ziggy on 26 June. It is 2.5 million from Tameez on 7 July. It is 1.5 million from Tameez on 15 July, and it is 1 million from Tameez on 24 July. And in Annexure SC1, at the end of your statement, you provide bank statements that show each of these payments that you refer to in 12.1 to 12.3, and those payments add up to 10 million. So, the payment of 1 million on the 27th of June was over and above

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the 10 million. Do you accept that?

MR CARRIM: It was only brought to my attention this morning.

ADV CHASKALSON SC: I am not debating whether you knew about it or not, but I am asking you, do you accept that it was over and above the 10 million?

MR CARRIM: I will have to go and do a recon and check, Councillor.

ADV CHASKALSON SC: Maybe you can do that recon at lunch while you wait for Mr Van Vuuren to get in touch. But look also at the 1.12 million payments on the 7th of October, because what you will see when you do that recon is that what you paid to Medicare was not 10 million. It was 12.12 million.

CHAIRPERSON: Let us adjourn and resume at 2 pm.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Apologies for being one minute late. Last minute, the legal representatives, including the evidence leaders, wanted to see us.

ADV CHASKALSON SC: Chair, are we just continuing at this stage or are we going to sort out the closing time?

CHAIRPERSON: I think the housekeeping matter must be placed on record right away, perhaps.

ADV BHANA SC: Thank you, Chair. My attorney and the

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Bongani Dlamini

10 March 2026

Hi Bongani and Tshepo. Mogotsi has been calling me non stop since Carrim started giving evidence and threw him under the bus. He wants to give us dirt on Carrim and ostensibly wants to tell us what he knows about Matlala's contract. Ive arranged to see him tomorrow at 10.00. If you are available, please join me. 17:38

Hi Matthew
I was watching waiting to text you on that.

Definitely I will come 17:40

👍

17:41

11 March 2026

Hi Matthew
Is our guy still coming for a meeting?

17:20

No sign of him. I'm going home 17:23

Ok thanx 17:25

Message

MC

M.A

"M825"

22:14

Tshepo Modimog...
last seen today at 21:45

01 September 2025

Messages and calls are end-to-end encrypted. Only people in this chat can read, listen to, or share them. **Learn more**

10 March 2026

Hi Bongani and Tshepo. Mogotsi has been calling me non stop since Carrim started giving evidence and threw him under the bus. He wants to give us dirt on Carrim and ostensibly wants to tell us what he knows about Matlala's contract. Ive arranged to see him tomorrow at 10.00. If you are available, please join me. 17:39

👍

Great will avail myself. 17:40

👍

17:41

Meeting is at the College right? 17:42

👍

17:43

Message

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ranking police officer, and I subsequently met with him. I knew this police officer, I also knew him, as we have conducted one operation with him in the past. He shared information with me of the intention to craft a negative finding in a disciplinary hearing against Maj-Gen Khan, which was underway. He confirmed that he was in KZN for a briefing on how to address the Maj-Gen Khan situation. I am not in the position to identify him herein as there are real concerns relating to his personal safety."

ADV CHASKALSON SC: So, if I can clarify, this man was brought to you by Matlala?

MR MOGOTSI: Yes, he said he told me there is one this, he used the word, there is another bra that I want you to meet. He has something for you, and I believe the Minister may want to hear and the Minister can do something. And I met this man who I have, in fact, I briefed my handler first to say there is this man who wants to meet with me and then he said he has this kind of information.

But when I met this man I did a recording on our conversation and immediately sent an agent after informing

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my handler, we had to process that because with the DPCI was section 252(A) and I did meet with Lt-Col Schnelle to register and apply for and conduct the operation in terms of that section of the law. The intention, my intention there, Commissioners was to employ the information that I obtained from the senior officer in the section 204 that he can against General Mkhwanazi and Lt-Gen Khumalo because that is what he told me that in Durban they plotted on how to expel General Khan.

ADV CHASKALSON SC: So, if I can just clarify, this officer who was referred to you by Mr Matlala told you that he was aware of a plot by Generals Khumalo and Mkhwanazi to get rid of General Khan?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And that as I understand it, maybe I am getting ahead of myself, but the plot involves getting this officer to give false evidence against General Khan.

MR MOGOTSI: That is correct. He was one of the witnesses of an incident that occurred some years back and he was called to KZN as part of preparations for the hearing. They did give him how the whole plot is to unfold and how he should implicate General Khan.

CHAIRPERSON: Do you still have that recording?

MR MOGOTSI: Yes, the recording and the statement is

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with Lt-Col Schnelle.

ADV CHASKALSON SC: If I might just mention in that regard, one of the documents that we have actually approached Lt-Col Schnelle and one of the documents that was given to you late yesterday is the transcription that the DPCI made of that recording. So, it is in that exhibits bundle. Can I ask that overnight, I will not ask you to do anything about it now, but overnight can you look at that transcription and just check that it accurately reflects the recording according to your memory and if there are any problems with it can we address those tomorrow or can you be in a position to address those tomorrow?

MR MOGOTSI: Okay.

ADV CHASKALSON SC: So, I want to just take a step back. This is Mr Matlala again telling you about, for want of a better word, factional fights within the SAPS. You have, according to Mr Matlala and the officer he refers you to, you have two generals plotting to get rid of another general through false evidence of this officer.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: Did you understand this division within the SAPS to be in any way related to the other division that Mr Matlala had told you about, that you have General Masemola and Minister Cele on the one hand and General Sibiya on the other or was this just a completely

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different split within the SAPS?

MR MOGOTSI: Yes. Honestly speaking, Commissioners, I believe at the right time also I will talk to the relationship between General Bheki Cele, Masemola, General Khumalo and I have even given them a particular term which as we proceed, I will be able to. Yes, the moment he mentioned that Lt-Gen Khumalo, Lt-Gen Mkhwanzi, there is a Maj-Gen Khumalo also in the KZN. It is him who addressed the senior police to say we expect you, this is how we expect you to perform during the hearing because now according to the lieutenant telling me about the instruction from General Khumalo and General Mkhwanazi is that they must find this General, Maj-Gen Khan guilty and he must be dismissed.

ADV CHASKALSON SC: I am not sure that you understood my question. What I was asking is that you are now flagging a division within SAPS of two Generals, Generals Khumalo and Mkhwanazi on one hand and General Khan on the other hand. Is that division in any way related to the division that you spoke about earlier with General Sibiya on one hand, General Masemola on the other hand with ex-Minister Cele?

MR MOGOTSI: Okay, thank you, thank you for clarity. Yes, it is true that is the Crime Intelligence, the division of the South African Police Service, the similar, the same division which when I spoke initially with General Mfazi and

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General Sibiya I was referring to. That was one of the cracks that I identified within the Crime Intelligence. The moment he says and I did ask him who is Maj-Gen Khan and he said is this other, but he knew him and he explained to me I did not know him that time and furthermore said yes it seems like Khumalo and Mkhwanazi they want to get rid of him. That is when immediately because the recording is there and then we were able to perform this whole thing. Then I realised that there are factions and this is the unit which was referred to.

ADV CHASKALSON SC: So just to clarify again, you were involved in a 252(A) operation.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: Which involves essentially setting a trap.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And the target of the trap, well targets were Generals Mkhwanazi and Khumalo.

MR MOGOTSI: No, remember the senior officer as he was talking to me, he did mention that they have promised him a colonel position. Not a colonel, no, they promised him a position and with me as we were talking, he was mentioning of a similar offer that I should perhaps because I am close to the Minister with my legend building, he thinks I can also give him something better. Then the recording talks to that

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that he was expecting something from me which may be in the form of a promotion or something of that sort.

ADV CHASKALSON SC: Sorry but I just need to take you back to paragraph 36. You say the intention, second sentence, the intention was to employ this person, that is the officer, as a section 204 witness against both Lt-Col Khumalo and Lt-Gen Mkhwanazi.

MR MOGOTSI: Yes, it is true. The first question you mentioned 252(A), it was a trap. But because we have trapped him already, now is my time to tell him that I expect you to 204 to help me against Lt-Gen Mkhwanazi and General Khumalo because he was recorded already telling me the instruction, they have given him on the plot against General Khan.

ADV CHASKALSON SC: So, the 252(A) did not relate to his future testimony in the disciplinary hearing, it related to your meeting with him when you recorded him.

MR MOGOTSI: Both two sections become instrumental. Remember the 252(A) was to trap on what he wanted, what he expected that I could be able to give him as he has given me the information and now I immediately use that information against him to say now I need your testimony, we are going to testify against General Mkhwanazi and General Khumalo about their plot against General Khan, which was the plan.

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ADV BALOYI SC: So, the trap, the trap that you say you had already entrapped him, I think that is the language you use, you had trapped him already. What was it that he is supposed to have done wrong that gives you that bargaining position to say he must now testify against the two generals?

MR MOGOTSI: The expectation of a rank, remember he said if I give you say something at least you must talk to the Minister to give me a rank or something.

ADV BALOYI SC: So, it is that he said you must give him a rank that constituted what you have trapped him on.

MR MOGOTSI: That is correct.

ADV BALOYI SC: Thank you.

ADV CHASKALSON SC: And when was the meeting with him at which you trapped him?

MR MOGOTSI: It was in December 2024.

ADV CHASKALSON SC: I do not want to - I just want to mention now that I think when we go to the chats with Mr Matlala we may see that it is in January 2024 but are you, so I do not, we will get into it in some detail when we go through those chats, but why do you say December 2024?

MR MOGOTSI: Because the disciplinary, I went to enquire, I spoke to the handler, he did confirm when arranging with Lt-Gen Schnelle, he did confirm that there is a disciplinary hearing which is underway against this particular General

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Khan.

ADV CHASKALSON SC: Okay, we can look at the chronology as it plays out in the chats later. What then happened? Did the trap go ahead?

MR MOGOTSI: Upon him agreeing to the 204 and because he was recorded already and the information was with the DPCI, now it was incumbent upon the site of Lieutenant Schnelle to proceed with the investigations and so forth. But the only thing that I did with a copy of the recording that I had after speaking to my handler, the conversation, the information was leaked to the media, and it was leaked by me purposely and upon by General Khumalo and General Mkhwanazi.

They had no choice because the information has leaked and that is why I believe General Khan was acquitted. There was nothing he could do because there was a recording that proves that there was a plot to dismiss General Khan. And I heard him when he was here, if you remember Commissioners, he said after he has accepted to preside over General Khan's disciplinary hearing, I started talking to him. It is true. That was the period.

ADV CHASKALSON SC: So, let me just take a step back. You leaked the information to the media.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And the information that you

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leaked to the media was that certain witnesses had been pressurised to give false evidence.

MR MOGOTSI: And will be given promotions. I think the publication is available in one of the minutes.

ADV CHASKALSON SC: But that was what you leaked to the media.

MR MOGOTSI: That is me, that is me.

ADV CHASKALSON SC: And that had the result, in your view, of General Mkhwanazi acquitting General Khan?

MR MOGOTSI: Yes, that is what happened. He had no choice. He ended up acquitting General Khan.

ADV CHASKALSON SC: And what then happened with the Section 204 and the trap?

MR MOGOTSI: That Commissioners, as the senior counsel has alluded, that he has managed to obtain the transcript from Lieutenant Schnelle. I believe he will be in a better position also to give senior counsel the progress relating to that matter.

ADV CHASKALSON SC: And can I - I am still not understanding the sequence, and in particular Section 252. You would have to get authorisation under Section 252A to run a trap, would you not?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: So, when did you intend, or when did you seek authorisation, and when did you intend to run

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the trap?

MR MOGOTSI: Through my handler, there is also a verbal authority to obtain the particular authorisation, and it was done. I believe Lt-Gen Schnelle will confirm the process as to how did the whole thing unfolded. But it was done in my presence, by my handler, because it was a verbal authority.

ADV CHASKALSON SC: So, did this happen before your meeting?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And the meeting you date in December, I suggest you it might have been sometime in January. But at any rate, it would have been before that meeting with the senior officer who had been asked to give false evidence.

MR MOGOTSI: Yes, but it was around December, if I recall. But as you say in one of the messages it will reflect, I believe the correct date will be obtained, Commissioner.

ADV CHASKALSON SC: Okay. If we can move on to the 8 January ANC celebrations, can you take the Commission to paragraph 39?

MR MOGOTSI: Thank you, Commissioners:

> "On January 8, 2025, an ANC celebration was scheduled in Cape Town. Matlala indicated to me that he wanted to meet Mchunu at the

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mind that I may know of the plot. To elicit the reaction from Lt-Gen Mkhwanazi, if he suspected that I had knowledge of the plot, he would not accept the appointment to chair the disciplinary hearing as requested by General Khan."

ADV CHASKALSON SC: So, you were mentioning Maj-Gen Khan specifically because you knew about the plot and you wanted essentially to signal to General Mkhwanazi that you were aware of the plot and that he might then choose not to take on the disciplinary committee and not to carry forward that plot. Is that what your intention was?

MR MOGOTSI: Here I am simply saying he may have thought I knew. Commissioners, remember the recording part only happened in December. This was our conversation during October or after September.

ADV CHASKALSON SC: But sorry, I do not understand 84 then because what 84 says to me is that in October you mentioned Maj-Gen Khan specifically.

MR MOGOTSI: Yes.

ADV CHASKALSON SC: Because you wanted to create a perception in Lt-Gen Mkhwanazi's mind that you may know of the plot.

MR MOGOTSI: Yes.

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ADV CHASKALSON SC: Did you know of the plot at that stage?

MR MOGOTSI: No. This would be, that is what I am saying, it should be captured correctly. I spoke to General Mkhwanazi and I knew, we only knew about the plot when we did the 252(A) things. But in October I had already heard that it is General Mkhwanazi who was going to preside over the case of General Khan. But I did not have any interest of some sort at that time until that time when we conducted the 252.

ADV CHASKALSON SC: But then why did you have any reason to mention Khan in your WhatsApp to General Mkhwanazi on the 1st of October?

MR MOGOTSI: It is Lt-Gen Mkhwanazi who according to him in the statement was thinking that I have mentioned this because I knew he was going to preside. Indeed, I knew but I am trying to say it should be properly recorded that the conversation between the recording of the particular process, the 252(A) about the plot only got carried out or conducted when we did the 252.

ADV CHASKALSON SC: So, I understand what you are saying now but I still do not, I cannot make sense of 84. Maybe if you could just reframe 84 as you would want it, if 84 is saying the wrong thing in relation to the plot. What is it that you are saying in relation to General Khan and

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General Mkhwanazi?

MR MOGOTSI: May I just approach?

CHAIRPERSON: The story is yours and you know what the evidence is.

MR MOGOTSI: Okay, I am just trying to say this paragraph may have been captured, the part of the paragraph could have been captured in another paragraph. What I am saying is when I spoke to General Khan about this incident, to General Mkhwanazi, no, I should put it properly, sorry. When we did the 252(A), it was done after this conversation. So, I am simply trying to say the part where we speak about the disciplinary hearing should have been before the December 252(A).

ADV CHASKALSON SC: So, this reference to a perception in Lt-Gen Mkhwanazi's mind that I may know of a plot shouldn't actually be in this paragraph.

MR MOGOTSI: Yes, should have been. I will show you where it is supposed to come. You will check that, not congratulating. May I just have a second to rectify this, Commissioner?

CHAIRPERSON: Mr Chaskalson, unless it is crucial that he should deal with it now, which I do not think should be the case, Mr Mogotsi is coming back tomorrow.

ADV CHASKALSON SC: Certainly, maybe we can clarify this tomorrow.

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MR MOGOTSI: And any matter that is conducted under oath, no one is allowed to lie.

ADV CHASKALSON SC: Can I take you to exhibit bundle page 43? Do you recognise that document?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: This is the affidavit that you gave to Colonel Schnell in support of the 252A application.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And it is an affidavit, if we go down to page 46, you will see you signed it in front of a Commissioner of Oaths.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: Can we see what you are saying? Paragraph 1 of that affidavit.

MR MOGOTSI: I can see 100% what it is.

ADV CHASKALSON SC: Do you want to read it?

MR MOGOTSI: That I am an adult male employed in Government with the Office of Minister of Police.

ADV CHASKALSON SC: Sorry, I just did not get the...

MR MOGOTSI: That I am an adult male employed in Government within the Office of the Minister of Police.

ADV CHASKALSON SC: Is that true?

MR MOGOTSI: It is not true. I have, indeed, even yesterday, immediately, I did raise this with the lawyers that when I introduced myself to Lieutenant Schnell, I never told

him I am an agent. And indeed, if you check what I was doing there, he was going to ask me and he asked me that, how can this man ask promotion from you? Who are you? How is that possible? Now, that is how this thing that is – the sentence that says I am a male employed in the Office of the Minister, or else I did not carry the authority to conduct the 252A.

ADV CHASKALSON SC: So, Mr Mogotsi, are you saying that if you need to lie for a purpose relating to your job as an agent, it is okay to lie under oath?

MR MOGOTSI: It is not okay to lie under oath. You inform immediately. Even if you, if Commission can draw attention to this, to the content of this affidavit where I have requested a verbal – there are other transcripts where I requested a verbal authority to conduct this operation and being granted. And the content says this person is – the extract, no, the transcript record says this person wants you to talk to the Minister that at least he become a Colonel. It is there, it is recorded. There was no way this can be practical to Lieutenant Schnell to say that man asked me to give him a promotion without putting this. This is part of the work.

ADV CHASKALSON SC: So, you are now saying you did lie under oath by saying that you were employed in Government within the Office of the Minister of Police. That

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was false. And you knew it was false, but you thought I needed to do it to enable Lt-Col Schnell to give me authority under section 252A.

MR MOGOTSI: Because I could not tell him that I am an agent, yes. This was for the purpose of work.

ADV CHASKALSON SC: So, when it is for the purposes of work, you are saying you can lie under oath?

MR MOGOTSI: The circumstances, Commissioners, should allow. Like I am saying, there is not any other example I can give. I am conducting a 252A here. A man ...[intervenes].

ADV CHASKALSON SC: Let me give you another example. Assume your handler said to you it is very important for the purposes of this Commission that you tell the Commission that General Mkhwanazi is a CIA agent, and assume you knew that to be false, would you then be able to come to the Commission and say General Mkhwanazi is a CIA agent because your handler said for the operation it is important for that to happen?

MR MOGOTSI: No, those are two different things, Commissioners ...[intervenes].

ADV CHASKALSON SC: Why are they different?

MR MOGOTSI: Coming to the Commission, you are here to provide Commission with information that can help. The moment you lie, the Commission will not be able to arrive at

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any level of assistance. Cannot be assisted. There is no way you can be given instruction to come to a Commission to lie. It is impossible.

ADV CHASKALSON SC: Why? If the intelligence operation demands it, why is it any different from lying under oath in a section 252A application?

MR MOGOTSI: Commissioners, if instruction is to come here and lie, I could rather come here and remain silent. I do not think there is any reasonable agent of the law, agent of the state, who will come and testify in a Commission or the court or any court of law and lie. Lying under oath is a crime and if charged with perjury, you will be – whether you are an agent or you are whatever, you are ...[intervenes].

ADV CHASKALSON SC: I agree with you, it is a crime.

MR MOGOTSI: Ja.

ADV CHASKALSON SC: But you have lied under oath in this affidavit that you gave to Lt-Col Schnell, which is perjury, is it not?

MR MOGOTSI: Yes, and Lt-Gen, Lieutenant Schnell is not the Commission. We are executing – I am saying if there is no, if there is no, if this sentence is not part of this, because the content of this affidavit is now – this is what happens. It is reinforced by the recording, the transcripts are attached, where a man says I want to be promoted to become a colonel. He is saying that.

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Obviously, a police officer who comes to you, who you come to and say I need an authorisation, this thing must happen now. And remember, when you go to him, you go with a police officer, you go with a police officer who explains to him that this person is going to do a certain process and this requires an authority. And that is why you will see in the annexures, the authority was granted. But this police, the same Colonel Schnell, will not write this affidavit if I say I am Brown Mokhozi, I am just a comrade. This man, I promised him a colonel position. The affidavit will not work.

ADV CHASKALSON SC: So the affidavit had to be granted, including a lie under oath, so that you could proceed with this operation to run the trap involving the officer who was going to implicate General Mkhwanazi and General Khumalo. Is that what you are saying?

MR MOGOTSI: No, it was not intended to implicate General Mkhwanazi or General Khumalo. It was implicating whoever was plotting the dismissal. Whoever, even if it was Jabu, it should not be mentioned that I went there because I knew this recording is going to implicate General Mkhwanazi. No, that was not the case.

ADV CHASKALSON SC: But that is not what you said in your original witness statement. In your witness statement, you made absolutely clear that you conducted this operation

with a view to essentially ultimately prosecuting General Mkhwanazi and General Khumalo for defeating the ends of justice. That was the whole purpose of this operation.

MR MOGOTSI: I am still saying you are correct. Even if it was not General Mkhwanazi, even if it was General Jabu or General Mkhwanazi, whoever was involved in the particular intention, that was the purpose of this operation.

ADV CHASKALSON SC: No, but we are not talking abstract in the air here. At paragraph 36 of your witness statement on page 10, you say the intention was to employ this person as a section-204 witness against both Lt-Col Khumalo and I think that should be Maj-Gen Khumalo because you – sorry, Lt-Gen Khumalo because you referred to Lt-Gen in paragraph 37 and it was Lt-Gen, not Lt-Col – and Lt-Gen Mkhwanazi who plotted against Maj-Gen Khan with reference to the disciplinary hearing.

MR MOGOTSI: That is correct, Commissioner.

ADV CHASKALSON SC: So that was the purpose of it. It was ...[intervenes].

MR MOGOTSI: Of the operation, yes.

ADV CHASKALSON SC: The operation was to end up with a conviction against Lt-Col Khumalo, sorry, Lt-Gen Khumalo and Lt-Gen Mkhwanazi.

MR MOGOTSI: I am not disputing that. It should not be that I woke up from my house with intention that General

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Khumalo and whoever must be implicated or somehow. The decision, the intention comes from the information as it comes, that here is myself, I have information that General Khumalo and General Mkhwanazi are intending to do one, two, three. Then you request what you call an authority to conduct a 252A and it is granted.

Now you meet this person, the request is done through some channel. Now you meet this person. I am saying as an agent, I had to mention this or else because I was in work, I was during my time of duty, or else it could not be signed.

ADV CHASKALSON SC: Sir, when you lied under oath in this affidavit, you are saying it was necessary for the operation to continue.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: You see that too is false because I want to take you to the date of this affidavit. Can you go to page 46? The date of the affidavit is 15 February 2025.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: By that stage, the operation had been abandoned. And you do not have to take my word for it. You can take your own word for it.

MR MOGOTSI: The answer is, Commissioners, you can go to page 52.

ADV CHASKALSON SC: Before you go to page 52, go to

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page 45, the bottom of paragraph 8. Bottom of page 45, paragraph 8.

MR MOGOTSI: In the main statement?

ADV CHASKALSON SC: In your affidavit, the one where you say you are employed in the Minister's office.

MR MOGOTSI: Okay.

ADV CHASKALSON SC: You say after our meeting, let us start at 7:

> "Due to a family bereavement, I could not meet with..."

We will not mention the name:

> "...until after 13 February."

This is the officer who you are going to use against General Khumalo and General Mkhwanazi:

> "I am prepared to assist the DPCI in becoming an agent for that officer to be held accountable for his actions."

So now you are going to hold the officer accountable. It is no longer General Mkhwanazi and General Khumalo:

> "I am also willing to testify at any formal trial that may take place. After our meeting, I had been communicating with the officer via WhatsApp and at one point I indicated to him that we should rather drop this arrangement he

> wants as there were media releases that have indicated that Mkhwanazi and Khumalo had placed undue pressure on certain witnesses in the DRC to testify in a certain way against Khan."

So you had already decided to drop the operation when you signed this affidavit.

MR MOGOTSI: Ja. That is correct, Commissioners.

ADV CHASKALSON SC: And so, lying as to your position inside the Minister's office had nothing to do with an operation that had to be authorised?

MR MOGOTSI: That is not correct, Commissioners. So I was saying if you check this thing, the date of the – where is the extract? The date of the recording after it was done and been granted the verbal authority. This is it. It is page 53.

ADV CHASKALSON SC: So page 53 is now not an affidavit. It is a transcript of your meeting with the SAPS officer who was going to implicate General Mkhwanazi and General Khumalo and a DPCI, I think it is a colonel who is going to assist you with the trap.

MR MOGOTSI: Commissioners, you see, I think these are the challenges that are there, and that is why it is so difficult in this country. Page 53 shows on the 6th of January 2025. The recording has been done ...[intervenes].

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contact agent. That is what you said in your response to the Chair. Do you accept that as we are sitting here today, you have not provided this Commission with any supporting documents that confirm ...[intervenes].

MR MOGOTSI: No ...[intervenes].

ADV KHUMALO SC: Wait for the question. You have not supported this Commission with any supporting documents that confirm your version that you are conducting investigations as a contact agent. We have nothing in front of us. You say you were in Kenya. We do not have your flight tickets. We do not have the communication between you and the person in Kenya. You say you called him on your cell phone. You say you followed Cat Matlala to Durban. We do not have your flight tickets. You did not take photos of this place you followed him to. So there is absolutely nothing before us that supports the version that you conducted any of these investigations that you are mentioning. Are you at least prepared to accept that before us as we are sitting here today, other than your statement and your say-so, there are no documents that support the version that you are a contact agent and you conducted these investigations? Yes or no?

MR MOGOTSI: The question is very unfair, Commissioner. To say I have nothing – I have just said to you, Commissioners, contact agent, you will never find any

identity of a contact agent. You will never. In this whole room, I am a state agent. I am a contact agent. You will never find a document written contact agent. And as I say, I took ...[intervenes].

ADV KHUMALO SC: Mr Mogotsi ...[intervenes].

MR MOGOTSI: Senior Counsel to the hospital ...[intervenes].

ADV KHUMALO SC: Not a document that says contact agent. A document that shows that you conducted these investigations that you claim you were busy with.

MR MOGOTSI: Commissioner, Senior Counsel will have to answer on that. He met with my co-handler and I believe they will provide my file because when you work, you report. You give your handler and you report, you give him information and all that information stays with your handler. There is no way that I can bring papers and give to you. And logically, unless you say, Commissioner, unless Commissioner has this belief that I just came here to come and impress people.

I said I did section 252A, it is with ...[indistinct]. The Commission found it there. I recorded someone and this and this happened. Commission found it there. I said there is Boko Haram's thing within the Crime Intelligence. I did not tell you where to go. I can tell you now that you must go to the Analysis Department. You will find that thing

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there. That is how a contact agent works. You cannot find anything written. But I thought, because I saw here in this bundle there is a letter from Crime Intelligence, I thought we would talk about it. I just do not want to go through it before we get there. I will answer about that. I will give you, I will provide you answers ...[intervenes].

ADV KHUMALO SC: Okay ...[intervenes].

MR MOGOTSI: You will never get a paper, anything, unless you meet with my co-handler who will provide you with a file ...[intervenes].

ADV KHUMALO SC: Mr Mogotsi, if you are not going to answer the question I am asking you, maybe let us leave that there. I want to give Mr Chaskalson his time back.

MR MOGOTSI: All right, thank you.

ADV KHUMALO SC: All right.

ADV CHASKALSON SC: Thank you, Chair. In fairness to Mr Mogotsi, I must confirm that we did interview in a hospital a man describing himself as Mr Mogotsi's co-handler with the name that has been shown to you. He did confirm that he had been running Mr Mogotsi as an agent. We have certain questions we would like to ask that man, but we are waiting for him to recover from his health condition.

CHAIRPERSON: Thank you for that, Mr Chaskalson.

ADV CHASKALSON SC: Mr Mogotsi, I want to talk today

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ADV CHASKALSON SC: To move to a completely different topic, I would like us to move now to the 252(A) operations. And if we can start with your statement, and if we go to the foot of page 9, paragraph 35, you say the following:

> "In December 2024, Matlala referred me to a high-ranking police officer, and I subsequently met him. I knew him, as I had conducted an operation with him in the past. He shared information with me of the intention to craft a negative finding in a disciplinary hearing against Maj-Gen Khan."

So, the starting point for this whole process is a reference from Mr Matlala. He brings you someone, puts you in touch with someone. Is that correct?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And this person, he says, will tell you about a plot to convict General Khan.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: Did he tell you how he found this person, this police officer?

MR MOGOTSI: He did not tell me.

ADV CHASKALSON SC: Did it strike you as odd that Mr Matlala, who you suspect of being a criminal and who you are investigating for corruption in SAPS, comes to you with

a witness to be able to prove and expose corruption in SAPS? Why would Mr Matlala want to expose corruption in SAPS?

MR MOGOTSI: I do not know, but I do not know why he would want to expose.

ADV CHASKALSON SC: Did it not strike you odd that your primary target, who is suspected of corrupting the procurement process, is now wanting to expose corruption in SAPS?

MR MOGOTSI: It did not.

ADV CHASKALSON SC: I see. Now, the ultimate target of this operation was Generals Khumalo and Mkhwanazi. If you go to paragraph 36 of your statement, you say:

> "The intention was to employ this person as a Section 204 witness against both Lt-Col Khumalo and Lt-Gen Mkhwanazi, who plotted against Maj-Gen Khan with reference to the disciplinary hearing outcome. So that you gave a statement to Lt-Col Schnelle. Part of the strategy behind the disciplinary hearing instituted against Maj-Gen Khan was that he would be employed in that situation to give implicating testimony against Maj-

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Gen Khan at the insistence of Lt-Gen Khumalo and Lt-Gen Mkhwanazi. So, if I understand you correctly, you are saying this officer who Mr Matlala wants you to use to expose corruption in SAPS says he is being used by General Khumalo and General Mkhwanazi to give false evidence against General Khan. Is that broadly correct?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And you then go to meet the officer and essentially, he tells you that he will only change his story to what he says is the truth if you ensure that he gets promoted to the level of full colonel and you give him a bag of cash. Is that correct?

MR MOGOTSI: He spoke about something and he said, yes, he was talking about a bag, maybe he implied cash, but he never said bag of cash.

ADV CHASKALSON SC: He said bag, he did not mention cash. But what did you understand the bag to contain? The bag that he wanted, what would have to be in the bag?

MR MOGOTSI: A bag would be ...[intervenes]

ADV CHASKALSON SC: Was he looking for a sort of smart handbag or something?

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MR MOGOTSI: No.

ADV CHASKALSON SC: Was he looking for a bag of cash?

MR MOGOTSI: That would imply cash, of course.

ADV CHASKALSON SC: I thought so too. Let us date this meeting. If you go to evidence bundle 51.

ADV KHUMALO SC: Sorry, exhibits or annexures?

ADV CHASKALSON SC: Evidence bundle in this case, but we will move between annexures and evidence bundle. So unfortunately, we may need both. Sorry, exhibit, exhibit, exhibit, sorry.

CHAIRPERSON: You said page?

ADV CHASKALSON SC: 51.

CHAIRPERSON: Thank you.

ADV CHASKALSON SC: And this should not be displayed because the name of the investigating colonel should not be displayed. But what we see at the - this is a WhatsApp that was sent to Lt-Col Schnelle, who was going to be in charge of the 252(A) operations. It was sent by the investigator from the Hawks who came with you to that meeting with the source, who was going to change his story. And in paragraph 2, he reports the following:

> "The colonel, who is going to change his story, contacted Mr Brown and he arranged a meeting for Wednesday, 29

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January 2025."

So, the meeting was on 29 January 2025. Is that correct? Mr Mogotsi.

MR MOGOTSI: It is, I can, this is the WhatsApp which was sent to Colonel Schnelle.

ADV CHASKALSON SC: Yes, but I am interested in the dates and times. It says 29 January 2025, and the meeting at the Houghton Hotel at approximately 18:23. Does that correspond with what you recall?

MR MOGOTSI: Yes, but I am not sure about this date.

ADV CHASKALSON SC: Sorry, you are not sure about the date of 29 January?

MR MOGOTSI: Yes, yes.

ADV CHASKALSON SC: When do you think the meeting did take place?

MR MOGOTSI: It is the same, you know, when we are not good with dates, remember I was so much, I kept on saying to the Commission the recording happened in December, summer, January. I was not sure. So, but I think if we proceed, we can proceed, I will take this date. I am just not sure. Remember, it is someone who typed. I cannot really say, yes, it was on this date.

ADV CHASKALSON SC: Perhaps we can help by going to your affidavit, which is in the exhibit bundle at page 43.

MR MOGOTSI: That is correct. Yes, it confirms an

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affidavit.

ADV CHASKALSON SC: And paragraph 5, at the foot of page 43, there you say:

> "On Wednesday, 29 January 2025, at approximately 18:23 I was accompanied by..."

And then you give the name of the investigator. So, those dates are correct.

MR MOGOTSI: Yes, they are.

ADV CHASKALSON SC: Date and time. Because you would have made that affidavit quite soon after the event. Let us go to page 106 of the annexure bundle now, and see what happened in the chats when you came out of that meeting. If you ...[intervenes]

MR MOGOTSI: 106.

ADV CHASKALSON SC: 106, indeed. If you go down to 2015. So, that would have been less than two hours after your meeting with your source started. In 2015, you text Mr Matlala, and you say to him, 'the meeting was positive'. Are we referring to the same meeting? Maybe if you read further:

> "Is he willing to help you guys, says Mr Matlala. You respond, I just wish he could help with a statement."

MR MOGOTSI: That is correct.

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ADV CHASKALSON SC: And then you say, 'I think he needs cash'. So, we are talking about what has happened at this meeting.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And you go over the page, and Mr Matlala's response at the top of page 107 is:

> "Okay, arrange with Khan to give him cash if the information he has is worth it."

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: So, Mr Matlala is saying, he wants cash, speak to General Khan. We give him the cash if the information's going to be worth it.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: So, let us just take a step back. Mr Matlala is a suspected criminal you are investigating.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: He refers you to an apparently corrupt SAPS officer who is willing to tailor his evidence if he is paid enough.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And Mr Matlala says, you should get General Khan to pay the officer to give evidence that will incriminate General Mkhwanazi and General Kumano.

MR MOGOTSI: For him to make a statement, not to

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incriminate, as such, remember, it is the man coming to me saying I am being told to incriminate the person. Now and I am going back to the person who gave me the senior officer to say I think this person wants cash and he say it means therefore that it is this general who is affected I must ask him that he is the one who must finance this.

ADV CHASKALSON SC: I see, but you said it is not to incriminate them, but in fact if you go back to your witness statement at paragraph 37, you said that was the purpose. Strategy behind the disciplinary hearing institute against Maj-Gen Khan was that he, in other words this officer, would be employed in that situation.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: To give implicating testimony against Maj-Gen Khan at the insistence of Lt-Gen Khumalo and Lt-Gen Mkhwanazi.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And so, the whole purpose of this operation is to expose Lt-Gen Khumalo and Lt-Gen Mkhwanazi, is it not?

MR MOGOTSI: Yes, it is to use this statement, correct.

ADV CHASKALSON SC: And you want to use it as a section 204 witness, you say in paragraph 36.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And that presupposes that there

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will be criminal charges against Lt-Col Khumalo and Lt-Gen Mkhwanazi.

MR MOGOTSI: It is true.

ADV CHASKALSON SC: Because you do not have 204 witnesses unless you are in a criminal case.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: So, let us scroll forward a little bit in these chats to page 114. And on 2 February, at 12:27, Mr Matlala sends you a story about the plot against General Khan being exposed. It says:

> "Breaking, police witnesses change statements for promotion."

And there is a long story about the trumped-up charges against General Khan and how witnesses have come clean and said that they were persuaded to give false evidence against Khan. You recall that chat?

MR MOGOTSI: I recall.

ADV CHASKALSON SC: Your response to that chat is revealing. That is on page 115 at 1227. You say, 'disappointed'. You recall that?

MR MOGOTSI: Yes, correct.

ADV CHASKALSON SC: And then you say, 'just have to leave everything'. Then there are two calls between you and Mr Matlala. And then you say, 'small session with lawyers.' All of this is happening almost immediately. What

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was the small session with lawyers you were talking about?

MR MOGOTSI: There was no session with lawyers.

ADV CHASKALSON SC: Sorry, there was no session with lawyers.

MR MOGOTSI: Yes.

ADV CHASKALSON SC: There was not one.

MR MOGOTSI: No.

ADV CHASKALSON SC: So, this was a false statement you made to Mr Matlala.

MR MOGOTSI: Because I did not answer his phone.

ADV CHASKALSON SC: So, you were just explaining why you did not answer his phone.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: But if we look at the time, the text that you sent to him was at 12:27:52. His calls were at 12:27:56 and 12:28:05. So, then you respond to him again at 12:28. So are you saying that you deliberately chose not to answer his phone, you wanted to communicate with him on text? And you need to have a reason to explain that.

MR MOGOTSI: It is not that I did not. I wanted him to tell me what you were saying.

ADV CHASKALSON SC: Sorry, you wanted him?

MR MOGOTSI: To perhaps tell me what you were saying. I did not take the call that time.

ADV CHASKALSON SC: Well, he then says:

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"This is in your favour actually. It disrupts their plan against Khan."

He says that to you.

MR MOGOTSI: He said that to me.

ADV CHASKALSON SC: Yes. Why would he think that disrupting a plan against Khan is in your favour?

MR MOGOTSI: He was referring to the publication that you just showed.

ADV CHASKALSON SC: But why would it be in your favour to disrupt a plan against Khan?

MR MOGOTSI: I do not know why he sent me that message.

ADV CHASKALSON SC: You respond to him by saying, 'maybe, but that is not my plan'. So, you are saying it will disrupt the plan against Khan, but it was not what you had in mind. Is that correct?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: What did you have in mind?

MR MOGOTSI: When I say maybe.

ADV CHASKALSON SC: When you say, but that is not my plan, what was your plan?

MR MOGOTSI: That is not my plan. It is the response that I gave to Cat. And now the question is, what was my plan then?

ADV CHASKALSON SC: Well, let me put to you what I

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think your plan was and why you were disappointed. Your plan was always to use this case to target General Khumalo and General Mkhwanazi. You accept that. That was your plan.

MR MOGOTSI: That is not the plan. The reason I said I was disappointed. Remember, I did write on my statement that I leaked that publication.

ADV CHASKALSON SC: I know what you write.

MR MOGOTSI: Now, the moment you give me someone to help me with whatever, that is how we recorded the person. And it quickly appeared on the news that the same person who gave me information about the plot, it is now known. I was pretending as if I do not know. And I was disappointed.

ADV CHASKALSON SC: As if you do not know what?

MR MOGOTSI: That this information leaked.

ADV CHASKALSON SC: You see, I want to put to you what your plan all along had been. And in fact, what you indicated in your statement is that you wanted this colonel to be used in a criminal prosecution of General Khumalo and General Mkhwanazi. That was your original plan, was it not?

MR MOGOTSI: Yes. Commissioners, when you refer to the text here, I am saying, because you also mentioned ...[intervenes]

ADV CHASKALSON SC: No, no. I am asking whether that

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was your original plan. We will talk about the text later.

MR MOGOTSI: I do not get it as a question properly. You are saying apart from the fact that this thing leaked, because the moment it got leaked, it means now I am disappointed because my plan will never work again. So, what are you saying?

ADV CHASKALSON SC: That is what I am saying.

MR MOGOTSI: No, that was not the plan. The plan here was that I should – Cat should not know that this information has leaked because of me. But the intention of the recording, yes, was that plan that you are saying.

ADV CHASKALSON SC: Yes, and the leaking meant that that plan could never be put into operation.

MR MOGOTSI: Yes, but it means the ...[intervenes]

ADV CHASKALSON SC: So, you said yes.

MR MOGOTSI: Yes.

ADV CHASKALSON SC: Yes, so the leaking prevented that plan being put into operation. Because once it leaked, you could no longer do your sting with General Khumalo and General Mkhwanazi.

MR MOGOTSI: Yes, once it leaked, could not proceed.

ADV CHASKALSON SC: Yes. Why were you targeting General Mkhwanazi and General Khumalo?

MR MOGOTSI: No, I did not target them. They made themselves a target by planning with the person.

ADV CHASKALSON SC: I see.

MR MOGOTSI: Yes.

ADV CHASKALSON SC: So, you are saying they told this person to give false evidence about what happened in that drug bust in 2021.

MR MOGOTSI: That is what he told me. That is what I recorded out of him. It is now my statement, but it is now set in the Commission like that because he said that.

ADV CHASKALSON SC: See, did you bother at the time before you tried to target General Khumalo and General Mkhwanazi this way to check out what story this witness had told when the drug bust happened in 2021, long before he had had contact with either of the generals?

MR MOGOTSI: No, I did not.

ADV CHASKALSON SC: You did not?

MR MOGOTSI: No.

ADV CHASKALSON SC: So, you did not investigate this apparently corrupt cop who comes to you from Cat Matlala who says, I will change my story if you pay me enough money because General Khumalo and General Mkhwanazi are making me tell a false story. You did not investigate what he had said earlier.

MR MOGOTSI: Yes, now here is the situation. It was this senior officer. He may have his original statement, which when he got to Durban, they said he must change. Then he

comes to me and say, if he gets something, he will change the statement again.

ADV CHASKALSON SC: So, he made a statement back in 2021. Then he meets the allegedly corrupt Generals Khumalo and Mkhwanazi and they lean on him to change the statements in 2024 to make a new statement that is false. And then he says to you, I will go back to my original true statement if you give me a bag of cash. Is that what you are saying?

MR MOGOTSI: He never said, he is not said. He just said, he never mentioned or implied the original statement. He spoke about changing the statement which was given to him in Durban. So not knowing whether he would quote the original statement or not.

ADV CHASKALSON SC: Now, if he was present at a drug bust, you would expect that a statement would exist from him that was taken at the time of the drug bust, would you not?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: Did you not ask to look at that statement to see what he said on the day, several years before he had had any contact with General Khumalo or General Mkhwanazi?

MR MOGOTSI: No, I did not ask him.

ADV CHASKALSON SC: Maybe we should look at it now.

[redacted]

Can you go to exhibit bundle 211? So, you see, I do not know if you have an unredacted copy. The copy that goes up will be redacted. But this is his statement. And if you go down to the date on page 212, it is 14 September 2021. Do you see that? Do you see that date?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And across the top, it says Booysens CAS.

MR MOGOTSI: Yes.

ADV CHASKALSON SC: Something, something stroke and at the end of it, it says 21.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: So, this is the statement that he gave in 2021 at the time of the drug bust. You said that is correct.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And you will accept that that was long before General Khumalo or General Mkhwanazi could have had any contact with him in relation to this matter.

MR MOGOTSI: That is true.

ADV CHASKALSON SC: So, let us see what he says. Go to paragraph 5, the foot of page 211.

MR MOGOTSI: 211, that is correct.

ADV CHASKALSON SC:

"The driver of the truck, which was

containing the drugs, was pointed to me and was already placed under arrest. And members informing me that they are awaiting the photographer to come take pictures of the said packages of drugs which were placed inside a police bakkie. While the scene was being explained to me, I was surprised to see one general of intelligence."

Now would that be General Khumalo?

MR MOGOTSI: I cannot confirm.

ADV CHASKALSON SC: Are you aware of any other Generals of intelligence who are alleged to have been present at the scene?

MR MOGOTSI: Yes, it was him.

ADV CHASKALSON SC: So, it would be General Khan. He is the only general of intelligence at the scene:

"While the scene was being explained to me, I was surprised to see one general of intelligence who never introduced himself to the members on the scene and started dictating and giving instructions at members who found the said truck with drugs be

arrested."

So, he wants the police officers who did the drug bust to be arrested:

> "The suspects [driver] who members already placed under arrest, was released from the scene as a suspect by the said general."

So, the driver of the drug cargo who had been placed under arrest was, according to your source, released from the scene as a suspect by General Khan. And the truck which was containing the said drugs when it was stopped was never booked into SAP13. So, the truck containing the drugs was never booked into a SAP warehouse. And then your source continues:

> "As an experienced investigator, what I observed happening there at the scene is only abuse of power and rank, which I do not know why it was done. I informed all members placed under arrest that they need to open a case of defeating the ends of justice against the said general."

So, this man says, immediately after the event, I told everyone there we must open a case against General Khan:

> "I was not happy, since I noticed what

[redacted]

was happening is a cover strategy to protect the driver of the truck found with drugs and the origin of the said truck and drugs. The fact that members are manipulated and power of rank is used to achieve unknown or ulterior motives is unacceptable and needs to be dealt with within the parameters of the law as what I observed transpiring on the said day was that some individuals are above the law and it irritated me seeing that members enforcing the law being abused by seniors within the police."

And then it is signed. And is that the same man who came to you as the source in the 252?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: So, this contemporaneous statement made by that man says that General Khan should be charged with defeating the ends of justice and that he is abused his authority and suppressed an arrest and a drug bust. And the only false evidence that this man was ever going to give was the false evidence that you and Mr Matlala were hoping he would be paid for to exonerate General Khan and to implicate General Khumalo and



General Mkhwanazi. Do you accept that?

MR MOGOTSI: No.

ADV CHASKALSON SC: So where was the false evidence?

MR MOGOTSI: Like you asked me, did I look at the statement? I did not. And therefore, I would not have known any other statement except what he was telling me. And he was one of the witnesses during the disciplinary hearing. So, I did not have any other statement, and I did not even ask him what is your original statement. He said, look, we called to Durban. This is what he said, and they want us to implicate the man.

ADV CHASKALSON SC: I see. Now that you know what his original statement was, do you accept that if your plan had gone ahead, false evidence would have been given against General Khumalo and General Mkhwanazi by this witness who was going to be paid in the scheme.

MR MOGOTSI: Should we have agreed to pay him? Because there was not an intention to pay him.

ADV CHASKALSON SC: I see.

MR MOGOTSI: What we wanted was the information which he had, and we gave that information. And as you say, should the trial or criminal charges been laid, it would only come out during trial when this statement is provided.

ADV CHASKALSON SC: I see. Now this plan to trap

General Khumalo and General Mkhwanazi was a plan that you executed with a double set of misrepresentations. First, you say you masqueraded as Mr Matlala's alia. You said you were an agent who was pretending to be Mr Matlala's, but you were not actually. Is that correct?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: But in relation to the SAPS members who did the 252(A) operation, you also masqueraded as an agent of the Minister, as an employee in the Minister's office.

MR MOGOTSI: As a comrade to the Minister.

CHAIRPERSON: Please speak up.

MR MOGOTSI: That is correct. As a comrade to the Minister.

ADV CHASKALSON SC: No, no, not as a comrade. As someone employed in the office of the Minister.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And we went through your affidavit yesterday. I would just like to take you to - I do not want to traverse what I traversed yesterday, but there is another aspect of your affidavit which I want to look at. Paragraph 5. Do you have paragraph 5 of the affidavit? It is page 43 of the exhibit bundle. There you say:

> "On Wednesday, 29 January 2025, at approximately 18:23, I was

[redacted]

accompanied by the Hawks officer, and we met the colonel at the Houghton Hotel. And then you say, I do not know the colonel and this is the first time that I have met him."

That was false too, was not it?

MR MOGOTSI: In the context of this, remember I operated ...[intervenes]

ADV CHASKALSON SC: No, you have given your explanation as to why you ...[intervenes]

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: So, it was false too.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: Now, can I understand why you had to lie under oath in relation to the fact that you knew this source? Why was it necessary for the operation for you to lie under oath about previously knowing this source? This colonel. Let us call him colonel.

MR MOGOTSI: Because I would not tell even Colonel Schnelle that I knew this person. I would not tell him.

ADV CHASKALSON SC: But why would not you tell him? Why was it necessary for the operation? Why was it necessary to lie under oath?

MR MOGOTSI: Because it would not make – it would look – even Colonel Schnelle will ask me, but why would this

man – why would you record this man when you know him like this?

ADV CHASKALSON SC: Sorry, why would you ...[intervenes]

MR MOGOTSI: Why would I record? What would you want to know? It was my thinking then. Why would I record him if I knew him?

ADV CHASKALSON SC: So, if Colonel Schnelle knew that you and this colonel had a previous association, the whole operation would not be allowed to proceed?

MR MOGOTSI: Not the whole operation. Not the whole operation.

ADV CHASKALSON SC: What operation?

MR MOGOTSI: I just felt he should not know. That was my feeling that time.

ADV CHASKALSON SC: So, in your judgment, you decided that this was sufficient reason to lie under oath?

MR MOGOTSI: I do not know how – it sounds so different. I do not know how we are going – it means we will continue, even if I have provided reasons unless I do not know if it calls for the Commission to make a ruling that it works. I do not know. It sounds otherwise like I was not doing my job. Like repeating it, you have got a professional liar today. You were lying under oath even though I give reasons, this was an underground work. But I do not know

[redacted]

if Commission could come up with a certain ruling that will stay until this proceeding starts ...[intervenes]

ADV CHASKALSON SC: I do not propose to take this further. But so maybe we can stop it there. But I do want to go to further aspects of this operation. If you go down to Lieutenant Schnelle's affidavit and if we go to the sort of bottom of page 47, top of page 48. Top of page 48, he clearly assumed that you were employed in the office of the Minister, because he says:

> "I was informed that the complainant was Mr Brown Mogotsi, a politician that is deployed at the office of the Minister police, Mr Senzo Mchunu."

So, he authorised this operation on the basis that you were someone from the Minister's office.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And then if we go into the transcript of this meeting that you had with the source, we see that the source, the colonel, was reluctant to commit to writing and wanted some sort of assurance from the Minister or the DNC, the deputy National Commissioner. Let us go to page 65. Maybe if we can just clarify. I understand from this transcript that you would be man 3, man 1 would be the colonel, and man 2 would be the Hawks officer. We cannot show this because names are

mentioned. But if you go to the top of page 65, you see there you say hmm. And then the Hawks officer says:

> "The colonel does not want to give a statement, but he is willing to tell the Minister or DNC."

Would that be deputy National Commissioner?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And that would be General Sibiya, would it not?

MR MOGOTSI: In this case, I did not even think whom did he refer to but remember there are about three DNCs. I am not sure, but it is possible it can be DNC Sibiya, yes.

ADV CHASKALSON SC: Who is the DNC who you refer to right through this process?

MR MOGOTSI: Myself.

ADV CHASKALSON SC: You, yourself?

MR MOGOTSI: Yes, I refer to the DNC Sibiya.

ADV CHASKALSON SC: I see.

MR MOGOTSI: For this man to say the DNC, it should not be concluded that he meant him. There are other DNCs, but ...[intervenes]

ADV CHASKALSON SC: So, he may not have been referred to ...[intervenes]

MR MOGOTSI: But in this case, let us say he meant DNC Sibiya.

ADV CHASKALSON SC: Did you not try to find out which DNC he needed comfort from?

MR MOGOTSI: No. I did not because he was not going to meet him or the Minister anyway, so I did not find out.

ADV CHASKALSON SC: And let us see what the man says. Go to page 69, where he is expressing his misgivings. He says to you:

> "Go see the DNC and the Minister and let me think, let me think. And if it can happen, or we get something to block this okay, I get the post and fix the place, they must give something. Khan must look after me. He must give me something, a bag or something, must get a bag."

Okay, so the source wants you to go and see the DNC and the Minister. The colonel says, go and see the DNC and the Minister and let me think. That is correct, is it not?

MR MOGOTSI: Yes, that is correct. I am following.

ADV CHASKALSON SC: And did you understand which DNC he was referring to? Which DNC did he want you to go and see?

MR MOGOTSI: Yes, I have long agreed that let us agree it is DNC Sibiya.

ADV CHASKALSON SC: DNC Sibiya?

MR MOGOTSI: Yes, let us agree. Even if he is not ...[indistinct].

ADV CHASKALSON SC: And the Hawks colonel is egging him on, on the basis that you can sort out his life with the Minister because you are in the Minister's office and all he needs to do is to email the Minister. So let us take a look at paragraph page 62.

ADV KHUMALO SC: Sorry, Adv Chaskalson, did we establish what a bag is? Is it a rank or money? I cannot seem to recall.

ADV CHASKALSON SC: A bag with cash inside it. Towards the bottom of the page, on page 62, the Hawks officer says, then what do you do? Then what do you do? He writes an email or a letter related to the Minister to the chief of staff saying this is the story, this is what happened. I am requesting your intervention. That gives them the opportunity. So, the Hawks man is saying to the colonel, write to the Minister, write to the chief of staff. And two lines down, the colonel says:

> "I do what? I do what? And the Hawks man says, write an email to the Minister to say this is what happened. I have got agreements. This is you. This is you. I am agreed because of X, Y and Z and I am requesting your

assistance in the matter. That is it. He will sort out the rest for you."

So, the Hawks man's making promises to this guy that you can step in in the Minister's office and just make his life whole again. Let us go down a page. Top of the next page, 63, the Hawks man again:

"That is why we have got to do it. You will write that email. You can write that email tonight even. Write. You send that email tomorrow morning. We can give you, we can talk, give feedback. How are we going to do that?"

So, he is saying to the colonel, write to the Minister. And then in the middle of the page:

"But that is what I am saying. Brown will probably speak to the Minister. The colonel's a bit sort of dodgy. And the Hawks guy says, you need to send that email tonight. And the colonel says, Brown's working with the Minister. He is a police officer. And the Hawks guy says, no, he is the Minister's man. And the colonel says, hmm. And the colonel and the Hawks

guy say, he is the Minister's man."

And over the page, the colonel says:

"The only person who can stop it is the Minister."

MR MOGOTSI: Which page is that?

ADV CHASKALSON SC: We are now at page 64. Sort of like seven lines in. The only person who can stop it is the Minister. And the colonel - the Hawks person says:

"How can the Minister stop it? The colonel says, hmm. How can the Minister stop it? The colonel says, misled. Misrepresentation, misrepresentation. The colonel and the Hawks man say, can you? And the colonel says, facts were misrepresented to me. I did my due diligence and worked for. And then the Hawks man says and found the truth. Can you do a statement for that and send it to the Minister?"

So, this Hawks man is saying, Browns from the Minister's office, send your complaint to the Minister. And on and on it goes. The central theme through all of this is the Hawks man who thinks that you are part of the Minister's office, is urging this person to send stuff through to the Minister at

every turn. Now, you did not try to stop any of this inside this meeting. I do not see you saying, no, no, do not send anything to the Minister. Do not send anything to the Minister. Have I got it wrong?

MR MOGOTSI: I do not understand the state. I did not say anything.

ADV CHASKALSON SC: Did you try to stop him sending something to the Minister?

MR MOGOTSI: Who? Who is stopping the Commissioner?

ADV CHASKALSON SC: The Hawks man is saying to the colonel, write something to the Minister, give the Minister a statement, email the Minister. Browns in the Minister's office, he will look after you.

MR MOGOTSI: Yes, so he is talking about a statement in relation to the hearing.

ADV CHASKALSON SC: Yes, that is what he wants. I think he contemplates two things. One, a statement in relation to the hearing and two, possibly a statement relating to how this colonel's been passed over for promotion.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And he is saying write this to the Minister and he is also saying brown is in that office, he will sort you out.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: Is there anywhere in this transcript where you try to stop that process? Where you say maybe you should not, maybe we should do it this way or maybe do not write to the Minister?

MR MOGOTSI: No, there is nowhere there is nowhere.

ADV CHASKALSON SC: Well, were you not worried that a letter would go to the Minister or the chief of staff and this colonel would be referring to you as someone who is working in the Minister's office and has made promises to him and then you would be exposed?

MR MOGOTSI: But immediately we knew there was no way he could write a letter.

ADV CHASKALSON SC: How did you know there was no way he could write a letter?

MR MOGOTSI: Because he relied on me to do that for him. Even if he could write a letter, he had to give it to me. There was no way he could write a letter.

ADV CHASKALSON SC: Well, what the Hawks man is saying is email it to the Minister.

MR MOGOTSI: Yes, you know, I do not think he could write a letter. Well, Commissioners, I am thinking something now and I do not want to laugh. This is very stressful. The way he is doing it is like he was there. And I am thinking of this other email that I have that is linked to me, my name, but it was not a plan. But I am just thinking,

if he emailed, where was he going to email him?

I am getting your point. So, I was going to make sure that I get the letter in my hand. I am trying to show you, Commissioners, in this thing that this is a colonel of crime intelligence talking to the Hawks man about me in that legend building that I spoke about, who confirms this man is with the Minister. I am trying to elaborate that when this function arises, it becomes so real.

ADV CHASKALSON SC: Sorry, can you just, I am not sure I understood what you are saying. You are talking about legend building. So, are you saying that the colonel was actually a colonel in crime intelligence, who was part of a legend building exercise or not?

MR MOGOTSI: I am saying if a colonel is telling, you see, this is not man one. The colonel, man one ...[intervenes]

ADV CHASKALSON SC: Man, one is the colonel who is going to give the new statement, and he is going to expose the attempt to frame General Khan.

MR MOGOTSI: No, no. I am referring to man two.

ADV CHASKALSON SC: Man, two is the Hawks colonel.

MR MOGOTSI: Yes, the one who is talking.

ADV CHASKALSON SC: Yes.

MR MOGOTSI: He knew, I am sorry to use the words, crime intelligence, he knew I am not in the office of the Minister. We are together when we do this 252.

[redacted]

ADV CHASKALSON SC: So that colonel, unlike Colonel Schnelle, who was not, knew what the true state of affairs was and he knew that you were not in the office of the Minister.

MR MOGOTSI: He knew.

ADV CHASKALSON SC: Yes.

MR MOGOTSI: For the purpose of this operation.

ADV CHASKALSON SC: But Colonel Schnelle did not know.

MR MOGOTSI: Did not know.

ADV CHASKALSON SC: So, you and that colonel in military intelligence, that colonel was he in ...[intervenes]

MR MOGOTSI: I said I made a mistake he is from the Hawks.

ADV CHASKALSON SC: Yes, I thought he was from the Hawks, yes. So that colonel from the Hawks and you both knew what your true status was and you were both building a common legend inside this meeting.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: This was a common legend you had not shared with Colonel Schnelle, who thought that you genuinely were in the Minister's office.

MR MOGOTSI: Could not share.

ADV CHASKALSON SC: Could not share?

MR MOGOTSI: Could not share.



ADV CHASKALSON SC: Okay, but the effect of that legend was you have the Hawks colonel urging the colonel who is going to be the key to this whole plan to write letters to the Minister's office, to the chief of staff and on the basis that you, Brown, are part of the Minister's office.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And that everything he wants you will look after, as it were.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: So I come back to my original question, did not you think that there was a serious risk coming out of this office, coming out of this meeting, that the colonel, in an attempt to get promotion or to get protection for changing his version on oath, would write a letter to the chief of staff or the Minister saying, I have spoken to Mr Mogotsi in your office and I understand you know the situation and this is my problem. Here are the true facts. I want to come clean now and expose this plot against General Khan and I have spoken to Mr Mogotsi of your office. Did not you spot that as a risk?

MR MOGOTSI: There is no police officer who can write their letter and demand their rank in that manner.

ADV CHASKALSON SC: Sorry.

MR MOGOTSI: There is no police officer who writes, even when you say write a letter, he cannot write that letter. He

[redacted]

wants to do things with me. He cannot write a letter and say to the Minister I want the rank.

ADV CHASKALSON SC: Even if he does not ask about a new rank, if he just says, I want to come clean in relation to an attempt to convict General Khan wrongly, I have been forced to give this statement on oath. I have spoken to Mr Mogotsi of your office, and he has encouraged me to approach you to set the record straight so that an innocent man can go free. Was there not a risk that he would write back to the Minister and say, I have spoken to Mr Mogotsi of your office, he has been instrumental in this?

MR MOGOTSI: Those risks are always there. That is why it is called the risk. You just take it. Should you have written this operation, you could have collapsed. The content of what he wanted to allude to the Minister in relation to the plot, perhaps the Minister would still give it the attention it deserved.

CHAIRPERSON: Let us adjourn at this point and resume at 14:05.

ADV CHASKALSON SC: Thank you, Chair.

CHAIRPERSON: Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV CHASKALSON SC: Mr Mogotsi, when we broke, I was putting to you that the strategy that you and your

[redacted]

IN THE COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM
HELD AT PRETORIA

AFFIDAVIT

I, the undersigned

[redacted]

State under oath that

1. I am an adult investigator working for the Commission of Inquiry into Criminality, Political Interference and Corruption in the Criminal Justice System ("the Commission").

2. The facts contained herein are, save where otherwise indicated, within my own personal knowledge, and are true and correct.

3. Mr Brown Mogotsi testified before the Commission in November 2025. In advance of the testimony of Mr Mogotsi, as part of the investigation and verification of facts, an issue arose as to whether Mr Mogotsi was acting as a Crime Intelligence contact agent when he performed certain acts about which he had been called to testify at the Commission.

4. In order to confirm Mr Mogotsi's status as a Crime Intelligence contact agent, arrangements were made by his legal team for me, the Commission evidence leader, Advocate Chaskalson SC, and our attorney, Mr Mbao of DM Inc to consult on 17 November 2025 with [redacted] whom Mr Mogotsi's legal team had informed us was Mr Mogotsi's co-handler at Crime Intelligence.

[redacted]

5. At the time, [redacted] had been hospitalised at the Garden City Clinic. So Adv Arno Venter, Mr Mogotsi's counsel, and Mr David Bayliss, Mr Mogotsi's attorney, met Adv Chaskalson, Mr Mbao and me at the Garden City Clinic on the afternoon of 17 November 2025.

6. [redacted] was recuperating in a general ward at the Garden City Clinic. This created two difficulties.

   6.1. First, there was a limit on the number of people who could meet him inside the ward; and

   6.2. Second, given the confidential nature of the subject matter of the consultation, it was not desirable for questions to be put to [redacted] orally and for him to answer orally, because his answers may have been overheard by other patients and visitors in the ward.

7. In order to address the first problem, we agreed that only Adv Chaskalson, Adv Venter and I would enter the ward to participate in the consultation. Mr Mbao and Mr Bayliss did not enter the ward.

8. In order to address the second problem, after an oral introduction, the consultation was conducted in writing. Adv Chaskalson asked the questions that he needed to ask by writing them in a notebook and handing to [redacted] the notebook with a pen for him to respond. [redacted] then wrote his answers in his own handwriting in the notebook. A copy of the three pages of questions written by Adv Chaskalson and answers given by [redacted] is attached as Annexure **"A"**. The answers of [redacted] are in block capitals. Anything in Annexure "A" that is in block capitals was written by [redacted]. Anything in Annexure "A" that is not in block capitals was written by Adv Chaskalson.

9. Before and after each answer of [redacted], Adv Venter and I were given the notebook so that we were aware of the question asked by Adv Chaskalson and the answer given by [redacted].

10. After the consultation was completed, Adv Chaskalson made the notebook available to Mr Bayliss to take photos of the three pages of questions and answers as his record of the consultation.

11. At 14h50, Adv Chaskalson took his own photographs of the three pages of questions and answers and WhatsApped them to me. Screenshots of the whatsapps sent by

[redacted]

Advocate Chaskalson to me with the three pages of questions and answers are attached as Annexure **"B"**.

[redacted]

DEPONENT

L. Naicker

COMMISSIONER OF OATHS IN THE DURBAN METROPOLITAN POLICE SERVICES NORTH HAVE EXAMINED THE DOCUMENT ON THE 06/05/26

AND HEREBY CERTIFY THAT IT IS A TRUE COPY OF THE ORIGINAL DOCUMENT

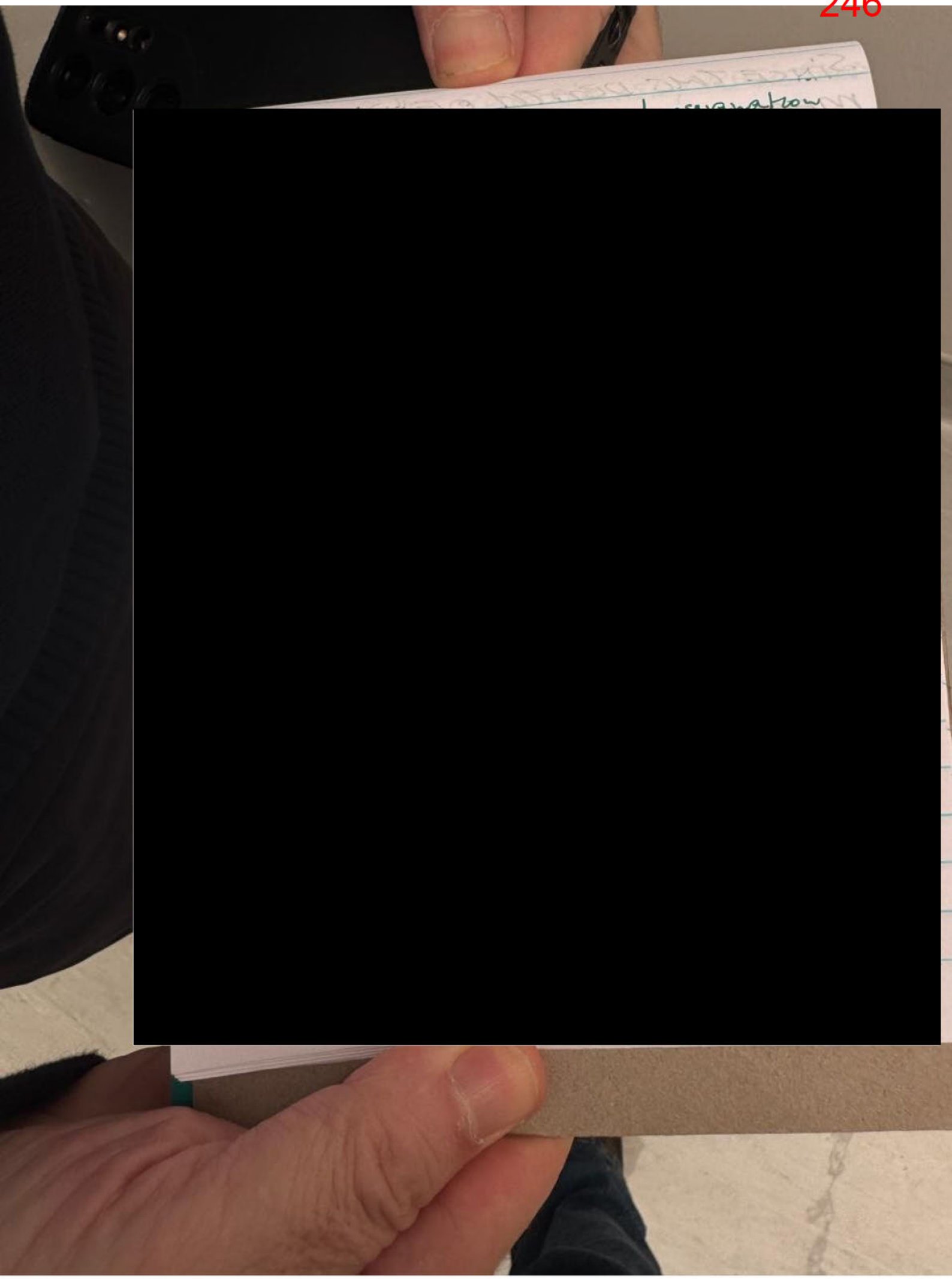
SIGNED [redacted]

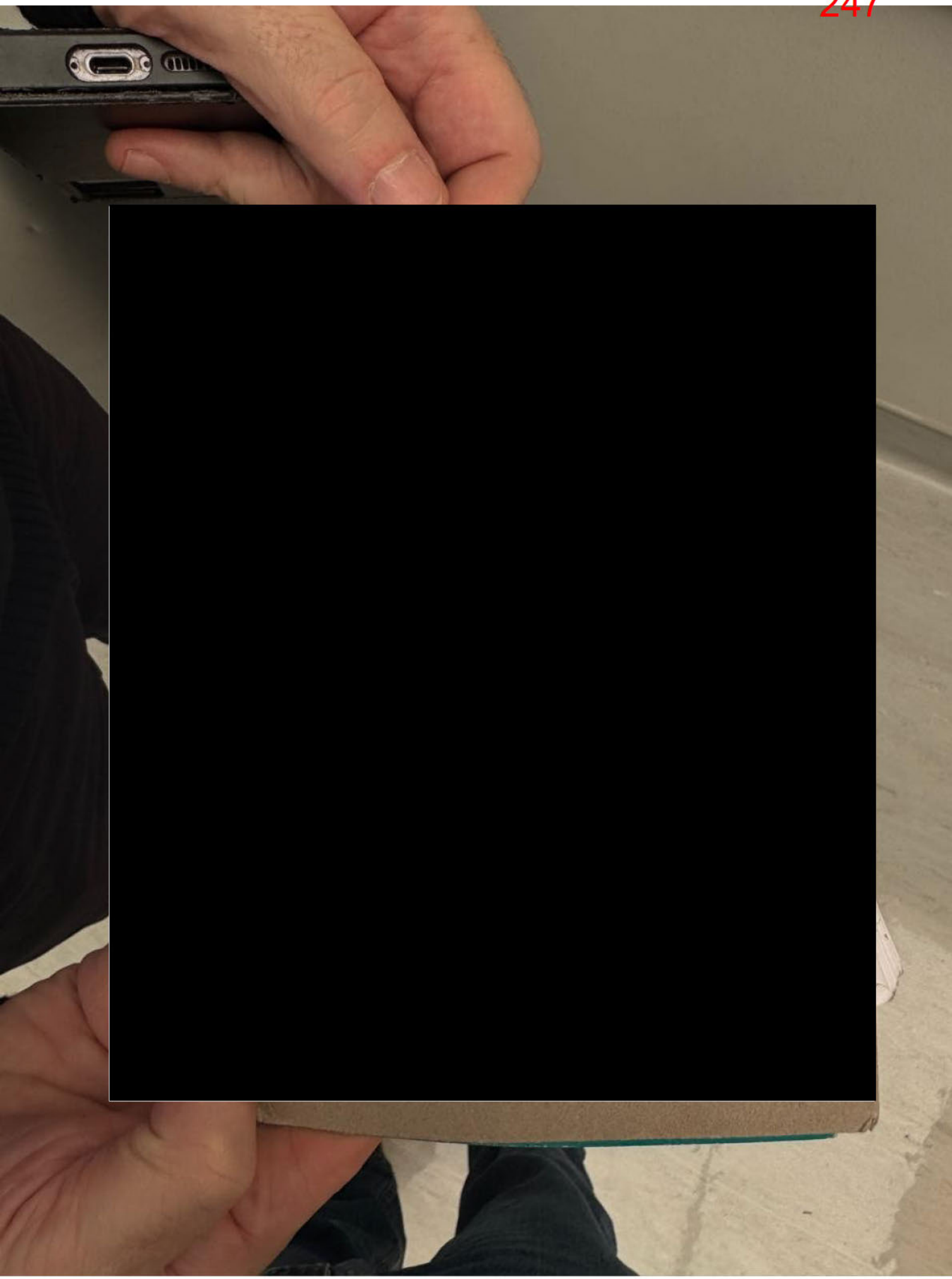
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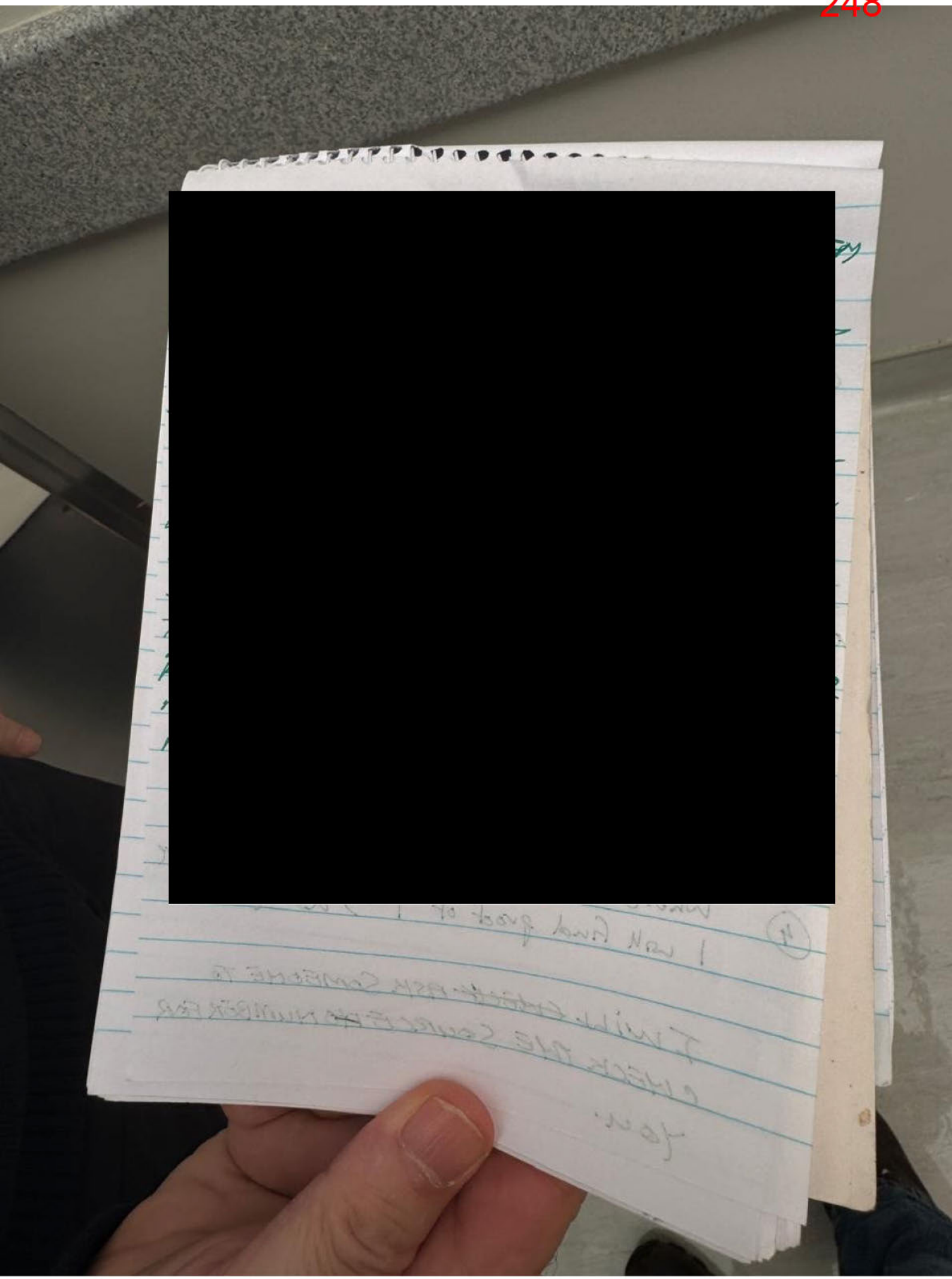
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CHARGE OFFICE



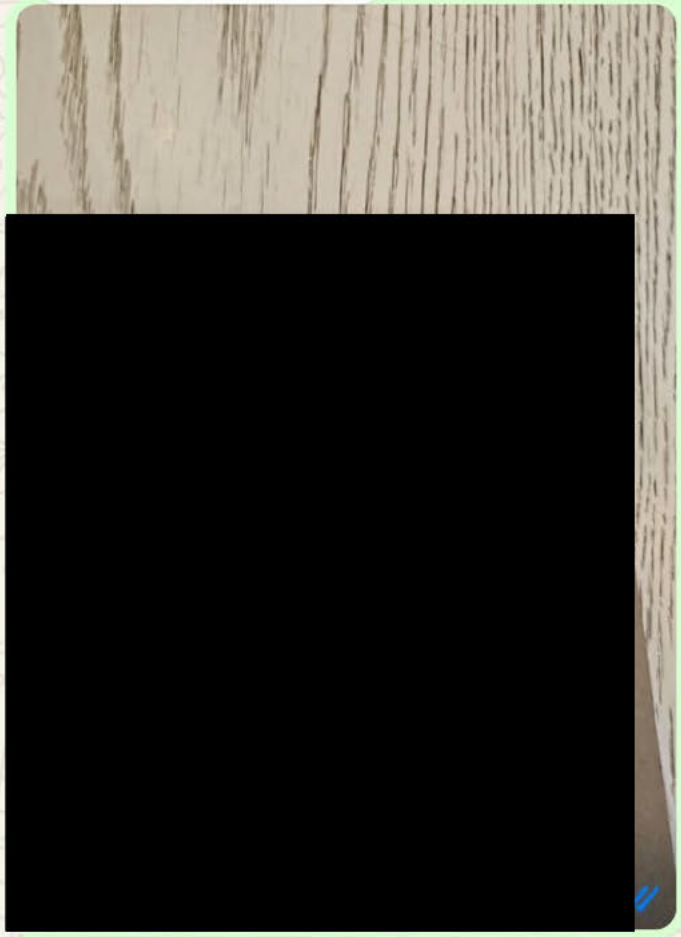


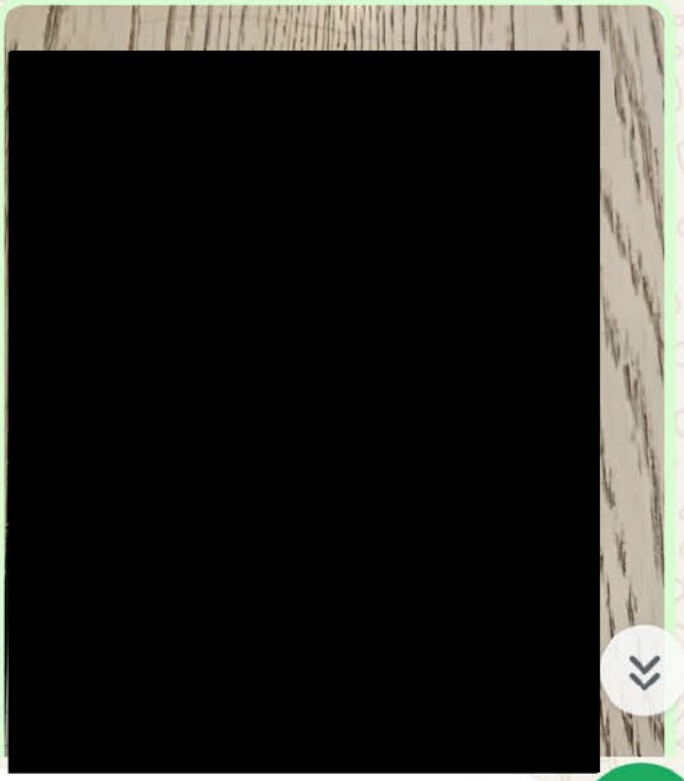


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[redacted]

17 November 2023



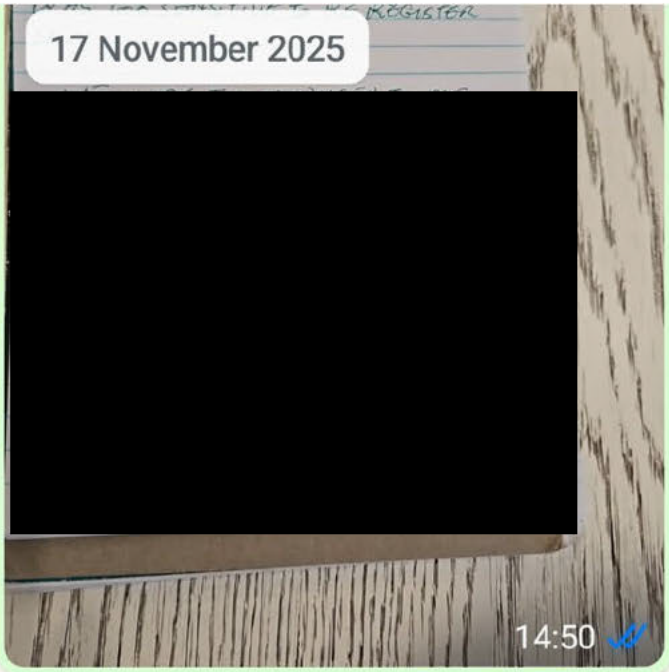


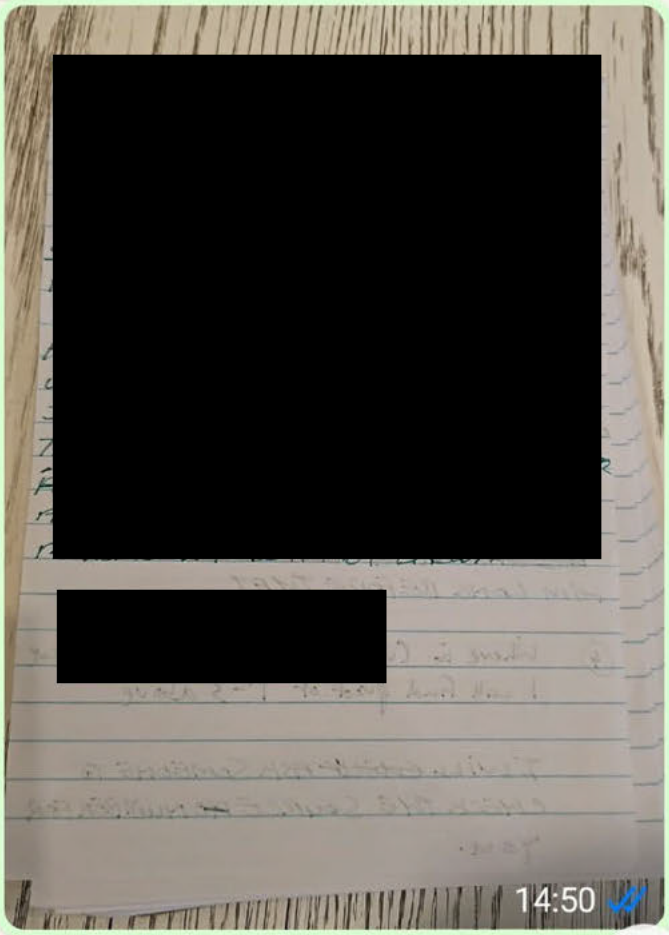
Message

19:56

[redacted]

17 November 2025





18 November 2025

Message

IN THE COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM
HELD AT PRETORIA

AFFIDAVIT

I, the undersigned

[redacted]

State under oath that

1. I am an adult investigator working for the Commission of Inquiry into Criminality, Political Interference and Corruption in the Criminal Justice System ("the Commission").

2. The facts contained herein are, save where otherwise indicated, within my own personal knowledge, and are true and correct.

3. Mr Suluiman Carrim testified before the commission on 09 and 10 March 2026. On the 10th of March I received a WhatsApp text from Chief evidence leader, Adv Matthew Chaskalson SC that reads as follows:

   3.1. [redacted] *Mogotsi has been calling me non stop since Carrim started giving evidence and threw him under the bus. He wants to give us dirt on carrim and ostensibly wants to tell us what he knows about Matlala's contract contract. I've arranged to see him tomorrow at 10.00. if you are available, please join me.* A copy of the WhatsApp chat is annexed hereto as **Annexure A.**

4. My response to Matthew was that, "Great will avail myself ", In advance of the testimony of Mr Mogotsi on the 13th of March. Adv Chaskalson SC set up a meeting for

[redacted]

Mr Mogotsi to consult with myself, Mr Bongani Dhlamini and him for 10am on 11 March, however Mr Mogotsi failed to appear for the meeting and he never called nor sent a text to send an apology or anything, I then went home and after that, I did not play any further part in relation to Mogotsi.

[redacted]

DEPONENT

[redacted]

I know and understand the contents of this declaration.

I have no objection to taking the prescribed oath.

I consider / I do not consider the prescribed oath to be binding on my conscience.

[redacted]

DEPONENT

8 MAY 2026

[redacted]

CONSTABLE
BROOKLYN SAPS
119 DURBURY RD; HILLCREST, PRETORIA, 0083

SOUTH AFRICAN POLICE SERVICE
COMMUNITY SERVICE CENTRE
2026 -05- 08
GEMEENSKAPSDIENSSENTRUM
BROOKLYN
SUID-AFRIKAANSE POLISIEDIENS

"ANNEXURE A"

22:14

[redacted]
last seen today at 21:45

01 September 2025

Messages and calls are end-to-end encrypted. Only people in this chat can read, listen to, or share them. **Learn more**

10 March 2026

[redacted]. Mogotsi has been calling me non stop since Carrim started giving evidence and threw him under the bus. He wants to give us dirt on Carrim and ostensibly wants to tell us what he knows about Matlala's contract. Ive arranged to see him tomorrow at 10.00. If you are available, please join me. 17:39

Great will avail myself. 17:40

17:41

Meeting is at the College right? 17:42

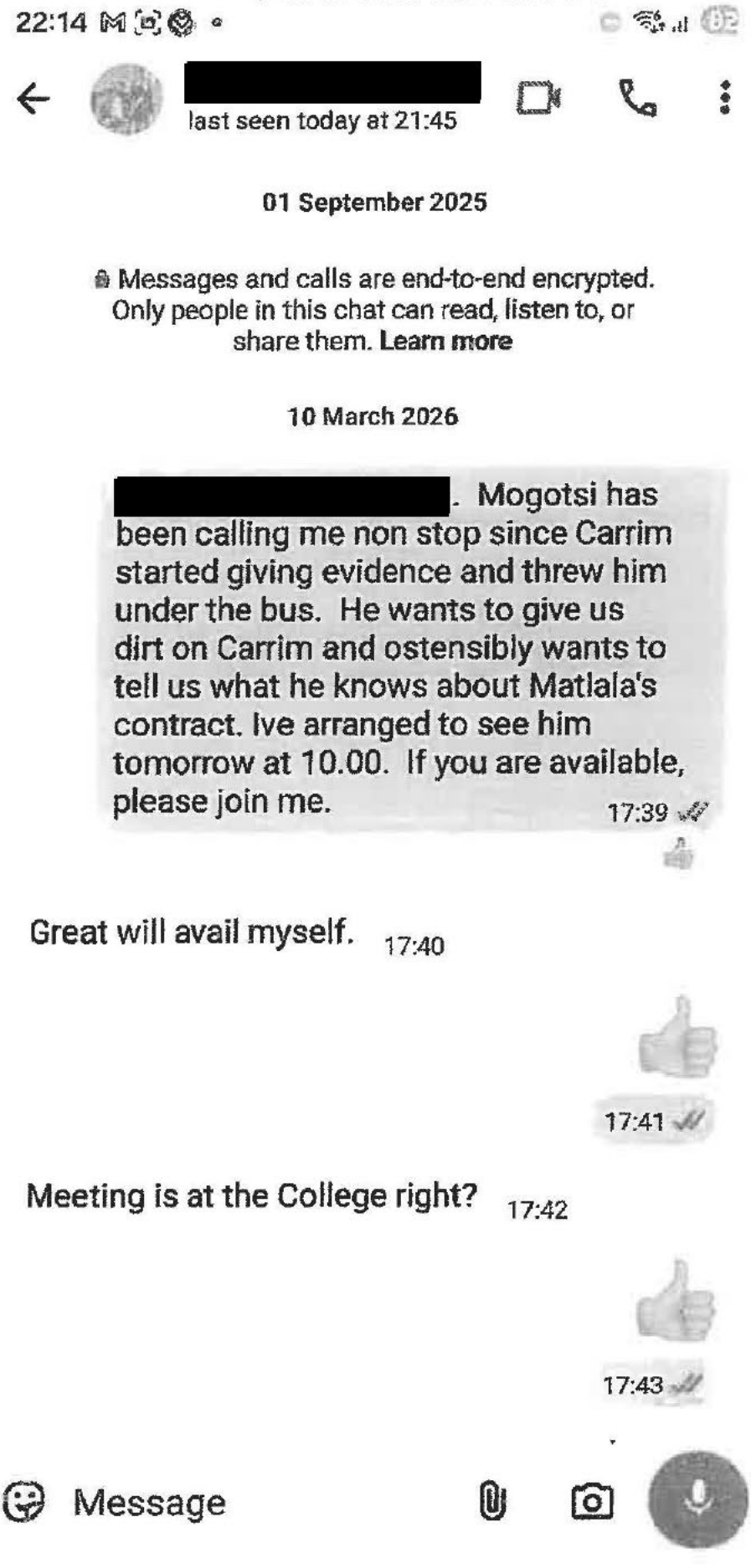
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Message

ML

[redacted]

"ANNEXURE A"



22:14

[redacted]
last seen today at 21:45

01 September 2025

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17:43

Message

M.A [redacted]

"ANNEXURE A"

22:14 M •

[redacted] last seen today at 21:45

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10 March 2026

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17:43

Message

[redacted]

IN THE COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTEFRFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM

In the matter between:

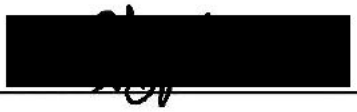
OUPA BROWN MOGOTSI	**Applicant**
And	
ADV MATTHEW CHASKALSON SC	**First Respondent**
THE COMISSION	**Second Respondent**

FILING SHEET

BE PLEASED TO TAKE NOTICE that the Applicant herewith presents the following documents for service and filing:

1. **APPLICANT'S REPLYING AFFIDAVIT**

DATED AND SIGNED AT RIVONIA ON THIS THE 11th DAY OF MAY 2026



RADASI SEKGATJA INC ATTORNEYS

APPLICANT'S ATTORNEYS

12 SUMMER STREET, RIVONIA

SANDTON, 2191
AND 40 CORNER CROWN &
ALBERTINA SISULU ROAD,
FODSBURG,
JOHANNESBURG, 2031
[redacted]
admin@rsinclaw.co.za

REF: MR. Sekgatja/Mogotsi

TO: **THE CHAIRPERSON**
MADLANGA COMMISSION OF INQUIRY
BRIGITTE MABANDLA JUSTICE COLLEGE
PRETORIA

Mari Wilsnach
[redacted]
dmmc@criminaljusticecommission.org.za

[redacted]

[redacted]

[redacted]

Commission Secretary

Email: secretary@criminaljusticecommission.org.za

AND TO: ADV MATTHEW CHAKSALSON SC

Email: chaskalson@criminaljusticecommission.org.za

IN THE COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM

In the matter between:

OUPA BROWN MOGOTSI	Applicant
and	
ADV MATTHEW CHASKALSON SC	First Respondent
THE COMMISSION	Second Respondent

APPLICANT'S REPLYING AFFIDAVIT

I, the undersigned,

OUPA BROWN MOGOTSI

[redacted]

do hereby make oath and state as follows:

1. This affidavit is delivered in reply to the answering affidavits filed on behalf of the Respondents.

2. For convenience, I deal separately with:

[redacted]

2.1 **Part A:** Preliminary issues relating to authority, locus standi, and procedural irregularities; and

2.2 **Part B**: The substantive allegations relating to bias and apprehension of bias.

PART A

IN LIMINE: AUTHORITY, LOCUS STANDI, AND STATUS OF AFFIDAVITS AND ANNEXURES

3. I have read the answering affidavit deposed to by the attorney purporting to act on behalf of the Second Respondent.

4. I do not dispute that the attorney may be authorised to act on behalf of the Commission in its institutional capacity.

5. However, the attorney goes beyond the scope of institutional representation and purports to:

5.1 advance factual averments on behalf of the First Respondent;

5.2 defend the personal conduct, intentions, and state of mind of Adv Chaskalson SC;

5.3 respond to allegations concerning private communications between myself and the First Respondent.

6. The attorney does not allege, nor annex proof, that she has been authorised by the First Respondent personally to depose to factual matters on his behalf.

7. The allegations raised against the First Respondent relate to:

7.1 private WhatsApp communications;



7.2 telephone conversations;

7.3 alleged discussions concerning Mr Sulliman Carrim;

7.4 alleged assurances of "help" or "protection";

7.5 the First Respondent's subjective intentions and conduct.

8. These are matters peculiarly within the personal knowledge of the First Respondent and cannot properly be answered by the attorney.

9. To the extent that the attorney purports to deal with such matters, the content constitutes hearsay and is inadmissible for purposes of resolving factual disputes.

DIFFERENCE BETWEEN AN AFFIDAVIT AND AN ANNEXURE

10. It is necessary to clarify the legal distinction between affidavits and annexures:

10.1 An affidavit is sworn evidence, confirmed under oath before a Commissioner of Oaths, and constitutes primary evidence in motion proceedings.

10.2 An annexure is a supporting document attached to an affidavit and does not constitute independent evidence unless:

(a) it is expressly confirmed under oath; or

(b) it is properly incorporated into a sworn affidavit as being true and correct.

10.3 Annexures cannot replace an answering affidavit.

10.4 It is trite that motion proceedings are decided on properly commissioned affidavits, not unsworn or improperly incorporated documents.

[redacted]

FAILURE TO FILE A PROPER ANSWERING AFFIDAVIT

11. Although an affidavit by Adv Chaskalson SC has been attached, it has been improperly presented in a manner that reduces or treats it as an annexure rather than a properly structured answering affidavit.

12. The First Respondent has accordingly failed to properly place a full and independent version before the Commission in response to serious allegations of bias.

13. This is significant because recusal applications require a direct, sworn response from the person whose conduct is impugned.

SEPARATION OF PARTIES AND LEGAL INTERESTS

14. The Commission and the First Respondent are distinct parties with distinct legal interests:

14.1 The Second Respondent is an institutional body;

14.2 The First Respondent is personally accused of bias and improper conduct.

15. The factual allegations against the First Respondent are serious, personal, and specific, and cannot be answered by institutional representation alone.

GENERAL DENIAL AND NON-ADMISSION

16. I do not admit each and every averment contained in the First Respondent's Answering Affidavit. Any failure to specifically deal with an allegation should not be construed as an admission thereof. Where the First Respondent's averments are in direct contrast to those in my Founding Affidavit, I respectfully request that



the Commission and its Chairperson accept the facts as set out in my Founding Affidavit.

NATURE OF RELIEF SOUGHT

17. For clarity, I wish to emphasise that I do not seek the complete recusal of the First Respondent from the proceedings. My request is limited to the First Respondent not leading my further evidence or cross-examining me before this Commission.

IMPACT OF FIRST RESPONDENT'S CONDUCT

18. I submit that, following my prior interactions with the First Respondent, his continued involvement in leading my evidence or cross-examining me would taint the proceedings and undermine the integrity of the Commission.

REPLY TO THE FIRST RESPONDENT'S ANSWERING AFFIDAVIT:

Ad Paragraphs 1–4:

19. I confirm the contents of these paragraphs, and the facts therein are not in dispute insofar as they accord with what I have stated in my founding papers.

Ad Paragraph 5:

20. The contents are noted. However, I specifically deny the allegation that I deposed to false statements in my Founding Affidavit.

Ad Paragraphs 6–7:

[redacted]

21. Without repeating the contents of my Founding Affidavit, I deny the allegations contained in these paragraphs and stand by my original submissions.

Ad Paragraph 8:

22. The First Respondent admits to discussing the submission of evidence with me but claims he sought only independently corroborated evidence. I deny this assertion.

23. As set out in my Founding Affidavit, the First Respondent previously questioned Mr Sulliman Carrim on evidence I provided without any corroboration.

24. The First Respondent's explanation regarding our meeting scheduled for 11 March 2026 is contradicted by his subsequent message on 12 March 2026: "I can't hear your evidence tomorrow anymore because we haven't met on the new info yet." This raises questions about the necessity and timing of such meeting.

25. It is incorrect to suggest that the First Respondent would first have investigated the information. Rather, the timing of our meetings coincided with Mr Sulliman Carrim's testimony, suggesting an intent to obtain information adverse to Mr Carrim while he was already giving testimony.

26. The First Respondent's statement that "I can't mess him around" further indicates his willingness to use any information I provided against Mr Carrim before he completed the probing of Mr Carrim.

27. It is inconsistent for the First Respondent now, in his answering affidavit, to portray me as unreliable while previously seeking my evidence. If I were truly

[redacted]

considered a liar, the First Respondent would not have engaged with me for further information.

28. It would have been unnecessary and inappropriate for the First Respondent to meet with me at this stage, particularly after I had already commenced my evidence. Such conduct is contrary to procedural fairness and the proper administration of the Commission's proceedings.

29. I submit that, in light of the conduct of the First Respondent previously, it is not clear from his answering affidavit why he would still find any information from me reliable unless the motive is as I have elucidated in my founding affidavit.

CONCLUSION ON PART A

30. I accordingly persist that:

30.1 the attorney lacks locus standi to answer personal allegations on behalf of the First Respondent;

30.2 the reliance on annexures in place of a properly constituted answering affidavit is irregular; and

30.3 the First Respondent has not properly placed a full answering case before the Commission.

PART B

REPLY TO THE AFFIDAVIT OF ADV CHASKALSON SC (ANNEXURE)

31. Save where expressly admitted, I deny the contents of the affidavit of Adv Chaskalson SC.

[redacted]

32. I deny that my application is based on fabricated allegations or false evidence.

33. The First Respondent repeatedly attacks my credibility and character, which demonstrates an adversarial posture inconsistent with the neutrality required of an evidence leader.

CORE ISSUE

34. The issue before the Commission is not whether the First Respondent believes I am truthful.

35. The issue is whether a reasonable, objective, and informed person would reasonably apprehend bias arising from the First Respondent's conduct.

FACTUAL BASIS FOR APPREHENSION OF BIAS

36. Even on the First Respondent's version, the following is evident:

36.1 private communications occurred between us outside formal proceedings;

36.2 discussions occurred concerning evidence relating to Mr Sulliman Carrim;

36.3 meetings were arranged outside formal hearing procedures;

36.4 the First Respondent expressed the view that Mr Carrim was "throwing me under the bus";

36.5 discussions took place concerning obtaining information from me against Mr Carrim.

37. These facts objectively demonstrate engagement beyond the neutral role of an evidence leader.



AD PARAGRAPH 9: WHATSAPP COMMUNICATIONS

38. I deny fraudulently tampering with WhatsApp records.

39. The allegation of fabrication is denied in the strongest terms.

40. The annexures attached to my founding affidavit substantially reflect the communications relevant to this matter.

41. I admit that I deleted the message dated 11 March 2026 sent at 11:29 am, and the intention was not to mislead the Commission, as at that time I had not even contemplated bringing the application herein.

42. The sole intention behind the deletion was to protect my conversation with the First Respondent from third persons.

43. I admit that I deleted the calls on the basis that, at the time of taking the screenshots for purposes of this application, I did not find them relevant and, furthermore, to allow me to take screenshots of the relevant facts. I therefore deleted them.

44. The calls were unanswered and therefore hold no significance to the application.

45. In any event, even on the First Respondent's version, it is common cause that:

45.1 private communications occurred;

45.2 discussions took place regarding Mr Carrim;

45.3 meetings were arranged outside formal procedures.

"HELP" AND "PROTECTION"

[redacted]

46. The First Respondent attempts to reframe discussions concerning "help" and "protection".

47. However, viewed objectively, the communications created a reasonable impression that my cooperation in providing information against another witness was linked to my treatment in the proceedings.

48. Whether intended or not, such perception undermines the appearance of impartiality.

IMPARTIALITY AND LEGAL TEST

49. An evidence leader performs a quasi-judicial function requiring independence and fairness.

50. The applicable test is whether a reasonable, objective, and informed person would apprehend bias.

51. The cumulative conduct complained of meets this threshold.

52. The First Respondent's affidavit does not dispel this apprehension.

53. I persist in the relief sought in my founding affidavit.

54. I respectfully submit that the interests of fairness, procedural integrity, and public confidence in the Commission require the recusal of Adv Chaskalson SC from further involvement in my evidence.



PREJUDICE AND BALANCING OF CONVENIENCE

55. Should the relief sought be granted, the Second Respondent will suffer no material prejudice.

56. The Second Respondent is an institutional body of significant capacity and has access to multiple suitably qualified evidence leaders who can continue the proceedings without disruption.

57. The relief sought is narrow, being confined only to the recusal of the First Respondent from further involvement in the Applicant's evidence.

58. The Commission's work will therefore not be materially delayed or compromised.

59. In contrast, should the application be dismissed, the Applicant will suffer ongoing and irreparable prejudice.

60. Such prejudice includes:

60.1 continuation of proceedings in circumstances where a reasonable apprehension of bias exists;

60.2 impairment of the Applicant's right to a fair and impartial process; and

60.3 erosion of public confidence in the fairness of the Commission's proceedings.

61. The balance of convenience accordingly favours the granting of the relief sought.

[redacted]

CONCLUSION

62. I persist in the relief sought in my founding affidavit.

63. I respectfully submit that fairness, procedural integrity, and public confidence in the Commission require the recusal of Adv Matthew Chaskalson SC from further involvement in my evidence.

DEPONENT: [redacted]

OUPA BROWN MOGOTSI

THUS SIGNED AND SWORN before me at MMABATHO on this 11 day of MAY 2026, the Deponent having acknowledged that he understands the contents of this affidavit, has no objection to taking the prescribed oath, and considers it binding on his conscience.

COMMISSIONER OF OATHS

Signature: [redacted]

Full Names: IPOTSENG PHALELA

Designation: CAPTAIN

Address: 105 BATHAPING STR; MMABATHO

TIRELO YA MAPODISI A AFRIKA BORWA
DETECTIVE
2026 -05- 11

TIRELO YA MAPODISI A AFRIKA BORWA
DETECTIVE
2026 -05- 11
MMABATHO
SUID AFRIKAANSE POLISIEDIENS
SOUTH AFRICAN POLICE SERVICE

IN THE COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM
HELD AT PRETORIA

AFFIDAVIT

I, the undersigned

BONGANI DLAMINI

State under oath that:

1. I am an adult male Senior investigator working for the Commission of Inquiry into Criminality, Political Interference and Corruption in the Criminal Justice System ("the Commission").

2. The purpose of this affidavit is to confirm the sequence of events as articulated in the answering affidavit deposed to by Adv Chaskalson SC.

3. The facts contained herein are, save where otherwise indicated, within my own personal knowledge, and are true and correct.

4. Mr Brown Mogotsi testified before the Commission in November 2025. In advance of Mr Mogotsi reappearance, as part of the investigation; Advocate Matthew Chaskalson SC and Mr Modimogale, an Investigator duly employed by the Commission had arranged a meeting with Mr Mogotsi. The said meeting was scheduled for 11 March 2026, at approximately 10h00 – 11h00. However, Mr Mogotsi failed to attend the arranged meeting. I annex hereto a copy of the WhatsApp chat marked "**Annexure A**".

5. Thereafter, Adv Chaskalson SC called Mr Mogotsi to ascertain his whereabouts at the time. Mr Mogotsi accordingly informed Adv Chaskalson SC that he was running late for the scheduled meeting and would meet with myself, Mr Modimogale and Adv

[redacted]

Chaskalson SC at 14h00. Owing to the above, we thereafter, changed the meeting time to 14h00 in order to accommodate Mr Mogotsi.

6. At approximately 13h59, Advocate Chaskalson SC attempted to call Mr Mogotsi to get confirmation that the meeting would proceed at 14h00, as discussed. However, Mr Mogotsi did not answer the call nor did he arrive at the Commission for the abovementioned meeting.

7. It as a result of the facts above that I left the venue and did not have any further engagements with Mr Mogotsi.

8. I confirm the WhatsApp exchange between myself and Adv Chaskalson SC, attached as annexure MC4 to the answering affidavit.

9. I hereby confirm that this represents all of the facts at my disposal regarding the above matter.

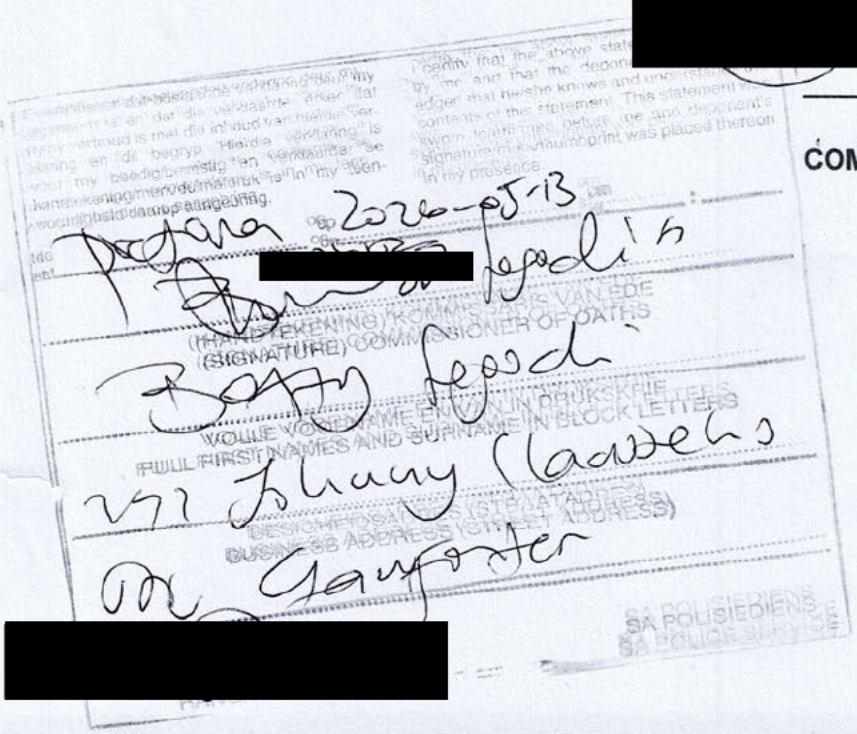
[redacted]

DEPONENT

I hereby certify that the above signature is the true signature of the deponent and that he has acknowledged that he knows and understands the contents of this affidavit which affidavit was signed and sworn to before me in my presence at Pretoria on 13 May 2026 in accordance with Government Notice No. R1648 dated 19 August 1977 as amended by Government Notice No. R1428 dated 11 July 1980, and by Government Notice No R774 of 23 April 1982.

[redacted]

COMMISSIONER OATHS





"MC 4"

"Annexure A"

22:12 M • 83

Bongani Dlamini

10 March 2026

Hi Bongani and Tshepo. Mogotsi has been calling me non stop since Carrim started giving evidence and threw him under the bus. He wants to give us dirt on Carrim and ostensibly wants to tell us what he knows about Matlala's contract. Ive arranged to see him tomorrow at 10.00. If you are available, please join me. 17:38

Hi Matthew
I was watching waiting to text you on that.

Definitely I will come 17:40

👍

17:41

11 March 2026

Hi Matthew
Is our guy still coming for a meeting?

17:20

No sign of him. I'm going home 17:23

Ok thanx 17:25

Message

[redacted]