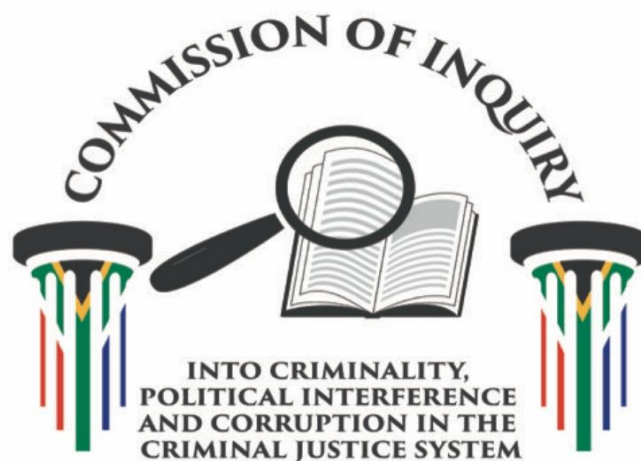


JUDICIAL COMMISSION OF ENQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

3 JULY 2026

DAY 132



PROCEEDINGS ON 3 JULY 2026

CHAIRPERSON: Good morning, Ms Hassim. Good morning, Mr Vally.

ADV HASSIM SC: Good morning, Chair.

MR VALLY: Good morning, Chair.

CHAIRPERSON: Thank you.

ADV HASSIM SC: Chair, we are ready to proceed as we indicated we would on Wednesday, but I think Mr Vally would like to address you briefly before we begin. Thank
10 you.

CHAIRPERSON: Yes, Mr Vally.

MR VALLY: Thank you, Chair. Thank you, Commissioners. When last we appeared before the Commission, there was an understanding that we would meet with Ms Hassim to determine how today's proceedings should continue. We can confirm that that had occurred. What we can also confirm is that a copy of a redacted J88 had been provided to Ms Hassim, and as of this morning, an unredacted copy, together with a detailed medical report
20 that we received late last night from the attending doctor. Ms Hassim can confirm that she has received it, and the only thing that we can say, Chair will notice that our advocate, Mr Khan, is not with us today, and that is only because we have not received instructions because of our client's condition. The important bit that we now need to

draw to the Commission's attention is that we are here out of courtesy and out of respect for the process, and also to have the ability that once our client is of a position to communicate with us again, that we are able to report on the proceedings that occurred in his absence.

Having regard to the content of the J88 and the medical report, I would be remiss not to say that I am tempted to bring an application to postpone, but I cannot because I do not have instructions to either bring it or not
10 bring it. So that is the dilemma and the difficulty we find ourselves in. So we are here just to be present and to record. I think those are my submissions. Thank you, Chair.

CHAIRPERSON: Thank you very much, Mr Vally, and also thanks for the act of courtesy, as you call it. Many thanks for that. Yes, Ms Hassim.

ADV HASSIM SC: Thank you, Chair. Chair, to begin with, I can confirm that I did receive the J88, the unredacted J88, as well as the medical report. I have not yet studied it
20 closely. I received it this morning, but it will be made available to the Commissioners during the adjournment. So, Chair, I think we should then just begin and proceed with the plan on the presentation of the evidence that the Evidence Leaders of the view may be presented in open session.

As I indicated, Chair, on Wednesday, I propose to place before the Commission certain aspects of the evidence concerning General Khan, on which I would have questioned him had he been present. The evidence includes material that is already been included in the Commission's answering affidavit in the urgent application that was brought by General Khan last month. So, it is material that has already been publicly disclosed, but some aspects of evidence that I will traverse are not included in
10 the material that is in the answering affidavit, but is relevant to the terms of reference, of course, but also related to the topics that we covered in the answering affidavit and the questions that we posed to General Khan in the Regulation 10.6 notice.

So, in broad outline, what I propose to cover are a series of tenders and tender activity, which will emerge from our analysis of the chats. The chats are not confined to the chats with Mr Mo Sayed, it extends also to a series of conversations between Major General Khan and a Mr Ismail
20 Vally.

I will then deal with the topic of abuse of authority and under the overall heading of abuse of authority, there are a number of sub-pieces of evidence that we will cover and I will not go into the detail now. We will get there when we get there. There is the issue of what we call the

Mashazi trip. As the Commission is aware, we have already heard evidence from this witness and the Commission has some information regarding a trip to London, a weekend trip to London, which also emerges from some of the conversations with General Khan.

And finally, the topic of the financial disclosures. We have had some engagement with General Khan's representatives on the finances. What we propose to do is cover the aspects that we think we can cover in open
10 hearing and that is not the subject of dispute when it comes to the financial disclosures at this stage.

So that is the broad outline of the topics that we are going to cover. These are not all the topics, however, to be covered that related to General Khan. There are some aspects of the evidence that we have seen that the Evidence Leaders will seek to lead *in-camera* and the reason for this is, there are at least three reasons for this. The first is, some of the evidence concerns ongoing criminal investigation and it will require us to traverse contents of
20 SAPS dockets, which we cannot disclose publicly. It will jeopardize the investigations, it will jeopardize individuals.

The second is that some aspects of the evidence contain sensitive material that also cannot be led publicly in any sensible manner, for example, evidence that contains a series of voice notes where we are not able to redact it, but

it is important for the Commissioners to have access to that evidence. The third is that there is evidence that may, we do not know for a fact, but that it may pose a risk to the safety of individuals and it is not in the interest of, it is not in anyone's interest and it is certainly not the Evidence Leaders' intention to be reckless in relation to this repository of evidence that we have and so where we are of the view that there may be a risk of threats to safety of particular individuals, we will seek to do, to lead that
10 evidence *in-camera*.

And of course, finally, in his *in-camera* application, General Khan himself stated that unrestricted disclosure of some of the evidence will pose risks, substantial threat is what he said to lives. We cannot dismiss that out of hand, of course. We must take it seriously.

So to that end, Chair, there will be an application filed in the course of today for that body of evidence on the *in-camera*. So that is just to set out where we plan to go as a whole with the evidence relating to Major General Khan. I
20 must also say as I, before I begin with the presentation, is that there may be an explanation for the evidence that I am about to present.

General Khan has indicated, again in his *in-camera* application and in response to the Commission's, well, he did not file a replying affidavit to our answer, but he has

indicated that some of the evidence relates to Crime Intelligence operations and informants. That may be so. Of course, if the evidence does concern a Crime Intelligence operation, one would expect it to have been formally registered as such and conducted in accordance with the applicable protocols and prescripts. But all I am saying for the moment, Chair, is that there may be an explanation, and we look forward to hearing the answers and explanation from Major General Khan when he is able to provide that.

10 So, Chair, then let me begin with the first topic, which is the tenders. And again, I must preface this introduction of this evidence. It is to clarify that it is not a ...[incomplete].

CHAIRPERSON: Ms Hassim, we have this loose document in front of us. Will you be introducing it at a later stage?

ADV HASSIM SC: I will be introducing it shortly, Chair.

CHAIRPERSON: Shortly. All right, all right.

ADV HASSIM SC: It is relevant to the first topic of the tenders that I am going to be dealing with. So I will
20 introduce it in about two minutes.

CHAIRPERSON: All right, all right.

ADV HASSIM SC: What I was wanting to do is to just first preface this topic of the tenders ...[intervenes].

CHAIRPERSON: All right.

ADV HASSIM SC: With the following statement and the

following submission.

CHAIRPERSON: All right.

ADV HASSIM SC: That the purpose of this is ...[intervenes].

CHAIRPERSON: Before you go ahead, another issue. Had General Khan been here, he would have told us who he is, what position he holds and, so if perhaps for purposes of the record, you could give us high-level information in that regard.

10 **ADV HASSIM SC:** Can I provide that in the, I do not have it in front of me right now.

CHAIRPERSON: After the tea, after the tea break.

ADV HASSIM SC: During the adjournment, I will pull out the relevant information from the ...[indistinct] [intervenes].

CHAIRPERSON: All right, all right.

ADV HASSIM SC: It is contained somewhere in these bundles.

CHAIRPERSON: Yes, yes. Ja, ja.

ADV HASSIM SC: I do not have it in front of me.

20 **CHAIRPERSON:** No, no, no, after the tea break then. That is an order.

MR VALLY: Chair, if I may, and I do not mean to interrupt Ms Hassim, but I would rather do so now before I interrupt her mid stride.

CHAIRPERSON: Yes.

MR VALLY: I just want to note that it is Friday and we usually go for our Friday prayer, which we call Jummah. If we may be excused at about half past 12, I know the lunch hour commences at 1 for an hour and we will be back at 2, if that might be in order. Perhaps if proceedings could be stayed with an earlier lunch or an extended lunch, we would be indebted to you, Chair, and to the Commissioners.

CHAIRPERSON: Just repeat the part about stay?

MR VALLY: From, if lunch could commence at about half
10 past 12, that would accommodate our religious sensibilities to permit us to go and pray, and we would be then back by 2. So all we are asking for is that there be an additional half an hour to work into the lunch hour intended for today.

CHAIRPERSON: No, that is in order. What we will do, we will perhaps in the afternoon just add that thirty minutes.

MR VALLY: We are indebted, thank you, Chair.

CHAIRPERSON: Thank you. Yes, Ms Hassim.

ADV HASSIM SC: Chair, while we try to find the information that was requested, I am going to just begin
20 with the first topic.

ADV KHUMALO SC: Can I do this because I have his founding affidavit in front of me.

ADV HASSIM SC: Oh, do you have it in front of you.

ADV KHUMALO SC: Yes.

ADV HASSIM SC: That is what I have asked to be

provided to me, but I do not have it yet.

ADV KHUMALO SC: So I will only read that Major General Khan is an adult male, Head of Operational Intelligence Support at Crime Intelligence at the South African Police Services and he holds the rank of Major General since 1 September 2017. I will pause there.

CHAIRPERSON: And I will just correct, I will just correct the Major General and say it is service, singular. It is the South African Police Service. It is never services, not with
10 SAPS. Thank you. It may appear unimportant, but it is actually very important.

ADV HASSIM SC: Noted, Chair. Thank you for that, Commissioner Khumalo. So, Chair, the first topic is the question of the tenders and I would like to clarify what the purpose of us going here is. It is not a roving enquiry into ordinary procurement irregularities or a garden variety tender fraud. It is directed at whether a SAPS officer, a Crime Intelligence officer, a senior member of the service was a conduit for private, commercial or criminal interests
20 and whether they were able to gain access or influence or corrupt or compromise law enforcement structures.

As such, it falls squarely within the terms of reference of this Commission. So that is the approach and the framing that I would like the Commissioners to bear in mind as we enter the discussion on the tenders. The first

set of tenders relate to a gentleman by the name of Mr Mo Sayed and he is a director of a company called Carnilinx. And, Chair, I am going to read the submission that they have provided to us. They provided it last night and I think it is important in all fairness to read it into the record and I would like you please to have a look at page 129 of the answering affidavit before I do so.

CHAIRPERSON: What is the file marked on the spine?

ADV HASSIM SC: Urgent application, answering papers
10 file 1 of 2.

CHAIRPERSON: You said which page? I have forgotten now.

ADV HASSIM SC: Page 129.

CHAIRPERSON: Thank you.

ADV HASSIM SC: And the heading is “Carnilinx and Illegal Tobacco Trading”.

CHAIRPERSON: We have all got it now.

ADV HASSIM SC: Thank you, Chair. This is relevant because when I read out the submission you will see it is
20 partly a response to what the Commission placed in its answering papers and in that section on page 129 in paragraph 14 we say that there have been consistent allegations that Carnilinx is engaged in illegal tobacco trading.

ADV BALOYI SC: Ms Hassim, maybe for the record you

should say who deposed to the affidavit if it was not protected information.

ADV HASSIM SC: Who deposed to the answering affidavit. And as luck would have it my copy does not have the signature on it. This, actually this is, this is in fact, if I am correct it would be our investigator Mr Tshepo Nyatlo who deposed to this and this was based on his investigations and there are annexures that support the contents of the paragraphs but this paragraph where it says:

10 “For over a decade there have been
 consistent allegations that Carnilinx is
 engaged in illegal tobacco trading.”

 Points to several pieces of documentation. The first you will see in 14.1 are several media reports and I am not going to go there. It shows that the allegations have been widely published and in some detail. In 14.2 there are two further documents that are attached. One is a media statement by the South African Tobacco Transformation Alliance and the other is an Ipsos study.

20 Now this is not the entire basis upon which we make these allegations and I will explain why. But I am going to go to the Carnilinx submission because it is in response to this that they provide the submission and let me go right there. Chair ...[intervenes].

ADV BALOYI SC: Were they invited to make the

submission?

ADV HASSIM SC: They were not invited to make the submission. It is a voluntary submission and it will be apparent when I read this, the context in which they do make it. And as I said Chair, I think given that I am going to go in some detail through the chat, it is important that their version is placed on record before I do so. Okay, let me begin.

So Chair, the submission is signed by Mr Adriano
10 Mazzotti and it was provided to the Commission yesterday evening. If I start at paragraph 1.

“These submissions are made voluntarily
by Carnilinx (Pty) Ltd (Carnilinx).
Carnilinx has not been issued with a
notice by the Judicial Commission of
Inquiry into Criminality, Political
Interference and Corruption in the
Criminal Justice System (the
Commission), nor has it been requested
20 or directed to provide evidence or
submissions. The company nevertheless
considers it appropriate in the interest of
fairness and to assist the Commission in
the proper discharge of its mandate to
place certain relevant facts before it.

Carnilinx has become aware that allegations concerning the company appear in the affidavit deposed to by the Commission's investigator Tshepo Nyatlo, as well as in the Rule 3 notice issued to one of its directors, Mohammed Sayed in his personal capacity. Although the Rule 3 notice is directed exclusively to Sayed and not to Carnilinx, the company is concerned that allegations affecting its business, reputation and commercial standing may ultimately be considered without the benefits of Carnilinx's own explanation and the broader factual and regulatory context within which those allegations arise. Carnilinx accordingly tenders these submissions voluntarily. It does so not to challenge the Commission's mandate nor to relitigate historical regulatory matters with the South African Revenue Service but to assist the Commission by placing before it a balanced account of the company's history, regulatory engagement and present position.

Carnilinx supports the Commission's constitutional mandate to investigate criminality, corruption and political interference within the criminal justice system. It has no interest in shielding unlawful conduct by any person or entity and welcomes any lawful process that advances accountability, transparency and the rule of law. At the same time,

10 Carnilinx respectfully submits that findings affecting the reputation of any corporate entity should be based upon credible, independently verifiable evidence and should distinguish carefully between historical regulatory defaults, historical conduct voluntarily disclosed pursuant to chapter 16 of the Tax Administration Act, unresolved tax disputes being determined through

20 statutory mechanisms, allegations made by competitors or industry participants, media reports and public commentary, industry-sponsored reports and evidence capable of establishing present-day unlawful conduct. It is against that

background that Carnilinx respectfully places the following facts before the Commission. Carnilinx is a South African cigarette manufacturer duly incorporated in accordance with the laws of the Republic. Carnilinx was established in May 2011 and has for approximately 15 years operated within one of the most comprehensively regulated industries in South Africa. During that period it has grown into an established South African manufacturer operating under licenses issued by the South African Revenue Service, investing substantially in local manufacturing capacity and contributing meaningfully to the South African economy. Carnilinx is the holder of a valid cigarette manufacturing license issued by SARS in terms of the Customs and Excise Act, a copy of which is attached, marked A for your reference. The company operates under that license and remains subject to continuous regulatory oversight by SARS. The manufacture of tobacco products is

governed by an extensive legislative and regulatory framework including licensing requirements, excise controls, customs supervision, record keeping obligations, inspections, audits and enforcement powers administered by SARS. Carnilinx conducts its business within that statutory framework. Carnilinx is a South African taxpayer and has throughout its existence engaged with SARS as a regulator responsible for the administration of the customs and excise regime applicable to licensed tobacco manufacturers. In this regard we annex here to Carnilinx's tax compliance certificate marked B. Carnilinx contributes to the South African economy through investment in manufacturing infrastructure, the payment of taxes and the creation of sustainable employment opportunities. The company directly employs approximately 100 South Africans and supports many additional livelihoods throughout its value chain, including tobacco merchants, transport

operators, logistic providers, warehousing businesses, packaging suppliers, distributors and retailers. Over the course of its operations Carnilinx has invested substantially in manufacturing facilities, plant equipment and distribution infrastructure within South Africa. Carnilinx is also a member of the Fair-Trade Independent Tobacco Association, an association representing independent tobacco manufacturers and advocating for lawful competition, effective regulation and meaningful measures to combat illicit trade. Like every legitimate participant in the regulated tobacco industry, Carnilinx has a direct commercial interest in ensuring that illicit trade is effectively addressed. Illicit trade undermines compliant manufacturers, deprives the fiscal of significant revenue and distorts lawful competition.”

Under the heading of “Historical regulatory matters”:

“Considerable reliance has been placed

in the public domain and more recently in the affidavit deposed to by the Commission's investigator upon an affidavit deposed to by Carnilinx director Adriano Mazzotti on 6 May 2014. Carnilinx does not seek to distance itself from the existence of that affidavit or from the fact that it contains admissions concerning historical conduct. Carnilinx respectfully submits however that the affidavit cannot properly be understood unless it is considered within the statutory and factual context in which it was prepared. During 2014 Carnilinx engaged with SARS in a comprehensive disclosure process concerning historical tax matters with the objective of making full disclosure concerning historical tax compliance and seeking to regularise its tax affairs under the applicable tax legislation administered by SARS including the Tax Administration Act, Customs and Excise Act, the Value Added Tax Act, the Income Tax Act and any other legislation applicable to the

matters under consideration. Adriano Mazzotti in his capacity as director of Carnilinx deposed to an affidavit. Carnilinx and SARS subsequently adopted differing positions concerning aspects of that engagement and its outcome. Carnilinx does not consider it necessary or appropriate for this Commission to determine those issues.

10 They properly fall within the statutory framework governing the administration of tax legislation and the relationship between a taxpayer and the revenue authority. For present purposes, what is material is that the affidavit was prepared in the context of Carnilinx's engagement with SARS concerning historical tax compliance and for the purposes of that disclosure process. The affidavit was

20 intended to form part of a confidential engagement between Carnilinx and SARS. At some stage thereafter, information purporting to originate from that affidavit entered the public domain without Carnilinx's knowledge or

authority. Carnilinx is not in possession of the versions presently relied upon or quoted by various media organizations and is accordingly unable to verify their authenticity, completeness, or accuracy, nor have the affidavits relied upon in media reports or the versions presently circulating publicly been published in full. Carnilinx is therefore unable to determine whether quotations attributed to the affidavit accurately reflect the original document, whether they have been reproduced completely or whether they have been presented out of context. Carnilinx further notes that the aspects of the media reporting concerning Carnilinx, Mazzotti, and the historical tax affairs have previously been found by the press ombudsman to have been inaccurate.

The Commission is therefore respectfully requested to approach media reports concerning these matters with appropriate caution and to place reliance upon primary evidence properly before it. Carnilinx accordingly submits that any

assessment of the affidavit should be undertaken only with reference to the original document, its statutory and factual context, and the evidence properly before the Commission and not by reference to excerpts, summaries, and characterizations appearing in media reports or public commentary. The affidavit demonstrates that Carnilinx engaged with SARS concerning historical tax matters. It does not without more establish that Carnilinx presently conducts its affairs unlawfully or forms part of any alleged criminal enterprise. The Commission is therefore respectfully requested to distinguish between historical regulatory engagement, ongoing tax administration processes, and allegations of present-day criminality.”

Under the heading “Carnilinx's present regulatory position”:

“Following its engagement with SARS concerning historical tax matters, Carnilinx continued to operate as a

licensed manufacturer under the regulatory oversight of SARS. The company has remained subject to inspections, audits, verifications, and assessments by SARS in the ordinary course. As is the case with many taxpayers operating within highly regulated industries, Carnilinx has from time to time been the subject of assessments and findings by SARS. Certain findings have been accepted and the relevant liabilities discharged. Other findings have been disputed through the statutory objection, appeal, and review mechanisms established under the South African tax legislation. Carnilinx respectfully submits that the unresolved tax disputes cannot properly be equated with criminal conduct. The Tax Administration Act creates mechanisms through which taxpayers and SARS may legitimately differ on questions of fact and law. South Africa's tax legislation, including the Tax Administration Act, creates comprehensive mechanisms

through which taxpayers and SARS may legitimately differ on questions of fact, law, and the proper interpretation and application of the legislation. The existence of such disputes is a recognized feature of tax administration and should not, without more, be equated with criminal conduct. The existence of such disputes is not unusual in tax administration and should not, without more, be treated as evidence of unlawful conduct.”

Under the heading “The Nyatlo Affidavit”:

“Carnilinx has carefully considered the allegations contained in the affidavit opposed to by Nyatlo. To the extent that those allegations concern Carnilinx, they are denied. Carnilinx respectfully submits that portions of the affidavit appear to conflate historical regulatory matters, unresolved tax disputes, media reports, and industry commentary with evidence of present-day criminality. Those concepts should be carefully distinguished. Historical regulatory

matters and ongoing tax administration processes cannot, without more, establish present-day criminal conduct. Likewise, unresolved tax disputes cannot be equated with findings of fraud, tax evasion, or organized criminal activity.”

Under the heading “SATTA, Ipsos, and Industry Material”:

10 “Carnilinx notes that portions of the Nyatlo affidavit appear to rely upon publications issued by industry organizations and market reports prepared by third parties. Carnilinx respectfully submits that such material should be approached with appropriate caution. Industry bodies perform an important role in the public debate. However, they are not independent regulators, courts, or investigative

20 authorities. Their publications frequently reflect commercial interests and policy positions. Likewise, retail pricing studies and market surveys may identify pricing trends or market anomalies. They do not establish whether excise duty has been

paid in respect of any particular product, nor do they establish whether a manufacturer has committed tax evasion, fraud, smuggling, or any other criminal offense. Carnilinx further submits that media reports, publications produced by representative organizations and market studies, are each different forms of material carrying different evidential weight. While such material may contribute to public debate, it does not constitute primary evidence of criminal conduct. Serious findings against any person or corporate entity should be based upon reliable, independently verifiable evidence properly before the Commission.”

Under the heading “Carnilinx's Interaction with Law Enforcement”:

“The Nyatlo affidavit further suggests that Carnilinx improperly utilizes organs of state against competitors. Carnilinx unequivocally denies those allegations. Like any responsible corporate citizen, Carnilinx has where appropriate reported

information concerning suspected unlawful conduct to the relevant authorities. There is nothing improper in providing information to SARS, SAPS, or any other competent authority. Once such information is provided, all investigative and enforcement decisions remain those of the relevant authority acting under its own statutory powers.

10 Carnilinx has never exercised control over the investigative functions of SARS, SAPS, or any other organ of state.

Conclusion. Carnilinx has made these submissions voluntarily because it believes that the Commission should have before it the company's own account before reaching conclusions that may affect its reputation and commercial standing. Carnilinx does not seek to

20 minimize its history or avoid scrutiny, nor does it ask the Commission to determine disputes between itself and SARS concerning historical tax matters. Those matters are regulated by legislation and remain subject to the statutory

mechanisms provided by South African law. Carnilinx asks only that its history be understood in its proper statutory, factual, and commercial context. The question presently before the Commission is whether there exists credible, reliable, and independently verifiable evidence establishing the allegations presently made against Carnilinx. Carnilinx respectfully submits that those questions should be answered on the basis of evidence relevant to the issues before the Commission and not by inference drawn solely from historical regulatory engagement, unresolved tax disputes, media reporting, industry advocacy, or commercial rivalry. Carnilinx has voluntarily approached this Commission because it believes that the search for the truth is best served when all relevant perspectives are placed before it. It respectfully trusts that these submissions will assist the Commission in fulfilling its constitutional mandate fairly objectively and in accordance with

the rule of law. Carnilinx remains willing to cooperate further with the Commission and reserves its right to supplement these submissions should additional information become relevant. Yours faithfully, Adriano Mazzotti.”

And then there are two annexures, A and B, that were referred to in the letter. So, the letter, so, Chair, now you see why I first went to the answering affidavit and those
10 paragraphs because the, what Mr Mazzotti is taking issue with is the reliance on what he describes as media reports that are not based on independent evidence, not based, as far as he can tell, on the affidavit itself, and that the affidavit that the Commission put up also included industry obtained analysis, research analysis like the Ipsos study, which was commissioned by Carnilinx's competitor. It was commissioned by British American Tobacco. So that is fine, we accept that. What I wish to do, however ...[intervenes].

CHAIRPERSON: Have you touched on the fact that they
20 also say some of the material is historical, which I understand to mean and is no longer applicable.

ADV HASSIM SC: Well, it is historical in the sense that the admissions that were made by Mr Mazzotti took place some years ago, but it is not historical when looked at in the perspective of this Commission about particular conduct.

And it is not just about Carnilinx as an entity, it is about Mr Sayed, who is a director of Carnilinx. So it relates both to findings against Carnilinx of illegal tobacco trading, not based on media reports, and I will go to Mr Mazzotti's own affidavit to bear out that submission.

But also, our evidence is based on Mr Mo Sayed's alleged conduct and at no point have we ever said that there are proven criminal cases and charges against Mr Sayed, but there are very serious allegations and in the
 10 context of a Commission of Inquiry, we are entitled to rely on that and to consider that in the course of the investigation of the Commission. So, Chair, a lot of what he said in the submission is answered by direct reference to Mr Mazzotti's affidavit that was provided to SARS. It is a 2014 affidavit. The settlement agreement that was concluded between Carnilinx and SARS was only concluded in 2020. And in fact, I do not propose to go to it in detail, but it is before the Commissioners and I will just take you to the page reference in a moment.

20 The basis upon which that settlement was reached were facts, different facts and admissions of, let me not say admissions, different facts that were agreed to by Carnilinx than the 2014 facts in the Mazzotti affidavit. So it extends over a period of time and we have the objectively verifiable evidence before us, because we requested it from SARS

under a 10.6 subpoena and it was provided to us with the necessary permissions to be able to use it in these proceedings. So I think, Chair, I will now go to that affidavit.

ADV BALOYI SC: Maybe before you do that, even if it is just for the record, just to confirm that Carnilinx or Mr Mazzotti himself have they requested to file an affidavit before the Commission in the light of whatever is concerning them from the answering affidavit in the High
10 Court, or to appear? Has there been that kind of approach from them?

ADV HASSIM SC: Commissioner Baloyi, the only communication that we have received from Carnilinx is the letter that I have now read out ...[intervenes].

ADV BALOYI SC: Okay.

ADV HASSIM SC: In the form of a submission. There has been no request to formally testify or provide anything on oath.

ADV BALOYI SC: Okay, thank you.

20 **CHAIRPERSON:** Whilst you are looking, shall we be told where this should go in the annexures?

ADV HASSIM SC: I think it needs to be given an exhibit number.

CHAIRPERSON: Yes.

ADV HASSIM SC: What number are you on? Chair, I am

advised that we are now at CJC362. That will be the exhibit number.

CHAIRPERSON: Thank you. As I always do, I will request the attorneys to please sort our files out in that regard. Thank you.

ADV HASSIM SC: Chair, I am going to go to the affidavit itself, but can I first just summarise the main themes that emerge from that affidavit, because I do not intend to read out an entire affidavit. Of course, if there are any questions
10 on it, we can discuss various parts of it, but in a nutshell, what you will see is that the affidavit contains admissions by Mr Mazzotti, both personally and as a representative of Carnilinx and these admissions relate to past customs excise and tax non-compliance, failures to account for cash income, and failure to pay tax, VAT and excise duty. A particular transaction which I can say, because it is, we have been given permission, the illegal Pieterse transaction. Again, I am not going to go into detail, but the Commissioners will see it as we look at the affidavit, which
20 concern manufacturing cigarettes off the books.

Then there is admissions of unlawful importation of tobacco under a false Swaziland pretext. There is admissions of unlawful surveillance of SARS officials and access to personal records. There is an admission of obtaining a confidential SARS document for cash, so paying

someone inside SARS to get access to this document. And there is also admissions of improper cash payments to legal advisers and it is clear from the affidavit and it is explained by Mr Mazzotti that the cash payments were made on the belief that SARS officials were being paid off and that by making these cash payments to these legal advisers, they would assist in resolving Carnilinx's problems with SARS.

But I must also say that in the affidavit, Mr Mazzotti also says the following, and I will come to it, that he
10 believes he was naive to think that the SARS officials could be bought. He is very careful to say that. So let me go to the affidavit. The settlement agreement, as I said, was concluded on a different basis, on unlawful conduct, but different unlawful conduct. Chair, the affidavit, the SARS bundle is CJC361 and there is one file and Mr Mazzotti's affidavit is at page 16 of that file.

Chair and Commissioners, you will see that it begins with the usual declarations. It is a deposition by Mr Adriano Sauro Lorenzo Mazzotti. He explains the purpose
20 of the affidavit and if we just scroll down, it is a lot of background and principles, et cetera. If we scroll down to paragraph 8, after describing the principles of restorative justice and settlement of conflicts, et cetera, at page 5 of the affidavit, I am not sure what page it is in the bundle, it is paragraph 8, but it is halfway through paragraph 8, where

Mr Mazzotti says:

“In light of these principles, it is hoped that this process will culminate in the company accepting criminal liability in a criminal court together with civil liability in respect of legislation administered by SARS, relying on the fact that it has cooperated with SARS, disclosed its wrongdoings of the past, did not waste
10 the state's time, effort and resources in doing so, demonstrated genuine resource ...”

Et cetera, et cetera. So, that really is the crux of the purpose of this affidavit. At paragraph 11, he sets out the history of the company. Relevant for us is where he states in paragraph 11 that it was originally, Carnilinx was originally started in about June 2010, when the former partners, Sayed, myself, and Martin Wingate-Pearce, got together. So, that Sayed is Mr Mo Sayed, whose chats I
20 will be going to in due course.

Paragraph 12, he talks a bit more about the history and when they first acquired manufacturing equipment to start the business, and that again was him together with Sayed, Martin Wingate-Pearce, and Craig Williamson, who also was involved in this enterprise. Mr Craig Williamson,

of course, is no stranger to crime and criminal conduct. He goes on to then give the rest of the history. I will not go through that.

Paragraph 16, the Commissioners will see a table of the shareholding breakdown and again, you will see Mr M Sayed and his shareholding.

ADV BALOYI SC: Maybe for completeness, Ms Hassim, you have referred to the founders, and that includes Mr Craig Williamson and somebody else, but in the list at
10 paragraph 16, it seems to be a different list of names. Maybe just for completeness, you indicate ...[intervenes].

ADV HASSIM SC: All the names.

ADV BALOYI SC: Who is still there that you referred to previously ja.

ADV HASSIM SC: So the full list of shareholdings in Carnilinx is what is depicted and so the first is Mr Mazzotti with 16.6%, Mr Sayed with 16.6%, Mr Phillips, K Phillips, with 16.6%, Mr G Lombard with 16.6%, and Mr Wingate-Pearse with 33.3%.

20 **ADV BALOYI SC:** You no longer have Mr Craig Williamson, I think.

ADV HASSIM SC: No, and elsewhere in the affidavit it is explained that he ...[intervenes].

ADV BALOYI SC: Yes.

ADV HASSIM SC: Dropped off at a certain point.

ADV BALOYI SC: Yes.

ADV HASSIM SC: In fact, it says that there was a cash contribution raised to pay out Mr Williamson when he exited the enterprise. So, Chair, what then is contained in the affidavit is you will see in 17 and 18, you know, Carnilinx was registered and operated lawfully to date. For example, in paragraph 18, to date the company has always made the payments due to SARS on time and accurately, except as mentioned below.

10 In 19, the company has also abided by the requirements of VAT and income tax, except as itemized below. I do not think it is necessary for us to go into the individual instances of this conduct. I have set out already for the Commissioners the topics that they cover. So if I may skip over those, they are under different headings, but as you go through it, you will see that they relate to what I have said about evading income tax, excise duties, VAT, illegal trading, in relation to the Grindling heading. It concerns the payment of cash for certain benefits, and
20 again, also cash payments to avoid tax, infiltration of SARS, and I am just going to scroll past these. There is the picture saying engagement.

I just want to point out that, and Commissioners, you will see throughout this, this is not just conduct that was undertaken by Mr Mazzotti on his own. He did it in

concert with Mr Mo Sayed and with Mr Phillips. For example, when you look at paragraph 51, he says:

“In February 2013, Pieterse approached me with an offer which I discussed with Sayed and Phillips. We accepted his proposal, which was wrong, and has landed our company in trouble, and in retrospect, we should never have done this ...”

10 And then he describes the arrangement in some detail. He goes on in paragraph 54 to explain the R8 million in cash that they were able to raise in this engagement that was not accounted for in the books of the company, and he then explains what he used the R8 million for. In paragraph 61, it is clear that he accepts that Carnilinx acquired tobacco unlawfully and wrongfully of two tons per week over a period of time.

 He goes on to explain further contraventions of the law, and he says the unlawful conduct, and here is where
20 he deals with payments to legal advisers. And, Chair, what is important about this is that we are no longer talking about tax non-compliance. This affidavit has moved off tax non-compliance at this point. It is talking about fraud and corruption.

I am not going to mention the names of the legal

advisers that are named in the affidavit. He does say, in relation to at least one of them, that you will see in paragraph 83 of the affidavit that he persistently referred to his contacts at SARS, and in particular mentioned Johann Van Loggerenberg and Ivan Pillay.

10 “We were naive to believe that he could influence van Loggerenberg and Pillay to favour our company. This, we accept now, is in a manner of speaking nonsense, and that we were misled. But in the process, we paid R800,000.00 cash to this legal adviser.”

 And so on, and so on, Chair, Commissioners, to the end of the affidavit. And you will see at page 52 of the affidavit, again, I am not sure what page it is in your bundle, is the signature and the date on which it was commissioned, 6 May 2014. The settlement agreement ultimately concluded is at page 83 of your bundle when you are ready, although we are not going to go through it in
20 detail, Chair, unless you wish to. Chair, I see you are reading, so I am just waiting for you.

CHAIRPERSON: No, please go ahead.

ADV HASSIM SC: So it is at 83, but at page 98 of the settlement agreement, the date of the signature is 27 October 2020, and it was signed by the directors of

Carnilinx and two of the directors and a SARS representative and that agreement is, I mean, really what it does in a nutshell is it records SARS' position and view that the cigarettes, that cigarettes manufactured by Carnilinx were presented on paper as having been moved and exported lawfully, but that there were no documents to prove a lawful export, so the effect was that SARS treated the cigarettes as having been diverted into South Africa without customs duties, VAT, et cetera, being paid.

10 **ADV BALOYI SC:** Ms Hassim, I think it is only right, perhaps fair, that you also put on record paragraph 1.1.3 of that settlement agreement. It mentions two specific individuals against whom this debt is raised, and therefore not everybody who is a director or shareholder.

ADV HASSIM SC: Yes, Commissioner Baloyi, it says that the amount in dispute means the debt raised by SARS against Carnilinx, the company of which Mr Mazzotti, Mr Phillips, and Mr Sayed are directors, so it is against the company as well as Phillips and Mazzotti in their personal
20 capacities.

ADV BALOYI SC: Thank you.

ADV HASSIM SC: The amount in dispute is about 31.5 million, but the settlement agreement concluded on basis of 25 million and something. So those are, that is the factual basis of the allegations of the conduct of Carnilinx, and

then the directors who are engaged in, you know, in that unlawful conduct.

The allegations, well, the admissions in the affidavit of fraud and corruption, we have no knowledge of anything further coming of it, whether there were any charges or whether there was any action that was taken. It is not within SARS jurisdiction to follow up on those, but we do not know if it was referred for any purposes. So we do not have knowledge on that.

10 **ADV BALOYI SC:** Can I again just check. In that letter, the submission, if you just bear with me, there is somewhere, there is a paragraph where Mr Mazzotti implores us to have reference to the original affidavit. Sorry, I had highlighted it. I had highlighted where he says he asks us to have regard to the original document or affidavit, and I just want to ...[intervenes].

ADV HASSIM SC: I think it is paragraph 34, to place reliance on primary evidence properly before it.

ADV BALOYI SC: Ja, and you have said that you have
20 received this affidavit from SARS. It is a copy, if we can just confirm for the record, and you have not been offered the original by Mr Mazzotti.

ADV HASSIM SC: No, no, we were not offered this. So the letter that we received last night points out, I mean, it is signed by Mr Mazzotti.

ADV BALOYI SC: Yes.

ADV HASSIM SC: He points out that what we rely on, our media reports, the Ipsos study, et cetera, which is secondary information, and it is not based on, and he says that we are unable to tell whether the quotations are accurate or not, because it is not based on the affidavit itself. But the affidavit was his own affidavit, so he could have placed it before the Commission. It was not placed before the Commission, but as it happened, we had already
10 requested this from SARS. We received a copy from SARS, Commissioner Baloyi, and that is the copy that I read out.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: I got the impression he was saying he no longer has a copy, so he is not sure whether what is being put up mirrors what is set out in the affidavit.

ADV HASSIM SC: Is that what was, is that ...[intervenes].

ADV KHUMALO SC: No, that is how I understand it, because ...[intervenes].

ADV HASSIM SC: Maybe he has a copy and not the
20 original. I do not know. All I know is it was not offered to us. So, Chair, I mean, all of this is, again, really just prefacing us now getting into the content of the tenders and the significance of Mr Mo Sayed and the chat between General Khan and Mo Sayed. And it is not just in relation to his links with the company and his involvement in this

conduct in the company, but also other allegations that have been made in the media for some time.

And we also detail that in the answering affidavit. It was something that, you know, even Mr Shongwe referred to when he was here. Those are allegations. There is, again, no charges that we are aware of that have been brought against Mr Sayed, for example, in relation to the allegation that he was involved in the hit against the doctor, Mr Munshi, but they are allegations and I am not, and the
10 allegations of other sorts of cover-ups, I am not going to go any further into that.

The point is, it is a matter of public record that these allegations are swirling, and I have nothing further to say on it. In that context, and I would like to turn to the WhatsApp conversation, and for that purpose, Chair, we provided a core bundle because the, it is not even the full version, but the bigger version is about 6,812 pages of WhatsApp conversations. The context is important, so all of those pages are relevant because it provides a context.

20 But for the purposes of the particular aspects of the chat that I am going to go to, we prepared a smaller core bundle. It may be that we need to exit the core bundle and look at certain other pages, maybe a little bit before the page in the core bundle, a little after, in which case we will alert you, and, Chair, you will have to go there

electronically because we did not print out the 6,800 pages.
But I am confident we will manage this.

ADV BALOYI SC: So we put away the two files that we were working from?

ADV HASSIM SC: That is correct, Commissioner Baloyi. Now all you will have is the core bundle.

ADV BALOYI SC: Volume 1. We have got 1 to 3, you want us to look at 1?

ADV HASSIM SC: Commissioner Baloyi, I think that
10 volume 1 would do the trick, but it might be we are going to have to jump between the two now and then. If I can just explain, Chair, that what I will be doing is going through different parts of this chat and I have separated out the tenders because there is more than one engagement on corrupting and facilitating an improper tender. They fall under different headings.

The first one I would like to deal with is the PPE tender, the protective equipment, the personal protective equipment. It was during the time of Covid and as we know,
20 there was a flurry of activity to tender for provision of protective equipment by several companies. So, Chair, the first exchange, it begins on 12 January 2021.

CHAIRPERSON: Page?

ADV HASSIM SC: 5695. Sorry, is that in volume two?

CHAIRPERSON: Do we put away file 1 so long?

ADV HASSIM SC: Yes, Chair.

CHAIRPERSON: Okay.

ADV BALOYI SC: Ms Hassim, these are chats, we are looking at chats downloaded from General Khan's phone, all of it. Is that ...[intervenes].

ADV HASSIM SC: That is correct.

ADV BALOYI SC: Just for the record.

ADV HASSIM SC: So, let me explain.

ADV BALOYI SC: Yes.

10 **ADV HASSIM SC:** Commissioners, there are several devices that were seized from General Khan on the 10th of May. In these series of chats, we are going to be looking at the conversations, the WhatsApp conversations only, not other parts of the devices, that come from an iPhone 8 and from an iPhone 11. The bulk of it, bulk of what I am going to go through is on the iPhone 11 and this is a chat between General Khan and Mr Mo Sayed and it begins at the top of 5695. And what it begins with is Mr Sayed saying:

20 "Who can I speak to, to get contract to supply SAPS with masks, with SAPS logo. I am making upstairs, need to sell."

The response from General Khan, I do not think I mentioned the date, this is 12 January 2021 and it is at 10:56 in the morning. At 11:06 on the same day, General Khan says:

“Send me samples and prices, please,
ASAP. I am going to see someone
tomorrow night who is the possible guy to
make it happen.”

That is responded to as, by Mr Sayed, who says:

“Perfect.”

And General Khan says:

“Do not forget my birthday present ...”

Et cetera. On page 5696, so the next page, at the
10 top of the page, Mr Sayed sends General Khan the PPE
price lists and that is contained in the annexure bundle. It
is annexures to WhatsApp chats and it is just one file and in
that bundle, so, Chair, in these chats, there are documents
that are attached, et cetera, voice notes, and so that is
what this annexure bundle is about.

Page 147 is where you will see the price list that is
contained on page 5696. So you will see on page 147 that
it is gloves, masks ...[intervenes].

CHAIRPERSON: Is it a conscious decision not to flight?

20 **ADV HASSIM SC:** No, Chair.

CHAIRPERSON: Oh.

ADV HASSIM SC: Chair, you will see that it is gloves and
masks and caps and shoe covers and the prices are to the
right-hand side. And on the same page 5696, General Khan
says:

“Salams bro, I got the samples.”

And then if we move forward ...[intervenes].

ADV BALOYI SC: I suppose it would be for General Khan to explain what he meant when he says, I got the samples, but this is, it seems to be a reference to something different from the price list, that the samples themselves would have been what he is referring to.

ADV HASSIM SC: I think it is different, Commissioner Baloyi, because when you have regard to the chat we went
10 to before, he said, send me the samples and price list. This is the price list. I think the samples might have been sent physically, obviously. So he is reporting that he received the samples. I can only put two and two together there.

ADV KHUMALO SC: They came with a birthday present. They were not the birthday present.

ADV HASSIM SC: The birthday present was a separate package.

ADV KHUMALO SC: Yes.

ADV BALOYI SC: Thank you.

20 **ADV HASSIM SC:** So this begins then in January 2021. But the next chat I would like to take the Commission to is on 18 May 2021 where, so you will recall in the earlier chat, General Khan says there is somebody I am going to be seeing tomorrow or whenever to assist with this. So on 18 May 2021, and that is page 5899, at the top of the page, Mr

Sayed says:

“Bru, let me know what the procurement
for SAPS say for the masks.”

And General Khan responds:

“Are you on CSD?”

Mr Sayed says:

“What is that?”

Now, we do know that the CSD is the central
supplier database and we do not know whether, what further
10 communication took place to assist Mr Sayed to get onto
the central supplier database, but that takes place in May.

The next exchange on this tender takes place on
the 4th of June 2021 and that is at page 6025. And at the,
again, sort of at the top of the page, at 9:56 in the evening,
Mr Sayed says to General Khan:

“Let us sell some masks, please.”

General Khan replies:

“Okay, bro, I will speak to them
tomorrow.”

20 Mr Sayed replies:

“Perfect, bru.”

General Khan says:

“Everything in good time.”

Mr Sayed says:

“I have a feeling that you are going to

pull it off.”

And General Khan says:

“Insha Allah.”

At this point, we do not know yet who “them” is that General Khan will be speaking to. But if we have a look at the next conversation, which is the next day, but it is at page 5941, that is 5 June 2021, at 8:23 a.m., Mr Sayed asks:

10 “Bro, please ask Fani what name was the transversal contracts saved under?”

Now, Commissioners, we will see as we go through this that what we will establish is that the Fani that is being referred to in this chat is the, well, it is General Fani, who has recently been suspended from the SAPS, where he was in Supply Chain Management, held a position in Supply Chain Management. But at this point in time, he was employed in National Treasury in a procurement position, a senior position. I just do not have it in front of me right now, but it was a senior position like Head of Procurement
20 at National Treasury.

ADV KHUMALO SC: Is Fani the surname?

ADV HASSIM SC: Fani is the surname. It is Molefe Fani.

ADV BALOYI SC: Ms Hassim, not necessarily for resolution now, it might be important to verify the Fani, because in the documents you have given us, there are two

different spellings of Fani. There is a Fani, F-A-N-I, and the Fani, there is I-E.

ADV HASSIM SC: Yes, Commissioner.

ADV BALOYI SC: If you are able to confirm it now ...[intervenes].

ADV HASSIM SC: I will get there.

ADV BALOYI SC: Why are you saying this is Molefe Fani.

ADV HASSIM SC: Quite shortly, in fact. But it is F-A-N-I.

ADV BALOYI SC: Yes.

10 **ADV HASSIM SC:** And the people with whom, and Mr Sayed is not the only person General Khan communicates with about General Fani, but they do not seem to know exactly how it is spelled.

ADV BALOYI SC: I see.

ADV HASSIM SC: So various spellings, but the proper spelling, as I will show you in a moment, is F-A-N-I.

ADV BALOYI SC: Okay, but you say this Fani, F-A-N-I-E, is the same person?

ADV HASSIM SC: It is the same.

20 **ADV BALOYI SC:** Okay, thank you.

ADV HASSIM SC: Okay, so that was June. If we go to July, page 6107, that is a voice note, and we will, this is 7 July 2021, Mr Sayed sends a voice note to General Khan, in which he asks General Khan to check how many test kits he was looking for, at ordering for different government

departments.

Well, what he says is that General Khan should check with General Fani how many test kits he was looking at ordering for different government departments for PPE. So I think we need to display that voice note, if it is available. Chair, I think we have a technological problem, but I also see that it is 7 minutes to 11. I do not know how long it will take to resolve. Maybe we should adjourn slightly earlier for tea.

- 10 **ADV BALOYI SC:** Only because you are already in July, if maybe you would go back to 6021. Ja, you may have a follow-up. It is on the 23rd of June, right at the end. Remember you earlier referred us to a request for a CSD number, and then now at the bottom, what is up, you seem to have an answer to that, and in the next page. Maybe you put that on record, so that when General Khan does come to testify, he can speak to that, 6021.

ADV HASSIM SC: I am there. Oh, yes, oh, yes, that is right.

- 20 **ADV BALOYI SC:** You want to put that on record.

ADV HASSIM SC: I have made a note, and I forgot, I skipped over it. So thank you, Commissioner Baloyi. It is 6021, which is on the 23rd of June. Mr Sayed says at 8:57 p.m.:

“This is BW CSD number.”

Now, and then he follows it with the CSD number. We can see it, there is the CSD number, because it has the prefix MAAA, which is the usual prefix for CSD numbers. BW CSD number, we believe BW stands for Branded World, which is a company that we will see features elsewhere in these chats, was mentioned in these chats, and it is a company that Mr Mazzotti is a director of.

ADV BALOYI SC: Thank you, Ms Hassim.

CHAIRPERSON: Let us adjourn and resume at 11:30 p.m.

10 Thank you, Chair.

CHAIRPERSON: Yes, Ms Hassim?

ADV HASSIM SC: Thank you Chair, I think the voice note is ready.

[VOICE NOTE PLAYED BACK]

20 “As-salāmu ‘alaykum, Zanzi bru, please check with the Pilot how many test kits are they looking at ordering, the different departments, because I have got approval to get distributed through Carnilinx Industries, I have got the stock as well, I have got the samples, the stock, the samples have been approved by SAHPRA, I have got the stock as well so I want to operate it.”

Chair, can I ask that it is played one more time, so it is

sometimes hard to follow the first time around.

[VOICE NOTE PLAYED BACK]

10 “As-salāmu ‘alaykum, Zanzi bru, please
check with the Pilot how many test kits are
they looking at ordering, the different
departments, because I have got approval
to get distributed through Carnilinx
Industries, I have got the stock as well, I
have got the samples, the stock, the
samples have been approved by SAHPRA, I
have got the stock as well so I want to
operate it.”

So that is fairly self-explanatory. Mr Sayed does in that
voice note refer to Pilot, he says ‘ask Pilot’. We will show
in due course that Pilot is the code name they use for
Molefe Fani.

So this is the voice note that Mr Sayed sends on
the 7th of July 2021, and General Khan responds:

“Okay, bru.”

20 The next reference would be at page 6165, and that is on
20 July 2021, and Mr Sayed says to Major General Khan:

“We will discuss the PPE with Pilot without
Josie.”

And General Khan responds:

“Yes.”

Mo Sayed then says:

“Tune him, bru.”

Josie...

CHAIRPERSON: Oh, oh, oh, it looks like you want to address what I wanted to ask, please go ahead.

ADV HASSIM SC: It appears to be one of their business partners on several procurement and tender contracts. And the name comes up in another context again, in the context of another tender.

10 **ADV BALOYI SC:** When you say it appears, you say we will get there, where you show us where this appears, that it is a business partner.

ADV HASSIM SC: I will get there in the next... And even when I get there, it is not an obvious straight line that shows this is a business partner in a particular contract or deal. But the context leads to one to conclude, to infer that it is in fact a business partner.

ADV KHUMALO SC: We will get us their name, sorry to interrupt you, we will get us their name at a later date.

20 **ADV HASSIM SC:** It appears to be Adam. It appears to be Adam., but we will get there in due course. So, what is happening here is ‘we will discuss the PPE Pilot without Josie, yes’. Now, whether it is because they are trying to cut out a business partner or whether it is okay to go ahead without him, we cannot say. If General Khan were here, he

would he'd be able to explain a bit more what the meaning of it is.

The other point that was mentioned by Mr Sayed in that voice note was that he has got approval for Carnilinx to do this and also that he has got approval from SAHPRA for these products. So if we go to the next page, and then he shows that he does have this approval from SAHPRA and he does so on page 6179 and you will see on 6179, Mr Sayed sends a document, that is an annexure, OBL Carnilinx (Pty) 10 Ltd. And that is at page 149 of the annexures bundle. Chair, you will see that it is a letter from SAHPRA to Carnilinx and it refers to an application for medical device licence. There is a sort of a box in paragraph 1. It is not clear what that is meant to indicate, whether there was some sort of bookmark in the letter, we do not know. But what it shows is that ...[intervenes]

ADV KHUMALO SC: Does it not say they are licenced to manufacture? Is that not the point?

ADV HASSIM SC: That is where I am going to, is that what 20 he is trying to say here is that I have done my part now and he says so a little bit further in the chat. Because he sends the next letter, which is on page 151, also from SAHPRA. And he says:

“That is the acknowledgement letter, I have done my part now, waiting for their

processes.”

So what he is saying is, the requisites, licencing and compliance processes are being followed by him and that Kahn should continue to assist him with the contract. So that is on the 21st of July.

ADV BALOYI SC: Before you move on, even if it may appear to be obvious, just to be clear. The voice note says distribution will be through Carnilinx, I think that is what I heard.

10 **ADV HASSIM SC:** Yes.

ADV BALOYI SC: And we have got this SAHPRA letter which talks about a licence. But just to be clear, the CSD number that seems to have been used is the BW CSD number, not Carnilinx.

ADV HASSIM SC: The CSD number on...

ADV BALOYI SC: That we referred to earlier. It is a different company.

ADV HASSIM SC: It is a different company.

ADV BALOYI SC: Okay, thank you.

20 **ADV HASSIM SC:** So five days later, page 6210. What we will see here is a screenshot that General Kahn sends to Mr Sayed. There are two documents. The first is the number of masks to be ordered per province. So it is sort of like a transversal contract. There will be procurement across departments, across provinces. This is the numbers of

disposable face masks. It is cut off a little bit, but on the left-hand side of the screen you will see it says disposable face masks.

And so what it is, is a picture of a screen detailing the number of masks required by different sections of the SAPS. And immediately below that is an extract from Treasury Instruction number 11 of 2020/2021 and it is a Treasury Instruction on COVID procurement. It is on the same page, 6210. It is immediately below the screen. They
 10 are all screenshots of this information. So immediately below the disposable face mask numbers.

Now, the Treasury Instruction is not internal information. That is public information. It is a rule. It is a regulation that is available to anyone, and particularly to companies who wish to bid under this contract number. But the screenshot above it would not have been information that was publicly available. That is internal SAPS information that would benefit a bidder.

ADV BALOYI SC: Is that correct, though? The bottom is
 20 addressed internally. Maybe you need to clarify the part where you say it is an external document. Because if you look at the bottom, that cut-off, it is to all. And it indicates who it is addressed to. If you go to 6211, it continues. So it is addressed to internal people. If we are speaking about the same document.

ADV HASSIM SC: I am talking about the screenshot before the Treasury Instruction. So it does not have anything about to whom it is addressed.

ADV BALOYI SC: Yes, so the one at the top, which has a breakdown of who needs what.

ADV HASSIM SC: Yes.

CHAIRPERSON: You say that is an internal document.

ADV HASSIM SC: That appears to be an internal document.

10 **CHAIRPERSON:** And then what do you say about the bottom one?

ADV HASSIM SC: The bottom one is a public document. It is a Treasury Instruction. And it is addressed to all departments. But it is not something that would be private or internal. It is something that is available publicly.

ADV KHUMALO SC: And you can even Google it.

ADV HASSIM SC: You can find it on Google, yes.

ADV KHUMALO SC: Or on the Treasury's website.

20 **ADV BALOYI SC:** Yes, what I was clarifying is that by that explanation, you are not saying that it is addressed to the public. Because on the face of it, it is addressed to internal people.

ADV HASSIM SC: That is true.

CHAIRPERSON: Yes.

ADV HASSIM SC: That is true. I cannot see the entire list

of entities to whom it is addressed. But it is not a document that is sent to...

ADV BALOYI SC: To the public.

ADV HASSIM SC: ...to the media, or that kind of thing.

ADV BALOYI SC: Yes.

ADV HASSIM SC: So this is 26 July 2021. What we then begin to see is that ...[intervenes]

CHAIRPERSON: Sorry, and what do you wish to highlight about this document, this second document, for our
10 purposes?

ADV HASSIM SC: What I am highlighting is that... Well, firstly, I think the first document I have explained. The second series of screenshots is General Khan providing information that is relevant for this tender. It is not clear to me that this is internal, private SAPS information. But it is intended to assist Mr Sayed in the process of securing the tender.

CHAIRPERSON: Thank you.

ADV HASSIM SC: What we then see, Commissioners, from
20 page 6230, and that is on 2 August 2021, and we will go through several of these, but what we see is a series of communications now where Mr Sayed is pressing General Khan to move quickly with the contract. It is sort of the COVID season. So, on 2 August 2021, at 9.28a.m., Mr Sayed says:

“Slms, bru, please tie up the Pilot and
Gen1. We need the order for the...”

And it cuts off there. And the response is:

“Wslms, bru, okay.”

And then see you later, et cetera. Now, that first message,
‘please tie up the Pilot and Gen1’, I have said to the
Commissioners, I will show that Pilot is Molefe Fani. We, I
cannot say exactly who Gen1 is and whether that is code or
whatever it is. It is some other person, but I have not
10 established the identity yet of that person. And 3rd of
August, 6243, at 7.28 a.m., Mr Sayed says:

“Slms, bru, how did you sleep? Please
follow up with Gen1 and the Pilot.”

General Khan responds:

“I followed up with Gen1 last night. He is
going to chase Pilot today.”

Mr Sayed says:

“Okay, bru.”

If you look a little bit further down on the next page, 6244, it
20 is still on the 3rd of August, but it is now a couple of hours
later. He says:

“I need the PPE orders, please, bru.”

And on 6245, again, he says, still on the 3rd of August:

“Please push General 1 and Pilot.”

It is followed by a business card, but I am not sure there is

much more for us to say on the business card. I do not want to suggest that that person is, in fact, I am pretty sure that person is not General 1, the business card. It is a business card that is sent to Mr Sayed with a message, please send to Mikey.

If we look at the 4th of August, 6246. At 4.59 a.m., Mr Sayed says:

“Slms, bur, it is Wednesday already.

Please push Gen1 and Pilot to finalise PPE
10 story. These guys are too slow.”

General Khan replies at 5.59 a.m.:

“I will call Pilot.”

At 6247, it is part of the same series of chats, also on the 4th of August. At 7.01 a.m., Mr Sayed says:

“We need to get an order in this week while
the need for PPE is still in season.”

And General Khan says:

“I agree.”

Mr Sayed responds:

20 “Bru, I need email address of Pilot.”

And General Khan then sends him the email address of Pilot. And you will see that the email address that is reflected on the message is Molefe Fani, F-A-N-I, at Treasury.gov.za. So this is the point in time, as I said, when Mr Fani at that point was employed in Treasury before

he moved over to the SAPS.

ADV BALOYI SC: You said in Treasury he was responsible for? What was his position at the time?

ADV HASSIM SC: Procurement.

ADV BALOYI SC: Procurement.

ADV HASSIM SC: He was in supply chain management.

ADV BALOYI SC: Thank you.

ADV HASSIM SC: Chair and Commissioners, if you go to 6265, in the same, sort of the same sort of stream of
10 applying pressure to get it done, Mr Sayed says, at 3.39 on the 4th of August:

“Please push Gen1 and P, bru K.”

General Khan responds:

“Pilot is back tomorrow. I am going to see him.”

He says, he complains, it is another week gone by, he is getting quite despairing at this point. He says another week gone by. General Khan says, I know. And then they go on to talk about a topic which I am going to return to
20 separately, which is General Khan's new house.

At 6294, so we have seen that the email address was already provided for Molefe Fani. But now, on the 10th of August, at 7.35 a.m., General Khan sends the contact numbers, and there are two contact numbers that he sends, two business cards, for Molefe Fani. The first is, looks like

an official number, because it says Fani, Molefe, Treasury. The second one says, Pilot, Fani, Fani, Pilot. Sorry, chair. I was just checking to see whether we are flighting.

The next reference is still on the 10th of August. It is at page 6299. The first message on 6299 refers to something else. But it is a second message:

“Pilot will not make it, bru, but he will handle it.”

And Khan says:

10 “Okay, thanks, bru.”

So there has been communication now, after having sent the contact details, there is communication directly. So he is no longer going through General Khan. He says, let me just speak to this guy straight. And so there is obviously been communication between him and Pilot, and he has gotten back to General Khan to say, we have spoken. It is still on the 10th of August. On page 6302, at the bottom of the page, Mr Sayed says:

“Any news from Gen1 on the masks?”

20 And General Khan responds:

“He is back tomorrow.”

Mr Sayed says:

“Okay, let us keep the pressure on him, please, bru.”

General Khan says:

“Okay, bru.”

And then says, we had supper by Tariq. And he asks for pics, and there are pictures that are sent. So there is two conversations that are taking place between General Khan and people inside the government. One is with procurement, with Molefe Fani in Treasury. The other appears to be with somebody who is in the SAPS and who is responsible for this. So each time Mr Sayed communicates with him, with General Khan, he either refers to a
10 conversation with Pilot or with General 1, who is the SAPS person.

So we see on page 6304, 6304, again on the 11th of August, 12.14 p.m., Mr Sayed says:

“Please follow up with General 1, need the orders.”

And then on the 18th, 16th of August, if I can just find the page 6316. Chair, if you bear with me for one moment. 6316, at 9.38 a.m., Mr Sayed says, sends to General Khan a notice. You will see it is an attachment. It says:

20 “Cloth and surgical mask, national letter,
13 August 2021, signed by Div Com”

And I am not sure whether it is in the annexure bundle, Chair, so that is why we are just fighting it. This is the national letter that is being referred to. It is signed at the bottom by Divisional Commissioner for Supply Chain

Management, RIT, by Lieutenant General RIT. And Mr Sayed says:

“What does this mean?”

And then General Khan breaks it down for him and he says, well, now we can order the masks using the RIT contract. What the letter talks about is, well, you can see the heading. It is a protocol for containment of COVID and it says that this is approval for all SAPS employees to use both masks when wearing uniforms. So, again, it is about
10 what the SAPS will be procuring.

That is one more message, and that is, well, no, let me end on this one. We do not know at this point what became of the contract, because it is not reflected on the chats whether this contract was ever concluded and whether Carnilinx, in fact, secured this tender and when that would have happened. This is as far as it goes on the PPE tender. There is one more message that is just, I will just go there just because it is linked to this, and it was on 30 June 2021. And it is a screen on 30 June, Mr Vally sends a
20 screenshot to General Khan of a series of tenders that are also PPE tenders. And he says:

“Bru, dispenses we can do.”

So, at the same time, we see at the same time as there is a facilitation of a tender with Mr Sayed, on 30 June 2021, there is a conversation happening in parallel with Mr Vally,

Mr Ismail Vally, for an attempt to secure and to get assistance to facilitate access to a tender for dispenses. He says, we can do dispenses and he sends a screenshot of these tenders. I will come back to that because it is a subject of a separate chat.

The relevance now is that these tenders are sort of the order of the day at this point in time in 2021. So, what Commissioners we see from these ...[intervenes]

ADV BALOYI SC: Sorry, Ms Hassim, Vally, is he an
10 employee of SAPS, of Treasury? Who is Vally?

ADV HASSIM SC: I am going to take some time to explain that, but he is a businessman.

ADV BALOYI SC: Okay.

ADV KHUMALO SC: I wanted to ask you about the letter that you referred us to, the SAPS letter that said there will not be any further emergency procurement, but instead the procurement of the surgical masks will be sourced through the National Treasury contract, which was that letter that you referred us to. And then reading it with 6317 where Mr
20 Sayed says, but we are not on that contract, so that may be a problem for us. And then the response from General Khan, it seems to me that that is where the whole thing ends because they realise that they are not part of this contract, so the only way to get in is that somebody who is part of this contract, they must then, I do not know, what to

make of it.

ADV HASSIM SC: Well, so, Commissioner Khumalo, we do not know how it ends. We know that it is now been moved from an emergency procurement process to the RT process. And then Mr Sayed says, well, what are we meant to do with that? General Khan says:

“That is why Mahlangu was supposed to arrange for us to link up with someone who is in the RT.”

10 And then Mr Sayed says:

“Okay.”

And it continues off onto a different topic from there on. Now, whether they then linked up with someone who has access to that contract, we just do not know. But what is clear is that whatever process Mr Sayed thought they were going to be able to follow was not going to work out. So they were looking for an alternative means.

So, Commissioners, this set of chats on this particular tender on PPE shows several things. It shows
20 that Mr Sayed, a private businessman, Carnilinx director, wanted access to these SAPS masks orders, at the very least. But as we know, he sent samples of more than masks. General Khan responded to all of his messages, acting as a facilitator. And on the face of it, he is facilitating.

He is not responding as a senior police officer who is distancing himself from the improper approach that is being made to him to facilitate access to the contract. He also refers to other individuals within government who may provide assistance in securing this access and to other procurement vehicles.

ADV KHUMALO SC: And then that letter Advocate has him, is it an internal SAPS letter that he shared with Mr Sayed?

10 **ADV HASSIM SC:** The one on the cloth masks and surgical?

ADV KHUMALO SC: Yes.

ADV HASSIM SC: Can I have a look one more time? That letter, as I said, was by the divisional Commissioner, Lieutenant General RIT. He was SCM Divisional Commissioner, supply chain management. It is addressed to, it is addressed internally to the national, all sections within SAPS only.

ADV KHUMALO SC: So it is not for public?

20 **ADV HASSIM SC:** It is not sent to the public, no. It is an internal communication. So, Chair, just to wrap up then on what I was saying emerges from this set of chats in addition to what I have already laid out is that there is this constant pressure that has been applied by Mr Sayed. It is not isolated. It is sort of ongoing, we need to secure the orders

that General Khan provides procurement related information and contact details and internal SAPS information.

And the point is here that what it looks like is that General Khan allowed himself, if I can put it at the lowest bar, to be used for access to the SAPS and Treasury procurement channels for a private businessman. And it certainly appears from these chats that there was no attempt to enforce the law either in relation to Mr Sayed who was making the approach to him or in relation to the
10 officials who seem to be in on the deal.

And that, Chair, is where I conclude on this set of this batch of communications related to the PPE tender.

ADV BALOYI SC: When you say it seems from these chats that there was no attempt to enforce the law, what do you mean? What law are we talking about and what are you saying could or should have been done which was not done by General Khan when he is approached in this way?

ADV HASSIM SC: what I would think the first thing would be is not to facilitate the process, not to assist. Now, as I
20 said when I prefaced the discussion of the tenders, General Khan may have an explanation as to why he continued to facilitate it. We do not know what that is. But he did not stop this process. He did not say to Mr Sayed that is not the way we operate. He did not report Mr Sayed for all we can see.

And there is no evidence again from the chats themselves that any action was taken against officials or any reporting of the officials took place. What we do know is Mr General Fani remained, General Fani was only suspended I think recently, a couple of weeks ago. So he remained, and this is 2021, so he remained in his position up until fairly recently. If there had been some law enforcement or some action taken by General Khan perhaps something would have happened sooner. Again General
10 Khan might have an explanation for this.

ADV BALOYI SC: In another stream of evidence that dealt with procurement matters, we have had an explanation from a witness who is an employee in a state entity that in the normal course they get enquiries from members of the public and because they are good civil servants they tend to help members of the public and refer to, so there was nothing sinister in the engagements with members of the public on procurement matters.

It may be it is too early in your process for me to
20 ask this question of you and you can say to me you will deal with it later if you are going to. With the investigation and the set of documents that, especially the WhatsApp messages that you have had access to, are you able to offer any view about the nature of the relationship between Mr Sayed and General Khan that may well explain this

exchange as a member of the public requesting, possibly requesting information from a public official. Are you able to offer a view of the nature of the relationship between the two?

ADV HASSIM SC: So, Commissioner Baloyi, we are only going to particular parts but we have read the entire set of documents and so it is clear that they have a very close personal relationship, this is not some member of the public who happens to call up someone, perhaps they met you
10 before and they know you and they call you up. This is someone he meets on a regular basis, he socialises with on a regular basis and it is not the only instance in which he helps to facilitate. That is the next example that I will go to which shows more direct involvement in the process.

ADV BALOYI SC: Thank you Ms Hassim.

ADV KHUMALO SC: Advocate Hassim, you confuse me, you are dealing with an issue before this one, where you said General Fani was still with SAPS, was only recently suspended. In the chats we were dealing with, that was in
20 2021 and was he then with Treasury and at some point he moved to SAPS? Can you just clear up that confusion?

ADV HASSIM SC: Yes, Commissioner Khumalo, it is 2021, these chats, and at this point in time he was in Treasury and we could see it from his email address. I have forgotten the exact date now, but I will provide it to you, the

date when he was transferred from, in fact it was a promotion essentially, from Treasury into the SAPS. I just do not remember the date, I think it might have been 2023, but I need to confirm that.

ADV KHUMALO SC: And then in your further engagement with Advocate Baloyi, because I had a similar issue, is it fair to say you can put it no higher than to say, *prima facie*, this is what the chats appear to indicate, that he was facilitating on issues relating to procurement, including PPE
10 and others, because I saw in one of the chats that there was a tender that was not related to PPEs, but he shared that there is this tender coming up and he shared it with Mr Sayed, and there may or may not be impropriety, but that will be put to him if and when he does come and give evidence, and his version will then be presented at that stage.

ADV HASSIM SC: Yes, I am going to go to the next chat, so I was just wrapping up on the PPE tender to say I do not know what happened with that particular one, and on the
20 face of it, this is all it was. This is as far as it went, but we do need to see these engagements, and so it is linked to Commissioner Baloyi's question is, you know, what do we make of this? Is it just this one isolated incident? Is it an innocent approach to say, you know, I happen to know you and you are there, can you tell me, give me more

information, that one would give anybody about access to a contract and the kind of, that is not what we are looking at here.

We are looking at something much more, I will use my words carefully, but problematic, and we will see that in the next conversation that we are about to get to, and that one deals with an IT contract. Commissioner Khumalo, the date at which Molefe Fani joined the SAPS was 1 August 2022, and he was a Divisional Commissioner for Supply Chain Management in the SAPS.

ADV KHUMALO SC: I guess this may be relevant to one of the streams that we are dealing with that, because you said it was a promotion, which means he was not promoted from within SAPS, but when he moved from Treasury to SAPS, he became a General.

ADV HASSIM SC: That is indeed my point. So he was a senior officer in Treasury.

ADV KHUMALO SC: But not at SAPS, that is my point, so he did not rise through the ranks within SAPS.

20 **ADV HASSIM SC:** He did not rise through the ranks, it was a transfer.

ADV KHUMALO SC: It was a transfer from Treasury, and then when he went to SAPS, he was given the rank of a General.

ADV HASSIM SC: And he was put in charge of supply, he

was a Divisional Commissioner.

ADV KHUMALO SC: I am more interested in the rank.

ADV HASSIM SC: Oh, the rank, yes.

ADV KHUMALO SC: Because it is relevant to the other stream we are dealing with.

ADV HASSIM SC: Yes, so he was given the rank of Lieutenant General.

ADV KHUMALO SC: In fact, Chair put it to Mr O'Sullivan when he was here, that it often happens that people are
10 appointed by SAPS and they are given a higher rank, so they do not start from the very bottom when they join SAPS.

ADV HASSIM SC: Yes.

ADV KHUMALO SC: So I was asking it in that context.

ADV HASSIM SC: No, I understand, Commissioner Khumalo, it is also why I refer to it as a promotion, because he, in order, it is such a senior position, that is why you acquire the rank of Lieutenant General. It is because of the seniority of the position that he is given. So anybody who would come from another institution or organisation,
20 whether it is within government or outside of government, but outside of SAPS, you would be placed at the level, you would be given the rank that is commensurate with your seniority in SAPS, and that is what happened here. So he did not come through the ranks in SAPS at all.

CHAIRPERSON: But you may only call it a promotion if

you are sure that it is not equivalent to the position he held in the National Treasury. But if the two are equivalent, it is not necessarily a promotion, it is just that he did not start as a constable within SAPS.

ADV HASSIM SC: That is correct.

CHAIRPERSON: Yes, yes.

ADV HASSIM SC: What I will confirm is whether he was in a similarly senior position in procurement in Treasury.

CHAIRPERSON: But do you think we need to get there? I
10 do not think so.

ADV HASSIM SC: Well, no, Chair, it really is to explain why I considered it a, yes, he was a Chief Procurement Officer in the Treasury and a Director, and then he moved to SAPS. In SAPS, he was Divisional Commissioner of Supply Chain Management, that was where he was appointed, and therefore, because of the seniority of that position, he was awarded or granted, I do not know how one gets these ranks, granted the rank of Lieutenant General.

CHAIRPERSON: No, thank you, thank you. I think that is
20 enough for our purposes, ja. Thanks. Sorry, sorry. Mr Vally, just in case by 12.30 we are deeply engrossed in whatever it is we will be doing at that time, please indicate that we should adjourn.

MR VALLY: I will alert you. Thank you, Chair.

CHAIRPERSON: Thank you.

MR VALLY: Thank you for the sensitivity.

CHAIRPERSON: Thank you. Yes, Ms Hassim?

ADV HASSIM SC: [No audible answer]

CHAIRPERSON: Please restart.

ADV HASSIM SC: The next contract concerns the relationship between General Khan and Mr Sayed in relation to an IT contract between the National Treasury and a company called Cyberia, and for that we begin in June 2021, and what we will see is again the involvement of
10 General Khan through General Fani. Now we know he is General Fani at this point in time. Well, he becomes General Fani along the way, the involvement of both of them in this contract.

If we could begin at 12 June 2021, which is at page 5974. At the top of 5974, Mr Sayed says:

“Did Fani confirm a time to collect the docs yet?”

General Khan says:

“I have not heard from him yet.”

20 Mr Sayed responds:

“We are seemingly good to go. Obviously, I have not yet negotiated anything or spoken to Fuad. Fareed has reverted with the docs and Fuad willing to fly in next week.”

And then he shares a document that is titled National Treasury and Cyberia Master Contract. The attachment on that page is in your annexures bundle, and it is at page 41.

So you will see that that is a copy of a master contract, an agreement between National Treasury and signed by the Office of the Accountant General, and it is with Cyberia, and Cyberia is represented, you will see on page 41, is represented by the Managing Director, Mr F Udemans, who, if you look at page 45, at the table under
10 paragraph 1.6, you will see in the row, Cyberia, Director, Fuad Udemans. I am not sure if I am pronouncing it correctly. That is the, sorry, Fuad Udemans is the Director of Cyberia.

This is obviously a contract with Cyberia to be the project manager for the rolling out of a rather complicated IT system, in fact. The second document that is attached on page 5974 is the Cyberia Letter to Accountant General, and that is at page 74 of your bundle, and it is dated 26 January 2021 and it is addressed to the Accountant
20 General. It is in relation to the implementation of the master contract, and it is signed by Dr F Udemans at the bottom. You will see that on page 75.

So these are the documents that Mr Sayed shares with General Khan, and after he sends these documents, he says:

“Josie sent me.”

So it seems that he is forwarding these documents from the person named Josie. That is 12 June 2021. On 15 June 2021, page 5989, enters Fani again, and General Khan says:

“Slms, bru, we are going to meet Fani at 4.00.”

And if you scroll down to page 5990, it straddles the two pages. On the same day at 11.41 a.m., Mr Sayed says,
10 well, first he said:

“At home?”

And then he says:

“Must I ask Josie to join?”

And General Khan says:

“Yes, at home.”

And then he asks to speak to Mr Sayed. On the 23rd of June, they set up a meeting, and if we start on page 6020, you will see at 2.13 p.m., Mr Sayed says:

“What time are you coming?”

20 General Khan responds:

“Still busy, and gives his location.”

Scrolling down to 6021, Mr Sayed says:

“Okay, bru, Pilot still sitting in the car, I need you here.”

The next reference is on 30 June 2021, 6072, and at the

bottom of that page, and Commissioners, you will see there is a lot of other stuff that are in these chats that I am not dealing with, and I am deliberately not commenting on it.

30 June 2021, Mr Sayed says:

“Slms, bru, met with Fuad. This is big.

You will please make sure Pilot comes,

otherwise meeting fruitless without him.”

And that was at 4.30 a.m. At 4.37 a.m., General Khan responds:

10 “Okay.”

And of the breakfast that he is eating. The next interaction on this contract is 13 July 2021, and that is at page 6126. It starts on 6125. Again, it straddles two pages. It is at the bottom of 6125. You will see it is 13 July 2021. It is at 11.50 a.m. General Khan says:

20 “DG just called an urgent meeting now at 2.00 at the office to procure and find programs for disaster recovery related to this unrest. I am driving through to Pretoria. Can we meet tomorrow, any time after 2.00?”

And then the next message says:

“From Pilot.”

So what is happening here is that he is forwarding, General Khan is forwarding to Mr Sayed a message he gets from

Pilot, who is explaining that he is busy and what he is busy with, and he is proposing that they have the meeting tomorrow, rather, at any time after 2.00. He forwards this, he says it is from Pilot, and Mr Sayed says, okay. And then still on 13 July 2021, at 6127, in the middle of the page, sorry, it is not 13 July, it is actually 14 July, at 8.55 a.m., Mr Sayed sends General Khan a name, and the name is Bobby Maake. And he says, he asks, he says to General Khan:

10 “Ask the Pilot if he is a friendly force or
should I grab him? Fuad's matter, he is
strategic.”

Suggesting that he was, the way I read this is that Bobby Maake was strategic in Fuad's matter. And he is now asking for advice from Pilot, who we know is Fani, about whether he is a friendly force or whether he should be grabbed.

ADV BALOYI SC: Have we sought to find out who is Bobby Maake insofar as he may be a person from, a government
20 person?

ADV HASSIM SC: Yes. He is a Treasury official.

ADV BALOYI SC: A Treasury official?

ADV HASSIM SC: At the time, yes. This was in 2021, and at that point in time, Mr Maake was a Treasury official. And then the next engagement on this is at page 6206, where Mr

Sayed, at the top of the page, says:

“What time is the Pilot seeing the guys
from MTN?”

6206. So, it will become apparent why MTN, I mean, this is, again, just to remind you, related to this master contract and the implementation of the contract, a particular aspect of the contract. And it is an IT, not just IT related, it is also about procuring handsets and data bundles and the like. So, here Mr Sayed says:

10 “What time is Pilot seeing the guys from
MTN?”

General Khan says:

“I am going to ask him.”

And Mr Sayed says:

“Okay.”

That is 26 July 2021. On the same day, at 6207, Mr Sayed says:

“Please confirm, bru, I am sitting with
Josie.”

20 And General Khan says:

“I am waiting for him to respond.”

And it seems that the him there is Pilot, Fani. Mr Sayed responds:

“Okay.”

And then sends him a list of names. I am not going to read

those names, but I believe one of them, and that would be number four, to be Josie. General Khan then just says the following, and this is, as we will see from the context, a forwarded message. He says:

“Just met them. Smada can carry on and meet them tomorrow.”

Mr Sayed says:

“Excellent, bru.”

And then he says:

10 “Them means more than one person. Will
 would be good to know who else he met.
 I will ask him.”

So, the way, sorry, Commissioner Baloyi, I think you have a question?

CHAIRPERSON: I do not know if you can answer this. I was just pointing out that at 6207, right at the top, there is a request for names of people for the water wells. And then you have got that list of names. I do not know if you can clarify anything.

20 **ADV HASSIM SC:** No, I am afraid I cannot assist Commissioner Baloyi. The reason I did not go there was because I do not know enough about it to be able to give you any credible interpretation of it.

ADV BALOYI SC: Yes. What I have in my mind is that list could be a reference to the names of people for the water

wells, or the Smada people for a different transaction. It does not say on this page, I guess.

ADV HASSIM SC: It does not say. So, at least number four is involved in the Smada arrangement. You know, the Smada entity.

ADV BALOYI SC: That is sufficient for me.

ADV HASSIM SC: But I am not sure exactly what the meaning of the other names are, whether they are partners or whether it is related to something else. And so, in the
10 absence of more information, I just would not say too much more about that. But what we see is that what General Khan forwards to him is a message saying that he is just met them. And in the context of speaking to Pilot, it appears that Pilot has now met with the relevant people in MTN. And he says, and this is facilitating Smada's access to MTN, saying:

“I just met them, Smada can carry, meeting them tomorrow.”

He responds to say:

20 “Them means more than one person, will be good to know who else he met. I will ask him.”

And the he said, and the he consider from there and this is important, because he then says:

“Any news?”

And then he says something about the contract. What he then does, because we get to the contract a little bit later ...[intervenes]

CHAIRPERSON: Would this be...

ADV HASSIM SC: ...and the relevance becomes clear with reference to the contract. Oh, apologies, Chair, it is 12.30.

CHAIRPERSON: But you want to finish off the point you are making?

ADV HASSIM SC: It is actually a good point to break,
10 Chair.

CHAIRPERSON: Oh, to break at this point. Let us adjourn and resume at 2.00 p.m.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Hassim.

ADV HASSIM SC: Thank you, Chair. Chair, we were dealing with the Cyberia contract and we were on 26 July 2021, where General Khan reported to Mr Sayed that General Fani had said that he had met with them and that
20 Smada, what seems to be the corporate vehicle of General Khan and Mr Sayed for this Cyberia contract, would meet MTN the following day. Still on the 26th of July ...[intervenes].

CHAIRPERSON: Are we still at 6208 or are we going elsewhere?

ADV HASSIM SC: We are still at 6208. So the conversation concluded by Mr Sayed saying, you know, who else did he meet with, who else was included in the “them” and General Khan says he will ask them. And then what happens next is on the same day, same page, Mr Sayed says:

“FYI. Told them to exclude 3.3.5, 3.4 and 3.5.”

Now, these are references to a draft memorandum
10 of understanding between Smada and Cyberia, which I am going to turn to in a moment. But before I get there, he continues by saying:

“We have to conclude, as Pilot can easily resolve. Then we are good if he signs.”

And the next message:

“So we get 92.4 odd? 280. 30%.”

And the next message:

“How are we splitting on our side?”

And then he says:

20 “Yes, MAF ...”

Meaning sorry.

“33.3.”

Suggesting that it is a one third, one third, one third split. So there are three payments, so out of the 280. So this is the seeming arrangement for this MOU and how

the Smada beneficiaries will split the proceeds. But what do these clauses refer to? If you scroll down onto page 6209, Mr Sayed shares the draft MOU with General Khan. And Commissioners, that is in the annexure bundle at page 85.

So you will see it is in a draft form. So there is some details that still need to be included, including such as who is going to sign it. Then paragraph 1 deals with the status of the agreement, et cetera. The key clause is in
10 paragraph 3, which captures the agreement between Smada and Cyberia. And you will see from this MOU and particularly from these clauses that this really is a thinly veiled kickback agreement for facilitating this, facilitating this process and access to the contract with Treasury.

So, clause 3 is, 3.1 begins that Cyberia was awarded a contract. 3.2, and this is the critical provisions now:

20 “Smada has forged close business relationships at the highest levels with the Government of the Republic of South Africa, as well as in the private sector and Smada agree to facilitate introductions, meetings and/or presentations at the highest level of the Government of the Republic of South

Africa, as well as Smada's business associates in the private sector to ensure full implementation of the Rules Engine.”

Then if you look at 3.3.2 it says:

“More specifically, the parties agree as follows.

3.3.2 Smada shall secure the necessary strategic partnerships subject to the final approval of Cyberia.

10 3.3.3 Smada shall ensure that Cyberia continue to provide the services in the territory and to the employers introduced.

3.3.4 Smada shall secure signature of the relevant service agreements where required in order to secure full implementation of the Rules Engine, as well as to provide active, ongoing relationship management with any
20 government department and or municipality and or parastatal and or other private sector employer where the Rules Engine is operational.”

And then finally, 3.4, which deals with the fee, and
3.4 says:

“Smada shall be entitled to the fee in respect of any specific payroll introduced and secured by Smada, which has achieved full implementation, it being recorded that the fee shall incorporate the interests of any and all strategic partners as contemplated in 3.3.2, as well as any replacements of such strategic local partners.”

10 Now, what Mr Sayed is concerned with, oh, I beg your pardon, Chair, I skipped over an important provision, and that is 3.3.5.

CHAIRPERSON: 3.3.5.

ADV HASSIM SC: Yes.

CHAIRPERSON: I was wondering.

ADV HASSIM SC: Yes, it is with reference to, what it says is:

20 “With reference to the activation of the Rules Engine in terms of the master contract, specifically as it relates to the Rules Engine being fully implemented in respect of central government it is understood that the fee payable to Smada in terms of this MOU shall be shared with such parties who assisted in

achieving full implementation insofar as applicable.”

So you will see Mr Sayed at 5 p.m. sends a message that says:

“The two the two comments I have:

1. The treasury recovery not included. Need to agree on %. Are we accepting the 1/3?

10 2. It is clear from the agreement (3.3.5, 3.4 and 3.5) that we will share our fee with other parties who assisted achieving full implementation.”

And so these, and then he goes on to say:

“The agreement now makes provision for Newco ...”

Et cetera. But what they are concerned with is the provisions that it makes Smada responsible for using their fee to pay such parties who assisted in the securing of the deal. So when you read 3.5, 3.4 together, that seems to be
20 their concern. So he sends a draft agreement. He says hmm, not so happy with this and how the fee, basically how is this fee going to be split. He is proposing it must be one third. It must not be shared with other. They should not have to from their fees then pay other parties who assisted.

And their, it seems estimated value of the contract

would be 280 something thousand, million. What we, what is not apparent is who the other party is here, whether it is General Fani, who is the third or not. But it is pretty obvious that this is a split that is going to be three ways between three parties.

ADV KHUMALO SC: Who are the other two? We do not know the other one, but who are the other two?

ADV HASSIM SC: We believe the other two are General Khan and Mr Sayed, hence the discussion between the two
10 of them of the split, how are we going to split it. If it was not General Khan, why would they have, why would he be discussing how the split would work?

ADV BALOYI SC: Your answer, does it mean that is what you will be proposing to the Commissioners to find that ...[intervenes].

ADV HASSIM SC: That is what ...[intervenes].

ADV BALOYI SC: The other two is Mr Sayed and General Khan?

ADV HASSIM SC: On the face of the chats, Commissioner
20 Baloyi. Now, remember, it is MTN that they are trying to get as part of the deal here introduced to Cyberia. And if you look at page 632.

ADV BALOYI SC: 6?

ADV HASSIM SC: 6320.

ADV KHUMALO SC: There is just something that troubles

me on 6209. Is Mr Sayed asking himself questions and then answering himself because those chats do not make sense to me. If you look at the second one, how are we splitting on our side, and then an answer follows. And then there is “exactly”. So he cannot be communicating with himself, surely.

ADV HASSIM SC: Yes, it seems that it is a forwarded message.

ADV KHUMALO SC: They are forwarded.

10 **ADV HASSIM SC:** Yes, and we could try to go through to other forms of the data that we have to see whether this was forwarded. But it seems ...[intervenes].

ADV KHUMALO SC: It does seem like it is communication involving a third party.

ADV HASSIM SC: A third party.

ADV KHUMALO SC: Ja.

ADV HASSIM SC: We do not know who the third party is, but he proposes 30% and then he corrects himself and says 33.3%, et cetera. And then comes a contract and sharing
20 the concerns about the terms of the contract. And then at 6320, Mr Sayed shares with General Khan an email from MTN that records that Smada has been registered as an MTN supplier. And you will see at the bottom of that page, General Khan response saying:

“Excellent, bro.”

And then at 6331, at the bottom of the page, well, let me just say this before I look, before we get to the screenshots, there are two texts from General Khan to Mr Sayed above it.

“I dropped off the docs with the DM now
at his house.”

And then it says:

“Fuck him.”

We do not know who, we do not know what docs. I
10 have not been able to establish clearly enough what docs
were dropped off with the DM. At the bottom of the page,
we see a series of screenshots sent from General Khan to
Mr Sayed. What this is, is a copy of the internal SAPS
tender decision that recommends MTN as a bulk service
provider for SMS's. And, Chair, there is quite a few
screenshots in the series here, but the recommendation
itself is on 6343. So, because it describes you know, it
describes the four bidders, et cetera, and how they, it is a
whole sort of background.

20 **ADV BALOYI SC:** We do not have 6343.

ADV HASSIM SC: You do not have 6343?

CHAIRPERSON: There are pages missing. It is 6331, and
after that, 6344.

ADV HASSIM SC: One thing we could do, Chair
...[intervenes].

CHAIRPERSON: Perhaps, ja, we will look at our screens.
Let us look at our screens, and this can be ...[intervenes].

ADV HASSIM SC: The alternative is to look at the
answering affidavit file.

CHAIRPERSON: Okay.

ADV HASSIM SC: And, specifically, Annexure TN13, if that
is any easier. Page, so, it is TN13, it is page 285 and 286.
So, Chair, you have got it? So, you will see that the last
sentence, basically, is the most important:

10 “MTN is thus the preferred provider for
 the provision of the bulk SMS system.”

 It is signed and dated 23 August 2021.

ADV KHUMALO SC: Let us give a page reference for the
transcript. You did not mention this page that we are on. It
is page 679 of file 2 of 2, answering affidavit, answering
papers.

ADV HASSIM SC: It is page 285.

ADV KHUMALO SC: Ja, it is the same that is on the
screen.

20 **ADV HASSIM SC:** Yes.

ADV KHUMALO SC: We have it on 679, as TN13.

ADV HASSIM SC: That is the correct page. Have you got
...[intervenes].

ADV KHUMALO SC: Yes, that is the same page.

ADV HASSIM SC: A different page number?

ADV BALOYI SC: It is TN13?

ADV HASSIM SC: It is TN13, it is page 285, 286, and then on the WhatsApp chats itself, it is page 6343.

ADV KHUMALO SC: Let us use your numbering. It may be that it appears several times, but Chair and I have TN13 as page 679.

ADV HASSIM SC: My apologies for that, Commissioners.

ADV KHUMALO SC: And it is the document that ...[intervenes].

10 **ADV BALOYI SC:** I think it has different Caseline numbering as well. So your 285 in red is the same as Caselines on my copy.

ADV HASSIM SC: Correct, same.

ADV BALOYI SC: They have different Caseline numbering.

ADV HASSIM SC: I see. Oh, I see. That might be the problem. Chair, why do not I do this. On the WhatsApp chats, it is page 6343 and for ease of reading it, I referred you to this bundle, but we can go with 6343 because that is the same on all of our versions. So, the point here is that
20 two days after this is signed, it is forwarded by General Khan to Mr Sayed and at the end of the series of screenshots, he says:

“Please send to Josie and Pilot.”

And Mr Sayed then says:

“Can I form a group for us bru?”

And he says yes.

ADV BALOYI SC: And this document is an internal SAPS document, clearly on its face.

ADV HASSIM SC: Yes.

ADV BALOYI SC: Thank you.

ADV HASSIM SC: This would not have been shared with certainly, even if it were to be shared with the successful bidder, it would not have been shared with some other corporate entity. For what reason?

10 **ADV KHUMALO SC:** And one quick observation, the document had not done the rounds so that all the people who are supposed to sign and recommend ...[intervenes].

ADV HASSIM SC: Get signed.

ADV KHUMALO SC: So it was still at proposal stage, it would appear, at the recommendation stage, and various people still needed to sign and say whether they support the recommendation or not.

ADV HASSIM SC: Indeed so, Commissioner Khumalo. And it is not a PDF that is sent in one file. It is General
20 Khan taking pictures page by page of the document with his phone and then sending the screenshots. And then again, he says:

“Please send to Josie and Pilot.”

And Mr Sayed says:

“Can I form a group for us?”

And he says:

“Yes.”

And then Mr Sayed says:

“Okay, bru.”

And that, Commissioners, is where the communication on this particular contract comes to an end. So what we see emerging from these messages is that General Khan participated in this private commercial effort concerning Cyberia's master agreement with National
10 Treasury, that Fani, or Pilot, as we know the reference to Pilot, appears repeatedly again in this tender as an intermediary whose involvement is necessary for the successful conclusion of this exercise. We see that General Khan facilitated or arranged meetings between Pilot and other members, including Mr Sayed and it seems this person who is the other partner in this venture, Josie, that General Khan seems to have transmitted, not seems to have, I mean, we can see from the documents here that he has transmitted information from General Fani and himself
20 about internal SAPS communication.

He sought CSD information that we saw earlier. And in fact, Commissioner Khumalo, that CSD information that was requested on Branded World seemed to be linked, it is either an entirely separate enterprise or it is linked to this enterprise on the Cyberia contract. It is not clear

which, but we see that General Khan asks for that kind of information and it is provided to him, which means he is helping to connect these parties to the procurement channels.

We see the financial arrangement in which percentages and splits are discussed and then the internal recommendation that is shared with Mr Sayed. So those are the features of this set of chats. What happened after this, we are not aware.

10 **ADV BALOYI SC:** And you say at the time of these chats, General Fani is now at the SAPS.

ADV HASSIM SC: No ...[intervenes].

ADV BALOYI SC: This is in 2021.

ADV HASSIM SC: No, he is not yet at the SAPS because he only joined the SAPS on the 1st of August 2022.

ADV BALOYI SC: Okay. So, he is still Treasury at this point.

ADV HASSIM SC: He is still Treasury at this point.

20 **ADV KHUMALO SC:** This contract we are dealing with, it is subsidiary to the master agreement from 2001. How do we link the two, the one that we are referring to and the earlier one in 2001?

ADV HASSIM SC: So the 2001 one was the master agreement.

ADV KHUMALO SC: The master one, ja.

ADV HASSIM SC: And then there seemed to have been several discussions between National Treasury and Cyberia, but this is a massive project and the Rules Engine was a complicated system of rolling out a logistics program for payroll deductions, et cetera, which extended over many, many years. So the master agreement is just shared with General Khan because it says this is the party that we want to look to do business with, Cyberia, because they have an entryway into National Treasury for this massive
10 system.

ADV KHUMALO SC: Ja.

ADV HASSIM SC: We can play some part in that in its ongoing implementation of the Rules Engine and the part we can play is by facilitating access and putting MTN in contact with Cyberia for bulk service provision of SMS's.

ADV KHUMALO SC: And General Fani gets involved because the counterparty in the master agreement is National Treasury.

ADV HASSIM SC: That is right, Chair, that is right,
20 because this is an agreement that is signed between the office of the Accountant General and Cyberia and the main overseer of this whole process is National Treasury. So that is the second set of conversations that I wanted to cover that deal with tenders.

But before I leave Mr Sayed, he was not content

with just these endeavours of securing contracts with the state. So there are one or two other areas in the chats where he asks for information. One such request, I seem to have the wrong bookmark, I will have to come back to the one request that I was looking for. But the second one is in relation to helicopters.

So, Chair and Commissioners, if you look at page 6606, you will see that on 13 April 2022, Mr Sayed forwards to General Khan a series of pictures of helicopters, but
10 before you look at all of them, you will see at 6606, so the second last message, the text, where it says, he forwards a message from someone. It says:

“Hi Mo, Ramadan Mubarak. Trust you have had a blessed time. Did you know SA Police are selling their helicopters? I am sure you know the right guys to talk to. If you could get them at the right price, we could sell them.”

And then he forwards the pictures of the
20 helicopters. And on page 6613, after the pictures of the helicopters, the message from General Khan is:

“Salams bro, I will ask General Ritt.”

So we know now that General Ritt is the DivCom. Oh, no – yes, he is, I think is in the procurement.

CHAIRPERSON: I do not want ...[intervenes].

ADV HASSIM SC: This was before General Fani was in SAPS and General Ritt, we looked at it a little bit earlier, if we could just get the page reference. In fact, if we look at that 40, TN13, on page 286, at least on mine and Commissioner Baloyi's version, you will see that in 2021, Lieutenant General Ritt was the Divisional Commissioner for Supply Chain Management. This is a position that General Fani held.

And then, again, still not enough, there is another
10 approach on 14th June and if the Commissioners were to look at page 5982, on 14th June 2021, Mr Sayed sends General Khan a message saying the following:

“1) Nationwide network revitalization and optimization project.

2) Deployment on cybersecurity solutions in nine provinces. This is the one we are responding to now ...”

And he gives the reference number. He follows that with the next message, which says:

20 “Will chat tonight.”

And the next message:

“We can partner with you on these two with collaboration with my current stakeholders. Budget is over 700 million on both. Thanks. Next message from

Josie.”

So these are a set of messages that are forwarded from Josie. Mr Sayed sends it on to General Khan, who responds:

“Okay.”

And the reason, Commissioners, that I am not going anywhere else in the chats further on these is because we do not really know what became of it. So what I am trying to show here is that there are a couple of very detailed
10 conversations with regard to some contracts, but it does not end there. There is a series of attempts and forwarded messages saying there is this opportunity here, there is that opportunity there. That is what it looks like to me, and that is what I am presenting to the Commissioners from these ...[indistinct] there is the helicopters and then there is the cybersecurity.

ADV BALOYI SC: Is the further point not perhaps that they seem to suggest or indicate General Khan's willingness to assist using his position in the SAPS, for example, the one
20 where he said I will speak to J Reed or somebody. So he has access to people within SAPS that he is able to approach on behalf of a private entity or individual.

ADV HASSIM SC: That is the point.

ADV BALOYI SC: Thank you.

ADV HASSIM SC: That is the point, Commissioner Baloyi.

CHAIRPERSON: And perhaps it is stronger than just assisting. He is in for himself as well, or he is in it for himself as well. I am talking generally now even about the other attempts in relation to other contracts.

ADV HASSIM SC: That is correct, Chair. I mean, that is certainly how it appears, and specifically on those where there is a detailed interaction. And it is not a question of just, I will make an introduction and I leave it at that and I am not engaging any further. It is continuous meetings. It
10 is continuous back and forth with, every time there is a message from Mr Sayed, please, can you follow up with Pilot, follow up with Gen1, please can we set a meeting. General Khan facilitates and says he is going to do so, and, you know, responds to say, yes, I, the meeting is set for 2 p.m., that kind of thing. So it is not as simple, I will make an introduction and then it is up to you to do the rest.

ADV KHUMALO SC: I mean, on the issue of helicopters, he says, get them at a good price, we will sell them.

ADV HASSIM SC: That, well, I do not know who the “we”
20 is, but it seems to be ...[intervenes].

ADV KHUMALO SC: We is not you or they, it is we.

ADV HASSIM SC: It is we. So, just one more, if I can just go here. Again, it is just one message alone. It is page 5990 and at the bottom of that page, Mr Sayed sends General Khan details of an IPID tender, bid number

02/2021/22 with a closing date of 2nd July 2021. So this is sent on 15 June 2021, the details of an IPID tender that has a closing date of 2 July 2021 for 66 guards.

And just to close off on that security tender on page 5994, on 17 June, 2021, Mr Sayed says:

“Just heads up: Symantec is the current incumbent with the SAPS security tender, they are our biggest competitor right now. Thanks.”

10 Commissioners, just when I think I am done with these, there is more. That is not all. If we go to page 5945, from the bottom of that page, there are a series of pictures and videos of warehouse premises. Can you play it, please? So, Commissioners, you will see there is a series of pictures of warehouses and then it is followed with a message which says:

“We can rent to Treasury.”

And then there is a video attachment.

CHAIRPERSON: You do not want us to see the pictures
20 themselves because what we see here is scrambled.

ADV HASSIM SC: I am not sure why. It is becoming scrambled. It is scrambled on my end all of a sudden too. Do you have a better version? You do not? There is one on 918.

CHAIRPERSON: But perhaps we may, let us

...[intervenes].

ADV HASSIM SC: [Indistinct]... [cross-talking].

CHAIRPERSON: Ja, I wanted to say, let us continue.

ADV HASSIM SC: But we will get better copies.

CHAIRPERSON: Yes, yes, we know you say it is warehouses. And the important thing is that at 5947, there is then the text, we can rent to Treasury, which I assume means we can lease to Treasury.

ADV HASSIM SC: Yes.

10 **CHAIRPERSON:** Or rent out.

ADV HASSIM SC: And there is video attachments as well.

CHAIRPERSON: Rent out to Treasury.

ADV HASSIM SC: And the next one. Is it the same? Okay, so it is the same video that is twice in these chats. It goes on then with General Khan saying:

“Looking good.”

On 5948, Mr Sayed says:

“There is two warehouses. Duplicate copy.”

20 General Khan says:

“Total square meters.”

He responds with the total warehouse square meterage of 1,600 plus office space and boardrooms and then he says:

“Can we meet you at 2? Golf. And then

on my way back home now.”

And the conversation goes on from there. And then finally, on page 5987, on 15 June 2021, Mr Sayed says:

“Bru, when you are with the Pilot, please ask him what is the RT number to fill in for the warehouse rental. I want to put Jet Park on the system.”

General Khan responds:

10 “Please do not discuss with Ally. We are
in the meeting now. With the Pilot and
R.”

And then Mr Sayed says:

“Okay, Bru, Ally cannot finish.”

And General Khan says:

“He made a big fuck up with Bobby.”

I do not know whether this Bobby is the same as the other Bobby that was referred to earlier. I will not comment on it. That is the conclusion of the exchanges on the warehouses. So ...[intervenes].

20 **CHAIRPERSON**: Are you able to tell from other available
material who Ally is?

ADV HASSIM SC: Not yet, Chair.

CHAIRPERSON: All right, all right.

ADV HASSIM SC: So, Commissioners, I took you through some detail on this because it shows a pattern of conduct and the relationship between Mr Sayed and General Khan

that involves financial beneficiation. That is not the only aspects of the chats with Mr Mo Sayed, but as I said, when I started out, I wanted to start with the tenders first before going into other aspects of the themes such as abuse of authority, et cetera. So I will return to the Mo Sayed chats again in due course, but I do not want to move off the tender theme and for that, I need to go to another chat because there is another tender.

But before I do that, there was, at the outset, when
 10 I was addressing the Commission on Carnilinx and the allegations against Carnilinx for illicit cigarette trading, there was one reference that I omitted to bring to the Commission's attention, and if I could go there now. I just need a moment, Chair, please, to find 6109. Commissioners, it is page 6109. So this was, actually, it starts, Chair, 6107 on 7 July 2021, where Mr Sayed forwards an article, a report, a media statement, in actual fact, that was prepared by Mr Yusuf Abramjee for an organization, a non-profit, called Tax Justice South Africa
 20 and the content of the, well, the heading of this media statement is "Authorities to blame for tsunami of illegal tobacco flooding in South Africa". And it reports as follows, and I am not going to read all of it, just the relevant part.

"A shocking new report shows a tsunami
 of illegal tobacco is flooding South Africa

as a result of authorities' failure to act on
damning evidence of the world's biggest
black market.”

And then it quotes, there is a quote from Mr Yusuf
Abramjee, and he refers to, on page 6108, he says:

“Illegal cigarettes are being sold for just
R6.00 per pack, a fraction of the
minimum collectible tax of R21.60.”

And then he says:

10 “Brands belonging to Gold Leaf Tobacco
Corporation are winning the illegal price
war with the number of its South African
brands purchased below the MCT.”

And then he names Carnilinx as guilty of the same
conduct. So, Mr Sayed forwards this, sends this to General
Khan, and along with the message:

“Abramjee going to get ...”

You know, my mother watches this Commission,
Chair.

20 **CHAIRPERSON**: No, you may just say F up, bro.

ADV HASSIM SC: I am tired of this language.

“Get fucked up, bro.”

And General Khan responds ...[intervenes].

CHAIRPERSON: Ms Hassim, we once got into problems
out there when Mr Chaskalson vocalized the lyrics of a

certain song.

ADV HASSIM SC: Yes.

CHAIRPERSON: So perhaps ...[intervenes].

ADV HASSIM SC: So let us not repeat that. So he,
General Khan responds:

“F him up, bro. He must stay in his
lane.”

Now, you know, Chair, this was a, not the end,
because there is another message after stay in his lane, on
10 10 November, 2021. Let me just get the page number.
Page 6458. And you will see at the bottom of 6458 running
over to 6459 ...[intervenes].

CHAIRPERSON: We have a similar problem again.

ADV HASSIM SC: Chair, can you look at it on the screen?

CHAIRPERSON: Yes, yes.

ADV HASSIM SC: So what you will see on the screen is a
post by Mr Abramjee recording a survey that shows that
62% of Carnilinx brands retailed below the MCT. That is
what he is posting about. And if you go below the chats, it
20 is another post by the same organization, Tax Justice South
Africa and Mr Mo Sayed says:

“This P is asking for it, bro.”

And General Khan's response is:

“We can sort it out easily.”

Now, the reason I am actually drawing this to the

Commission's attention is not just because it is linked to Carnilinx and the subject matter we have been discussing and the allegations of illegal and criminal conduct by Carnilinx, but because it is not the only incident in which there is this attitude and hostility towards other individuals, including journalists.

So what we see here is seen elsewhere in the conversations of General Khan and for that, Chair, could you, well, again, I think you, we need to look at it on the
10 screen because it may not have been included in your bundle. It is page 3431 and it is a conversation with a person whose name I do not need to mention, but he seems to be another police officer from KwaZulu-Natal and he shares with General Khan an article from the Daily Maverick. The headline of the article is "SAPS PPE Scandal Clash of Top Brass Amid Claims of Massive Corruption."

And so what the article is alleging is that there are top cops who were tasked with investigating the then Head
20 of Crime Intelligence, Peter Jacobs, for tender fraud. The article is alleging that those top cops are themselves potentially guilty of tender fraud. So that is what the article is about. We do not need to open it and read it. It is, unless the Commissioners wish to, that is just a summary of the article I have provided.

So that is sent to General Khan. General Khan says the following in response:

“Morning, this journalist is a good friend of Jacobs and Veary.”

And the response from the counterpart is:

“Good morning, General. It is clear, as all the articles are written by a single journalist.”

And the next message:

10 “Counter needs to be activated on this journo.”

ADV BALOYI SC: You say, who is the journalist that is being discussed, is it still Mr Abramjee?

ADV HASSIM SC: No, no, it is a different journalist. It is a journalist with the Daily Maverick, a Ms Marianne Thamm.

ADV BALOYI SC: And then this communication, good morning, General, counter needs to be activated, and the earlier one, which says the journo is friends with Jacobs, you say, who is communicating there?

20 **ADV HASSIM SC:** Who is communicating with General Khan?

ADV BALOYI SC: No, I want to know, are you saying, yeah, who is communicating with General Khan? Is it the person whose name you do not want to mention?

ADV HASSIM SC: Only because it would be unnecessary

to mention the name. It is not really relevant to the reason that I am bringing it to the Commission's attention. It is a person who is, I believe, a member of the SAPS.

ADV BALOYI SC: Okay. Just so that we understand, or understand, so the first message, WhatsApp message, which says someone is a friend with Jacobs, who is writing there?

ADV HASSIM SC: Yes, that is General Khan.

ADV BALOYI SC: That is General Khan. Okay, and then
10 the next one?

ADV HASSIM SC: That is also General Khan, where he says, and Veary.

ADV BALOYI SC: Yes, okay.

ADV HASSIM SC: So he sends over two messages.

“Morning, this journalist is a good friend
of Jacobs.”

ADV BALOYI SC: Yes.

ADV HASSIM SC: -:

“And Veary.”

20 **ADV BALOYI SC:** Yes.

ADV HASSIM SC: And then the response from the
...[intervenes].

ADV BALOYI SC: The other person.

ADV HASSIM SC: Colleague, is:

“Good morning, General, it is clear as all

the articles are written by a single journalist.”

Now, the article that I referred to, it was just one article, but obviously there are more articles on that theme and the colleague with whom General Khan is speaking must have looked into it and so said there are, it is clear, as all the articles are written by a single journalist, counter needs to be activated on this journal.

ADV BALOYI SC: Understood, thank you.

10 **ADV KHUMALO SC:** Ms Hassim, what are we going to do with all the pages that you have referred us to that are not in our files? Should the attorneys not make a note of all of them and then make copies for us to be inserted into our files?

ADV HASSIM SC: I think that would be the best way to do it, Commissioner, because what you have is one massive bundle, as you are aware, and then what we have tried to fill it out for you. And when you are going through it in the weeks to come, you are going to want to go back to some of
20 these pages, so we will make a note and the attorneys will supplement your bundle.

ADV KHUMALO SC: Thank you.

CHAIRPERSON: So I have referred to the page numbers now, so they should be easy to pull out. These, just for repetition's sake, it is 3432 and 3433. Commissioners, it is

not, it is an abuse of authority, these kind of communications that are taking place here, but that is a theme on its own, and we will get to that probably on Monday.

CHAIRPERSON: I know it lies with General Khan to explain the meaning, but do you have any idea what is meant by counter having to be activated against the journalist?

ADV HASSIM SC: I mean, it could mean Counter-
10 Intelligence, it could mean counter-attack, it could mean, you know, I cannot say for sure, Chair, but it is something needs to be done.

CHAIRPERSON: In those circumstances, must we not know who that second communicator is there? This may potentially be quite serious, even if it is not something at this stage the Commission was not thinking of following up on.

ADV HASSIM SC: Yes, yes. So, Chair, the only reason it is redacted is for the public. It should not be redacted on
20 your version, but because you do not have a version, all you can see is what is being flighted, I think.

ADV KHUMALO SC: So, in other words, when the missing pages are added to our files ...[intervenes].

ADV HASSIM SC: It will not be redacted.

ADV KHUMALO SC: That name will be there

...[intervenes].

ADV HASSIM SC: Yes.

ADV KHUMALO SC: And we will be able to see it.

ADV HASSIM SC: Yes.

CHAIRPERSON: I am trying to wrap my mind around why the public should not even know that.

ADV HASSIM SC: So, Chair, my approach to this was one of extreme caution.

CHAIRPERSON: Okay, we still have Monday, perhaps let
10 us ...[intervenes].

ADV HASSIM SC: I will give it more thought ...[intervenes].

CHAIRPERSON: Yes, yes.

ADV HASSIM SC: And if I feel it is something that should just be said publicly, then we could do ...[intervenes].

CHAIRPERSON: All right, all right.

ADV HASSIM SC: I did not want to be, as I said, too reckless with the way in which we deal with these conversations.

20 **CHAIRPERSON:** Yes. Let us leave it for now.

ADV HASSIM SC: We will leave it for now, Chair, but certainly the Commissioners will know who the person is ...[intervenes].

CHAIRPERSON: Yes, yes.

ADV HASSIM SC: When we supplement the bundle, and I

will think about it over the weekend.

CHAIRPERSON: Thank you. Thank you, let us continue.

ADV HASSIM SC: Thank you. Okay ...[intervenes].

CHAIRPERSON: In fact, whilst you think about it over the weekend, I must say, as presently advised, my inclination is for the name to be divulged, especially if what this means is taking improper action against the journalist concerned. Why should the public not know about that? But I still leave it to you to mull over the weekend.

10 **ADV HASSIM SC**: I take your advice, Chair.

CHAIRPERSON: Thank you.

ADV HASSIM SC: Thank you. All right, so, Chair, the next tender topic, the next tender is located in a different chat, and it is a collection of chats between General Khan and one Mr Ismail Vally, who is a businessman and who owns a motor super vehicles store known as 357, and it is, I mean, I do not know the full details of the business, but it is the kind of place where you would go if you wanted to add bells and whistles to your vehicle.

20 **CHAIRPERSON**: To pimp your ride.

ADV HASSIM SC: I knew you wanted to go there, Chair. So, yes, that is what it is. Now, actually, Chair, I must say at this point that there is some evidence that we would want to lead *in-camera* in relation to this individual and why we think that this is of particular significance, that General

Khan is communicating with this individual, but for the reasons I said this morning, it will require us to traverse some material that would be inappropriate to lead in public because it is SAPS information.

But we have made the *in-camera* application already today and we will probably move that application on Monday, Chair. So, I do not want to get into it now, but we will deal with it next week.

CHAIRPERSON: And has it been made public, the
10 application?

ADV HASSIM SC: I believe so. The attorney is not here, but I did speak to the attorney in one of our adjournments, and so I am quite sure that it was because we needed to give a certain amount of lead time to the media.

CHAIRPERSON: Thank you.

ADV HASSIM SC: So, Chair, we will return to that. But for now, if we go to that set of chats and specifically page 5129.

CHAIRPERSON: May we put away file 2 so long?

20 **ADV HASSIM SC:** File 2 of your core bundles?

CHAIRPERSON: That is the one we have been looking at for the most part.

ADV HASSIM SC: Chair, what page does it begin on?

CHAIRPERSON: It is 5482.

ADV HASSIM SC: You can put that file away, Chair.

CHAIRPERSON: Thank you. You said page 51?

ADV HASSIM SC: 5129.

CHAIRPERSON: 5129.

ADV HASSIM SC: Chair, there is just one thing I need to check, which will require just two minutes from my side, but because I am jumping topics, I have not had time to think about it. Could I ask for a 5 minute adjournment just to find the relevant document?

CHAIRPERSON: Let us adjourn. We will hear from you.

10 **ADV HASSIM SC:** Thank you, Chair.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV HASSIM SC: Thank you for the indulgence, Chair.

CHAIRPERSON: You are welcome, Ms Hassim.

ADV HASSIM SC: Chair, just before I start this topic, I want to, for the record, submit certain documents into evidence. We do not need to hand it up. It will be provided to you separately in your files, but for the record, I just want to say what they are. The first is CJC363, and that is the
20 medical report that we received from General Khan's legal representatives. The second is CJC364, and that is the unredacted J88 form. The third is CJC365, and that is the company details for Branded World Close Corporation. And the fourth is CJC366, and it is the company details for Branded World Company in terms of the, a private company.

Those are the four that I wish to submit into evidence, just for the record.

ADV BALOYI SC: Ms Hassim, the medical reports, of course, they will be redacted or treated with the necessary confidentiality, however you plan to do it.

ADV HASSIM SC: There is only one copy of the medical report ...[intervenes].

ADV BALOYI SC: The J88.

ADV HASSIM SC: And the J88, which is in my possession,
10 Commissioner Baloyi. Once we conclude today, I will insert them into the main exhibit folder, confidentially into a folder separately, so that it is only accessible to the Commissioners and the Evidence Leaders, so that there is not any other copy. We have not made copies of this, except a copy for Mr Vally. I think you have got a copy.

MR VALLY: I believe I supplied the copies to you.

ADV HASSIM SC: I thought there was a copy being provided in the adjournment of the J88.

MR VALLY: No.

20 **ADV HASSIM SC:** Or was it just the number?

MR VALLY: Just the number.

ADV HASSIM SC: Okay. So nobody else has copies, Commissioner Baloyi. Right, so let us get back to it. The next tender, Commissioners, and let me just give a brief overview of this, this is a tender, as I said, this is a

conversation between General Khan and Mr Ismail Vally. The tender concerns an automotive parts tender, number RT45, and there is extensive communications between the two that I will be going through and it is best to see it in these different phases, and it will emerge as I go through.

The first phase is sort of an early access and manipulation, attempt to manipulate specifications. So this is before the tender is even advertised there is engagement. And then it goes into a second phase where
10 inside information is shared when the tender goes live, and then there is a third phase where there are discussions involving financial interest, and then there is a final phase in the communications, which is what happens after the contract is awarded, and particularly issues of pricing and that kind of thing. So if you just have that sort of in your mind, this progresses along these phases, this communication.

It begins in April 2021 at page 5129, and it is on 14 April 2021 at 7:48 in the evening. General Khan sends a
20 message saying:

“We have a meeting tomorrow at 1 o'clock with the contact.”

ADV BALOYI SC: 7:48, you mean 9:07?

ADV HASSIM SC: I am sorry, it is 9:07:48. Thank you, Commissioner Baloyi.

“Meeting tomorrow at 1 o'clock with the contact.”

And then on the next day, I mean, well, let me finish this. He then responds, Mr Vally.

“Yes, bro, must I come?”

And then General Khan says:

“Can you talk now?”

And Mr Vally says:

“Must I call you?”

10 General Khan says:

“Yes.”

On page 5130, Mr Vally sends General Khan a message, 15 April 2021, 9:02 a.m.

“We still on for 12 or so.”

General Khan says:

“Yes, bro.”

And then on 15 April 2021, now, this should be in your bundle, I hope, because, Commissioners, this chat straddles two phones, the iPhone 8 and the iPhone 11. You
20 might have noticed in your bundle that some pages are in a different format, the way the WhatsApp chats are depicted are in a different format. So, and because I am going chronologically through this, the next conversation takes place on 15 April 2021, but on the other phone, and that is at page 1712, it should be in the same folder. Do you have

it, Chair, 1712?

So, sort of just over halfway down that page, chat number 6, there is a PDF document that is shared by General Khan with Mr Vally and that ...[intervenes].

ADV BALOYI SC: You say this is from the iPhone 11, this format?

ADV HASSIM SC: The 8, iPhone 8.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: But the communication is between the
10 same people?

ADV HASSIM SC: It is between the same people. But it is the same number on Mr Vally's side, but it is a different phone on General Khan's side. So, at chat number 6, you will see he is sharing a PDF. That is in your annexure bundle at page 101. In the chat, you see it is marked:

“RT45/2021 special conditions of
contract, version 3.”

ADV BALOYI SC: And this is General Khan?

ADV HASSIM SC: That is General Khan.

20 **ADV BALOYI SC:** Sending out, okay.

ADV HASSIM SC: And the important part of that is version 3, and the actual annexure is page 101. So, what is apparent from page 101 is it is what that attachment says it is, the special conditions of contract. It is for the supply and delivery of automotive parts and tools to the state for a

period of 36 months. The closing date on the tender is 31 May 2021 at 11 o'clock. It is a transversal contract, and it is issued by National Treasury.

What is significant about this, Commissioners, is that this is an internal document that is still in draft form. I pointed out that in the chat, you can see it says V3, version 3. And if we look at the document itself, you will see several places where there are drafting, sort of drafting notes, so aspects where the terms are either highlighted or
 10 in a different colour and if I could just take you there to show you what those look like. The first is on page 109 and you will see that the date for the information session, when that will be held, is in a draft form. It is a different colour, and it is highlighted, the yellow highlight.

On page 110, the next page, clause 5.2.1, paragraph (a), similarly, there is a highlight for the BBE status level contributor, 1 to 8. On page 121, at clause 19.1.3, in draft form, the clause reads:

20 “The SAPS, through a specific SAPS
 Garage will submit a written or electronic
 order to the contractor ...”

Et cetera. On page 135, clause 33.2.5, the base index date is still in draft form, and it does not have a specific day. It just says April 2021. On page 136, clause 33.3.1, there are a number of yellow highlights you will see

throughout that clause. Similarly, on page 137, paragraph (e).

CHAIRPERSON: A substantial portion of that is, or rather, has a yellow highlight.

ADV HASSIM SC: That is correct, Chair. And that is the last page on which there are drafts. But there are one, two, three, about six pages in which there are significant clauses in which it is still in draft form and under consideration. This is shared. This is the document that is shared by
10 General Khan with Mr Vally, so it is a draft document.

Now, on the next page, if we still stay in this iPhone 8, page 713, you will see, well, you know, so General Khan shares this document. There is an emoji that follows it, which I cannot really make out. It seems like two hands in prayer and then a message from General Khan to Mr Vally, in which he says:

“This ou is on top of his game.”

And from that, I surmise that this PDF document was shared with Mr Khan by somebody else in Treasury,
20 and I believe it is Molefe Fani and we will see his name come up in the context of this tender as we go on. So he says:

“This ou is on top of his game.”

Mr Vally thanks him for sending it, sending the document. General Khan responds:

“Can we please make it 2:30?”

And Mr Vally responds:

“Sure.”

So that is 15 April 2021. If we revert to the iPhone 11 on page 5134, at the top of the page, Mr Vally says:

“Any news from oke we met? When it will be advertised?”

And General Khan responds:

“By end of the month.”

10 And Mr Vally then says:

“Ok. We will keep eye out. And he should tell us neh.”

General Khan responds:

“He will.”

And again, I think the he in this context is Mr Fani at this point. And Mr Vally responds:

“Thank you.”

And then says, at 7:49 p.m.:

“Inshallah we get a decent slice.”

20 So his communication here with General Khan is not about a third party saying we get a decent slice. So as we saw in the other chats of we benefiting in one way or another, again, as a reference now with a whole different person, we get, God willing, we get a decent slice.

ADV KHUMALO SC: But when it is not General Khan

speaking, the possibility, the other possibility at least could be that Mr Vally is referring to himself and his company or to himself and his associates, excluding General Khan, because when General Khan is speaking and he says we, clearly that includes him.

ADV HASSIM SC: Yes.

ADV KHUMALO SC: But when a third party says we, it does not necessarily follow that it includes General Khan.

ADV HASSIM SC: Yes, that is right, Commissioner
10 Khumalo, but we should not just look at these chats in each, in isolation, each chat. So in context, and as we go through this, we will see that there is more communications between the two, which suggests that there is some benefit.

CHAIRPERSON: Does what follows, I do not know how to pronounce it, the A-M-E-N-N, does that shed any light? What does it mean in the context of what is being said?

ADV HASSIM SC: So it means amen. It is amen. So, when ...[intervenes].

CHAIRPERSON: Oh, so it means the same thing as
20 ...[intervenes].

ADV HASSIM SC: God willing.

CHAIRPERSON: The amen with one E, because here is double E. All right, thank you.

ADV HASSIM SC: Same meaning. And it is a direct response to the God willing ...[intervenes].

CHAIRPERSON: Yes.

ADV HASSIM SC: Which is the translation of Inshallah.

CHAIRPERSON: Thank you.

ADV HASSIM SC: God willing, amen. So, Commissioners, that was 21 April 2021. The communication continues on the 23rd of April 2021, but we need to go back again to 1714. It is on the other phone where at 11:14:26 in the morning General Khan sends a message that says, and this is forwarded, it says:

10 “Dear Gen, RT45 will be advertised soon,
 just to give you a heads up.”

So if you recall, the earlier conversation was, any news when it will be advertised, he should let us know, and General Khan says, yes, he will. And now this is a message that comes to General Khan, which General Khan then forwards on to Mr Vally, and the message says that the bid, the tender will be advertised soon, just to give you a heads up. And Mr Vally responds:

 “Alhamdulillah bro.”

20 Then on the 3rd of May 2021, on page 1721, at chat number 7, Mr Vally, chat number 7, it is the bottom of the page, he says:

 “Can our guy change something on spec
 to remove that multiple suppliers for 1
 province 11.1.3 under special conditions.

Better if one supplier per region.”

And the 11.1.3 that is being referred to here is 11.1.3 of the special conditions of contract that we were looking at a moment ago, which says to award to more than one contractor per province. So here, what Mr Vally is saying is, it would be better for him if it is just one supplier, and can General Khan influence our guy who provided the draft contract to change the specifications. General Khan responds to that saying:

10 “I think it is late to change spec now.”

This is on page 1722, pardon me, over the page. He says:

“I think it is late to change spec now. Let me try.”

And Ismail Vally says:

“Ok, np bro.”

Meaning okay, no problem bro. On page 1724, Mr Vally asks on chat number 6, and this is on 6 May 2021:

“Any news from our guy?”

20 And General Khan responds:

“Not yet.”

And over the page 1725:

“I will remind him tomorrow.”

So that is 6 May 2021. On the 10th of May 2021, and now we go back to the 11, it is page 5144, sorry, it is

5142. And Mr Vally says:

“Please chase our guy a little today about
date they are advertising.”

So follow up again with our guy regarding the date.
You will see Commissioners ...[intervenes].

ADV KHUMALO SC: What is it about this page that tells
you that we are still talking about the same tender?

ADV HASSIM SC: It is the time period. It is the timeline.
So the previous conversation was on 5 May, any news from
10 our guy, and the response, not yet, I will remind him
tomorrow. Then comes this in the timeline. It is just a
couple of days, a few days later saying, please chase our
guy about date their advertising. So when you look at all of
them in the timeline, what they are talking about being
advertised is the bid, is, ja, is the bid. What he has so far
is the draft, and he is preparing himself to make a
submission and to apply, but they want to make sure that
they get in on time a little bit, and that is why.

And just, Chair, because although I am going
20 through these specific chats, and we are going to come
back to different aspects, I will just point out to you that on
the same page, the vehicle, the fancy vehicle that General
Khan post pictures of and says to Mr Vally:

“It is looking sharp.”

He says:

“Thank you, bro. It is looking sharp.

JZK, bro, it is looking sharp. Look bos

...”

Et cetera. And we are going to see this again elsewhere in the chats. It is where General Khan sends his vehicles to Mr Vally for it to be pimped. So this message was, please chase our guy a little today, was at 7:30 a.m. And then on the same day, if we go to page 1729, so on the same day, but now at 8.28 p.m., Mr Vally follows up:

10 “Bro, did you manage to chat to the guy?”

And General Khan responds:

“Yes, he will let me know. He was in meetings today.”

And if we just scroll down to page 1730, the very next day, that is 11 May 2021, at 5:09 p.m., Mr Vally says:

“Salams updated tenders.”

I think what he is referring to here, he has looked at the tender advertisements that have come out, and he says:

20 “Salams updated tenders. Still nothing on RT45.”

So he has had a look, but there is still nothing on the RT45 contract. The response from General Khan is:

“I will try to call our man now.”

That is, reply from Mr Vally is:

“Thank you.”

The reply is:

“JZKL.”

Which means, translates into thank you. General Khan then says:

“It will be out any day, approved for publication. Check treasury.gov.za.”

And Mr Vally says:

“Ok will keep looking.”

10 And then General Khan responds:

“I will tell when up.”

On page 1731, Mr Vally says:

“We need this. Market is slow.”

So that is 11 May 2021. Now, what is important here is, where General Khan says, it will be approved, this is on 11 May, for publication, was approved for publication yesterday, check the website, I will tell when up, what I would like to do now is cross-reference this with the chat between General Khan and Mr Fani, and for that,
20 Commissioners, you need to go to page 2192.

And you will see there, the conversation now is between General Khan and Fani Molefe and Mr Molefe's phone number, and in the middle of the page, he says to General Khan:

“It will be out any day. Approved for

publication yesterday. Check
treasury.gov.za. I will tell when up.”

And General Khan responds:

“Thanks, sir.”

And then he goes on:

“We will catch up soon. See you at 2:30,
same place as previous meeting.”

Now, those series of messages were the same
messages that we saw just a moment ago. So he forwarded
10 this from Molefe Fani to Mr Vally to say that it will be out
yesterday, it will be out, it was approved yesterday, it will
be out soon. So this now, Chair and Commissioners, is the
most direct link. We have seen already Mr Fani Molefe
come up in a separate, with a separate person, Mr Mo
Sayed on several other tenders and we saw the exchange of
the contact cards and the email address. And now what we
see is a direct communication between General Khan and
Mr Molefe.

The next page reference is 5164, and at the bottom
20 of 5164, Commissioners, again, I do not know how it looks
on your side, but it is split, there is a screenshot that is
split over the two pages.

CHAIRPERSON: Which is not legible.

ADV HASSIM SC: Is it not legible on your side?

CHAIRPERSON: No.

ADV HASSIM SC: Okay. So, just for the attorney's note, page 5164 and page 5165 need to be reproduced for the Commissioners' bundles.

ADV BALOYI SC: I think it is more the size of the print.

ADV HASSIM SC: Yes. So if you have the electronic version in front of you, and I can zoom in to it, can you do that? What you see ...[intervenes].

CHAIRPERSON: Now it is readable. Ja, I think it is readable now.

10 **ADV KHUMALO SC:** You can see the one in the middle says:

“Supply and delivery of automotive parts
and tools to the state for a period of 36
months.”

ADV HASSIM SC: The youngest eyes amongst them, Commissioners.

ADV KHUMALO SC: -:

“Type of bid request for proposal.”

And then it continues.

20 **ADV HASSIM SC:** That is it, Commissioner Khumalo. So it is a screenshot of tenders, several tenders being issued, but what is included in here is the automotive parts tender.

ADV KHUMALO SC: So this is the treasury portal of all the tenders.

ADV HASSIM SC: Yes. And Mr Vally sends it to General

Khan to alert him to it, as he says in his next message. He says:

“It is on, bro.”

And General Khan responds:

“Excellent.”

So that is 21 May 2021. On 25 May 2021, and for this, we need to go to page 1741 because it is now on the other phone.

ADV BALOYI SC: 17?

10 **ADV HASSIM SC:** 1741. And it is a page that we had looked at before, but I did not go there because we needed to see the other messages in context first. What Mr Vally says here is:

“Can we meet you ...”

At chat number 4:

“Can we meet your guy next week for lunch, bro?”

And then he suggests where to meet, the Fishmonger in Illovo. and he says:

20 “It is hidden lekker.”

General Khan says:

“Okay.”

And then the next message, chat number 8, is where Mr Vally says why he wants to meet, and he says:

“Want to ask how to price.”

And General Khan follows it with an emoji, this face with the sunglasses. Some might interpret that as cool. And then the next chat, on page 1742, chat number 2, Mr Vally says:

“Because last time we did the honest thing and we got f’d.”

And chat number 3:

“Bro, you must know I really appreciate what you are doing for me and I will
10 honour your name and this deal till I die.”

So that is 25 May 2021 and the question about wanting to know how to price, want to ask how to price, I believe is how to price for this tender. Then the next day, 26 May 2021, that is on page 5187 ...[intervenes].

ADV KHUMALO SC: Sorry, I thought on 1743, chat 5, where they say:

“Salams brother. Confirmed for 14:30 today, same place.”

Is that not the meeting they were referring to, the
20 previous page?

ADV HASSIM SC: Yes, it is. In fact, yes, I want to come back there I think. I am coming back there.

ADV KHUMALO SC: Thank you.

ADV HASSIM SC: We just skipped ahead. It is on the 28th of May. So I am just trying to go day by day for now. So

...[intervenes].

ADV BALOYI SC: We do not have 5187. You said 87, right?

ADV HASSIM SC: 5187.

ADV BALOYI SC: Ja, we do not have it.

ADV HASSIM SC: Can we flight it, please, and can we make a note to include 5187 in the Commissioner's bundle.

CHAIRPERSON: Please continue, please.

ADV HASSIM SC: Is it up on your screens?

10 **CHAIRPERSON:** Yes. Yes, it is.

ADV HASSIM SC: So you will see on that page about halfway down, General Khan says:

“Salams bro. Can we meet our guy on Friday at 14:00?”

And Mr Vally responds:

“Wasalam, jee, blood.”

Jee meaning yes in Gujarati. And General Khan responds:

“Houghton?”

20 And Mr Vally responds:

“Jee bro.”

And General Khan responds:

“Okay.”

So that is on the 26th of May. I am going to make a small diversion here. So that is where we go to,

Commissioner Khumalo, where you were a moment ago on 28 May, where he says:

“Confirmed for 14:30 today, same place.”

And Mr Vally says:

“Thanks.”

So this is now the Friday. So the other one where it says:

“Can we meet our guy Friday at 14:00.

Houghton?”

10 That was on the 26th of May, which is a Wednesday in 2021. On the Friday, this is the confirmation that the meeting is now taking place on the Friday. And then the real actual diversion I wanted to make, and just very quickly, is on page 591 and that is on 31st of May 2021 and it is halfway down the page. Sorry, it is 5191. It is not about this tender. It is on the 31st of May 2021, halfway down the page, Mr Vally says:

20 “Salams. I cannot find RT84. Also looking for anything related to warehousing. I will keep on checking my bro. Okay, thanks.”

So while on the one hand, they are busy with the RT45, there is a lot of things going on. There are a lot of, again, you know, how can we strike a deal here, how can we strike a deal there, the same pattern as we saw in the

chats with Mr Sayed. So it is a small diversion to show you there is another conversation about a warehousing contract.

ADV BALOYI SC: I also want to divert. You showed us the chats between General Khan and Mr Fani, but that is now when the tender is being advertised in late May. But the earlier chats between Mr Vally and General Khan talked about influencing the general conditions, so the document before the tender is issued. And then they kept saying, I will talk to my guy. Do we have a set of chats between
10 General Khan and that guy where they now deal with the general conditions of the tender?

ADV HASSIM SC: Commissioner Khumalo, we do not have a set of chats dealing with that exchange, but what we see here is there are gaps all over the place and it is obvious that the communications are not happening on only one platform. They are either happening on another platform, whether it is Signal or Telegram, or it is happening on a phone call, or they are happening in person when there are meetings that take place. So we are only seeing part of the
20 picture, ja.

ADV KHUMALO SC: I think what I am getting at is reference to “our guy” in the earlier parts of the conversations, I just want to tie it up with the later conversations in May, because there is always a possibility that there are two guys and not one. And for me to link the

“our guy” in the earlier chats to the later chats, that connection is important. But if it is not there, then ...[intervenes].

ADV HASSIM SC: There is not an obvious connection, but again, as we go through this, what we will be submitting to the Commission is that that guy is Fani. Sorry, just to complete the warehousing diversion, on page 5193, so the earlier chat was looking for the warehousing. On page 5193, Mr Vally says, and this is on the 1st of June 2021:

10 “Nothing on warehousing. Please, when
 you can, to message your man and also
 around SAPS pricing.”

So they still have not resolved the issue of how to price. General Khan says:

“Wasalam. On it.”

And then Mr Vally responds:

“Thank you, my bro.”

And General Khan says:

20 “Salams bro, he called me now. He will
 send me the stuff tomorrow. Inshallah.”

So again, this is a conversation that takes place with somebody on a telephone. It is likely Fani, but we do not know. But this is on a separate contract. This is just the diversion into the warehousing.

ADV BALOYI SC: And 5194?

ADV HASSIM SC: Yes, and then on 5194, we see that General Khan says on the 4th of June 2021:

“We are meeting our man at 2.”

And then at 51 – yes, that is it. There is an exchange on 5195. They are talking about two things at the same time. You can see they are talking about two things at the same time. So General Khan says:

“We are meeting at 2 o'clock.”

And there is an interruption about the other
10 conversation they are having. And then Mr Vally says:

“Jee blood that is perfect.”

That is 1st of June 2021. If we look at page 1749, General Khan sends a message to Mr Vally and the message reads:

“Let us meet on Friday. I will come that side. I will bring all the docs ...”

All the documents with me. And Mr Vally responds:

“Thank you, bro. That is okay with me.”

If we scroll down on page 1750, well, bottom of
20 1749, Mr Vally says:

“What time we meeting?”

1750, General Khan says:

“He will let me know tomorrow morning.”

So the meeting that is being set up here is not just a meeting between General Khan and Mr Vally, it is a

meeting between General Khan, Mr Vally, and the third person who is assisting, who has agreed to meet tomorrow morning. And then we move to 17 June 2021. So we do not have any further information about that the meeting may or may not have taken place. It seems to have taken place. There is a short interregnum of a couple of weeks, about two weeks. And then on 17 June 2021, page 5204, Mr Vally says, on the third chat:

10 “We will be ready with the file by next
 week, 24th, and pricing. Insha Allah.”

And General Khan responds:

 “Wasalam, bru. Insha Aallah.”

And Mr Vally says:

 “Ameen.”

And repeats what he said earlier. If we look over the page 5205:

 “We need this, bro. It is bloody tight.”

And General Khan agrees with him:

 “Everywhere is tight, bru.”

20 And the conversation goes on, and Mr Vally says:

 We need another source of income, bro.”

That is on 5205. And then again, I need to make a small diversion, page 5212. Because the auto parts tender is clearly not enough, there is a screenshot that is shared by Mr Vally to General Khan, and this will need to be

zoomed in and you will see that it is a screenshot of more tenders and one of the tenders is a PPE tender.

ADV BALOYI SC: You say this is a screenshot from, again, you say from the Treasury ...[intervenes].

ADV HASSIM SC: Same portal.

ADV BALOYI SC: Portal.

ADV HASSIM SC: And it is the second from the bottom:

10 “For disinfection, sanitization, and deep
 cleaning of all municipal offices,
 warehouses ...”

Et cetera. So he shares the screenshot with General Khan and he says:

 “Bro, dispensers we can do. And last
 one, we can do.

And it says sensitization, but I think what he meant was sanitization. General Khan responds:

 “Salams, bro, I will speak to Fani.”

And Mr Vally responds:

20 “Thank you. We are already doing small
 ...”

Again, sensitization, but he means sanitization.

 “... small sanitization monthly at SAPS.”

So, that is just another diversion from the main contract, which really is the big money contract, which is auto parts. But we saw the warehousing, now we see PPE.

Chair, I see it is 3 minutes past 4. I am in your hands.

CHAIRPERSON: Let us adjourn and resume at 9:30 on Monday.

ADV HASSIM SC: Thank you, Chair.

CHAIRPERSON: Let us adjourn.

INQUIRY POSTPONED TO 6 JULY 2026

INQUIRY ADJOURNS
