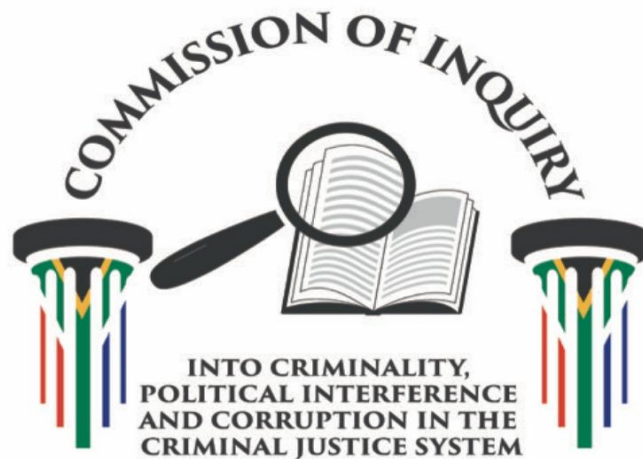


JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

6 JULY 2026

DAY 133



PROCEEDINGS HELD ON 6 JULY 2026

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

MR VALLY: Good morning, Chair. Good morning, Commissioners.

CHAIRPERSON: Thank you.

ADV HASSIM SC: Morning, Chair. Morning, Commissioners. Commissioners, we stopped on Friday when I was midway through the chapter on tenders. Before
10 we return to that chapter, I would like to revisit one of the chats that I raised in relation to General Khan's conversation with a Crime Intelligence officer from KZN, the name that I did not mention, you will recall. And I just would like to revisit that chat. I am still not entirely sure whether to reveal the name. The reason for that is that the officer, it is possible that the officer works undercover and it might create a risk to himself or other people that he works with. That is the only reason.

But, Commissioners, I will establish whether that is
20 in fact the case. I am only hesitant because I do not know enough. But once I establish what the factual situation is and whether there is indeed any risk, if there is not, then we can disclose the name publicly. So I will do that as soon as possible. But that is not the only reason I want to go back to that chat. Because this, since I raised it on Friday,

I have obtained information that is relevant to that chat, which I would like to put before the Commission. If I may just take the Commission back to the chat to begin with.

This is where there is a media article and it is an article in the Daily Maverick by a journalist named Ms Marian Thamm and it is an article concerning then Crime Intelligence boss, he was a Divisional Commissioner for Crime Intelligence, Lieutenant General Peter Jacobs. I am just waiting for it to be flighted.

10 **CHAIRPERSON:** For this purpose, we need only look at this thin file in front of us?

MR VALLY: That is so, Commissioners and I must apologise that you only received it this morning, and I will take you through it. It is the thin file with the yellow tabs.

CHAIRPERSON: Thank you.

ADV HASSIM SC: So recall, Commissioners, that the...

CHAIRPERSON: I assume Mr Vally also has a copy.

MR VALLY: Thank you, Commissioner. I was about to raise the issue. We have not received a hard copy. I
20 assume that the thin file that my learned friend refers to is what was disclosed at 5 minutes to 12 yesterday morning. I am not sure if she could clarify.

ADV HASSIM SC: I am not sure what time it was sent to you, Mr Vally. So I am not entirely sure of that. But it is the affidavit from Ms Marian Thamm that I am referring to.

MR VALLY: No, we have not received it. We have received it now.

ADV HASSIM SC: Well, and my apologies for that, because you should have received it sooner.

MR VALLY: Yes. Could we ask for 5 minutes just to go through the affidavit, if that might be in order?

CHAIRPERSON: Let us adjourn. You will indicate when you are ready. I will not indicate a time here.

MR VALLY: Thank you, Chairman.

10 **CHAIRPERSON:** Thank you, thank you.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Mr Vally, you are ready.

MR VALLY: Thank you, Chair. We have taken the few minutes that you have granted us. We have gone through the disclosure. I believe it is marked CJC366.1 through CJC366.4.

CHAIRPERSON: Yes, yes.

20 **MR VALLY:** We are not sure about the relevance, but we will learn as you learn about where my friend is going this morning.

CHAIRPERSON: Where this is going. Thank you very much, Mr Vally. Thanks, Ms Hassim.

ADV HASSIM SC: Thank you, Chair. So, Chair, where I was at first was just to take you back to the chat itself, the

exchange between Lieutenant General Kahn and the other officer, and that is displayed now. The article there is the article by Ms Marianne Thamm. It was published in the Daily Maverick and to remind you, the response from General Kahn was, this journalist is a good friend of Jacobs and Veary and, again, Lieutenant General Jacobs is the subject of that media report. And then the officer replies:

10 “It is clear as all articles are written by a
 single journalist, counter needs to be
 activated on this journo.”

And the date of that conversation is 17 January 2021. Chair, I wish to submit into the exhibit bundle CJC366. That is a set of documents pertaining to an affidavit that we obtained this weekend from Ms Marianne Thamm. 366.1 is the affidavit itself. I will take you to the affidavit, but what the affidavit shows is not two months later after this exchange, Ms Thamm was the victim of a housebreaking in which two of her laptops were stolen.

20 So it begins with Ms Thamm saying that she is a
 senior journalist at the Daily Maverick. That is on page 1 of the affidavit. Chair, if you do not mind, I will not read the entire thing, but only the relevant aspects. The second paragraph is where she describes the incident. She says:

 “During the late evening of Saturday 13
 March 2021, I returned my house...”

She means to my house;

“...situated on the corner of...”

And then she provides the address;

“...to discover a break-in with my office
ransacked...”

That is her home office;

“...desk drawers emptied and pulled out,
and my 2014 Daily Maverick Mac laptop
stolen. Upon closer inspection, it became
10 clear that the thief or thieves had also
taken a personal MacBook Pro, which I had
refurbished for my older daughter from her
bedroom. This device had a Daily Maverick
sticker on the casing. An iPad was taken
from my youngest daughter's bedroom, and
a handful of jewellery.”

And then she describes the jewellery that was stolen. She
says:

“Other large ticket items such as a flat
20 screen TV, Bluetooth speakers, various
cameras, and even a small amount of cash
were left intact.”

She goes on to say that:

“I informed the Claremont police station
that evening. An officer arrived, took a

look around, and registered the case...”

And she gives the CAS number, which is CAS139/3/2020, but I believe that is a typo because this was in 2021, so it should be 139/3/2021.

“I was later sent an SMS by a Sergeant N Gecla [?] to acknowledge this.”

On page 2, she says:

10 “At the time, the officer could find no entry point to my house, which was worrying. Only the following morning, when two other more senior officers arrived to take a statement, was it discovered that the intruders had entered the house by cutting the iron burglar bars outside the lounge window. The curtain had been pulled shut, which is why the SAPS official the previous night could not find any entry point. A fingerprint expert arrived a few days later and informed us that the intruder, or
20 intruders, had left no prints and had worn gloves, as was clear from smudges around the window frame.”

In the rest of the affidavit, she provides some background to the incident and other attacks on journalists, and then she signs and dates it on page 3 of the affidavit. She annexes

to her affidavit two photographs. The first, which is on page 4, is a picture of her home office with drawers open, and the second on page 5 is the entry point. It is the picture with the burglar bars bent and the window opened.

The attachments following that relate to the background information that Ms Thamm provided in the affidavit and then, Commissioners, if you look at page 8, 9 and 10, this is information that we were provided by the SAPS, which they retrieved from their system, and probably
 10 the first is a description of the incident. We do not need to go into it, it is a repetition, it is the note that was taken by the officer who first attended the scene. The second is just a screenshot of the case details, and then on page 10 you will see, again, it is information of the case details. It registers the station as Claremont and the CAS number and the incident.

So, it is confirmed from the side of the SAPS that this case was opened and this is what happened. The case was closed. No further detection was possible to determine
 20 who the perpetrators were. So, that was the incident. Now ...[intervenes]

CHAIRPERSON: Please remind me, what was the date the journalist wrote this and that should be done about this journo?

ADV HASSIM SC: The date of the article?

CHAIRPERSON: The date of the text.

ADV HASSIM SC: 17 January 2021.

CHAIRPERSON: Oh, all right. Thank you.

ADV HASSIM SC: And this incident took place on the 13th of March 2021. Now, Chair, I do not, you know, this later housebreaking in March, on this evidence alone is not, cannot conclusively show that it was linked to the WhatsApp exchange. But the sequence is alarming and I raise it because it requires further investigation. It is a
10 coincidence. It cannot just be a coincidence, in my mind, which is why I think it needs to be referred.

CHAIRPERSON: That is exactly why I was interested in the closeness of the timing, ja.

ADV HASSIM SC: That is correct, Chair. It was less than two months between the exchange and then this event and then, as Ms Thamm tried to say, this is in the context of other attacks on journalists, which I also referred to on Friday. So, Chair, it warrants investigation also into whether General Khan or the other officer took any steps
20 after the housebreaking to either distance themselves from it, given the fact that they had this exchange, or to ensure that there is not any member involved or any state-linked actor that was involved in the housebreaking.

And if General Khan were here, I would ask those questions because if that had not taken place, then that

omission, too, would be significant. So, you know, what is disturbing is that on the face of it, you have a senior Crime Intelligence officer informing another member of Crime Intelligence that a journalist appears to favour particular senior police officers, one of whom happens to be General Khan's superior. That is Lieutenant General Peter Jacobs. The response from the other member is not, well, journalists be journalists. It is, we need to do a counter.

And there is no evidence that General Khan said,
10 no, you know, do not do that kind of thing, or trying to prevent him from taking any... trying to prevent the other officer from taking any steps that may be inappropriate. So what it shows is that there is a willingness to use intelligence, Crime Intelligence capabilities and Crime Intelligence resources for the purposes of using those resources against a journalist who you are not comfortable with their reporting.

It is not a lawful policing objective. It is for the investigation of a journalist whose view you do not like and
20 it is important, it is not just a semantic issue. It is one, Crime Intelligence exists to analyse and gather information and intelligence for lawful policing purposes. So it is not a mechanism for monitoring and intimidating anyone, particularly journalists and I must say that I should be clear, I mean, it is not to say that journalists do not get things

wrong. Journalists do get things wrong.

But the appropriate response would be to correct the information, to report it to the senior editor, to report to the Press Ombudsman. My point is that there are institutional responses that are more appropriate than activating a counter against a journalist. And I will not spend too much time more on it other than to say that, of course, we appreciate in the constitutional democracy that journalists play an important role in exposing wrongdoing
10 within public institutions, including in the police.

So the broader systemic concern that I just wish to place before the Commission, is that the exchange reflects a danger that Crime Intelligence could be used for factional or personal and retaliatory purposes and that is something that we should take note of in the Commission. Where senior officers or their allies can even contemplate using such measures, then the safeguards are not working. The safeguards are not in place and that is the point I wish to make as a result of that exchange, Commissioners.

20 **CHAIRPERSON**: Thank you, thank you. But for what you said at the beginning, it is exactly for similar reasons that I wanted the name to be exposed. But for the reasons you gave, I will not insist that we do so, at least not at this stage.

ADV HASSIM SC: Thank you, Chair and from my position,

it is merely to say not at this stage, but that I will establish whether there are any real risks in exposing the name publicly or not.

ADV KHUMALO SC: Ms Hassim, good morning.

ADV HASSIM SC: Good morning, Commissioner.

ADV KHUMALO SC: My reading of page 2 of the affidavit. So there is the heading, some background, and then reference to two articles. And the SANEF one, which is the last one, with the blue colour on your printout, suggests to
10 me that this journalist believes that the break-in was linked to her writing stories about Crime Intelligence surveilling journalists. So I do not read it to suggest that what was said in the chats was the reason for the break-in into her house. My reading of it is that her writing articles talking about Crime Intelligence surveilling journalists, at least she believes that that was what resulted in the break-in. And that is one way of reading it. You may read it, obviously, in many ways. I just thought that should be placed on record so that we do not create the impression that she says in her
20 affidavit that because of the chats there was then a break-in at her house.

ADV HASSIM SC: That is correct, Commissioner. She does not say that at all. She was not aware of the conversation that took place until recently, that took place between General Khan and this officer. And what is clear is

that there is a lot of reporting that was taking place on Crime Intelligence, on Crime Intelligence... You see, Commissioner, it is two things. It is reporting on what is taking place among senior officers in Crime Intelligence. And then there are attacks, alleged attacks against these journalists which appear to come from Crime Intelligence and then there is attacks.

So all of it together is the context. She does not link the two. I am the one who is making the link between
 10 the two and I am saying that the sequencing is relevant, the timing is relevant, and that it bears... it warrants further investigation.

ADV BALOYI SC: Ms Hassim, insofar as you want to make something of effect whether or not General Khan said anything to distance himself from this, and obviously you would want to draw certain conclusions from that, was this incident publicised in the media?

ADV HASSIM SC: This particular housebreaking incident, I do not...

20 **ADV BALOYI SC:** Ja, because what you said assumes that General Khan would have known about it if you are going to make anything of the fact that he may not have... he did not comment, if it turns out to be a fact. If you want to make something of that, that he said nothing, he did not distance himself, then you first have to establish, it seems

to me, you first have to establish that he would have known of the incident. And the reason you say he knows of the incident is because it was publicised or it was reported within Crime Intelligence, if you like. Do we have that kind of background fact?

ADV HASSIM SC: I cannot have that background fact. My point was if General Khan were here, these are the questions I would put to General Khan. As a Crime Intelligence officer, it is possible that this would have come
10 to his attention. Maybe not. Maybe it is just a common housebreaking. But we have to see it in context of the conversation with the other member. So we do not know whether there was a report back, for example, to General Khan following this incident. But obviously the first thing would be if General Khan were here, would be to establish what he knew around the incident.

ADV BALOYI SC: Ja, I guess my point is if he never comes to testify, we obviously would... I am sure he does want... hopefully he wants to come and testify and clarify
20 things. But if he does not testify, the point I am making is there are facts that we do not have, that we do not, as matters stand, that we do not have, that we would not be able to get to that point where we say, well, he failed to distance himself from this and therefore he is implicated in this. That is the only point I am seeking to make.

ADV HASSIM SC: That is correct. In the absence of any objective facts to that point, then we would not be able to draw that conclusion or make that inference.

ADV BALOYI SC: Thank you.

MR VALLY: Commissioners, I am terribly sorry to interrupt, but now that I have seen where...

CHAIRPERSON: Your mic, your mic.

MR VALLY: Oh, the red light is on.

CHAIRPERSON: Oh, it is shielded by...

10 **MR VALLY:** Let me just do this. That gives you line of sight. Thank you, Commissioner. Now that I have seen where Ms Hassim has gone with this morning's evidence, which I emphasise was disclosed to us as proceedings commenced, as you have seen, I reiterate that we are not yet favoured with instructions from General Khan. I mentioned that while he is responsive and there is signs of improvement, he is unable to converse with me. I went to the hospital in an attempt to see to what extent he is able to converse.

20 Now, inasmuch as we do not have instructions, there is the issue of residual rights or residual instruction. I have to act in General Khan's best interest to protect his rights, and what I have just seen this morning as an opening gambit of proceedings troubles me. It troubles me because we were not privy to the intended evidence. We

were not privy to where the evidence was intended to be led, and that creates a troubling situation because the impression that is given, inasmuch as Ms Hassim says that all of these facts that she leads is circumstantial and then not circumstantial, it has to be one or the other.

You cannot approbate and reprobate. Either it is circumstantial or it is not. But the difficulty we find here is that we have no instructions on this. We do not know or we were not given prior notice of this evidence. It becomes
10 worse when one has regard to evidence that was disclosed to us yesterday at 5 minutes to 12. That is additional evidence outside of this small bundle here and we have to object, or at least for purposes of this proceeding, object to the manner in which this incremental disclosure is coming about.

We have previously highlighted and tabled our objection in relation to the disclosure historically, and now there is continuing disclosures. In fact, on Friday, there was additional disclosures in between, which I did not
20 object to because it seemed that it may have been a printing issue. But it is not, because those were material documents. And I now have to wonder whether or not the incremental disclosure and the leading of evidence essentially by ambush passes constitutional muster.

We contend that it does not. So at the very least,

we simply want our objection to be recorded for the manner in which these proceedings are being conducted by the evidence leaders. Ideally, Chairperson and Commissioners, this matter must be postponed until such time as Ms Hassim tells us that the house is in order, this is the bundle, there is going to be nothing that is going to occur from this point and at some point in time in the future, hopefully with General Khan improving in his health, at the minimum, we can put before this Commission an affidavit in answer to
 10 what Ms Hassim has led and intends leading.

Even if General Khan is unfit to come and testify in person, I would prefer that he is present so that he can refute the evidence, but right now he cannot. And factually, and if I may draw from a colloquial expression, they are kicking him while he is down, and it troubles me significantly. Those are my submissions, Chair.

CHAIRPERSON: Thank you, Mr Vally. Ms Hassim?

ADV HASSIM SC: Chair, unfortunately, this is a Commission of Inquiry. This is not a trial that we are
 20 conducting against General Khan. Information comes to us when it comes to us. The investigations are ongoing. This is an investigative inquiry. The affidavit that was presented to the Commission this morning was only obtained yesterday, late yesterday. I could not have provided it to Mr Vally any sooner than yesterday, and I apologise that he did

not get it at least earlier this morning. I had thought that it was sent to him, but it could not have been provided sooner because it was only made available yesterday and that is the nature of the Commission of Inquiry.

CHAIRPERSON: I notice the date of commissioning is 5 July 2026, according to the stamp.

ADV HASSIM SC: That is correct.

CHAIRPERSON: Which I assume is the stamp of the Commissioner of Oaths.

10 **ADV HASSIM SC:** That is correct, Chair. It is dated and stamped by the Commissioner yesterday and so I cannot take it any further than that, but to say that when the evidence comes to us, we need to put it before the Commission.

CHAIRPERSON: Was the affidavit solicited by the evidence leaders or was it offered to the evidence leaders?

ADV HASSIM SC: Well...

CHAIRPERSON: Because if it is the former, a point might be made that it should have been sought much, much
20 earlier than yesterday.

ADV HASSIM SC: No, Chair. It was a combination of being approached by certain individuals followed with only yesterday a request that if it is going to be placed before the Commission, it needs to be an affidavit format. So as the evidence leaders did not have knowledge of this before

yesterday. And so it was only once I was seized with the affidavit that I could then make it, circulate it.

CHAIRPERSON: All right. Please continue then. I thought you were still making your points.

ADV HASSIM SC: No, Chair. My point is really about the nature of a Commission of Inquiry and we have made the point before. And it is unfortunate. I mean, this is not a trial. So we do not have a case that is built up that we disclose and then we go to trial. This is an ongoing
10 investigation and it is not entirely in our control and the second point is that in relation to Mr Vally's submissions that this is unfair because we are continuing, even when General Khan is in hospital, we had alerted General Khan's legal representative of our intention to present the evidence as it is because this Commission has a limited lifespan and we have a compressed timetable and we need to provide the evidence.

That is simply what we are doing, is we are presenting the evidence to the Commission. And we have
20 also made it clear that that will be, obviously, General Khan, when we do await a response, when it is possible to get a response from General Khan to the evidence that has been presented.

CHAIRPERSON: Now, according to the current plan, the last day of the hearing of evidence is 31 July 2026.

ADV HASSIM SC: Our schedule runs until 31 July 2026.

CHAIRPERSON: With August to be the period for writing the final report.

ADV HASSIM SC: That is correct, Chair. The extension that was granted by the President was to the end of August and the end of August was, what the President required was that the final report must be submitted by the end of August. The Commission and evidence leaders felt that we would, in order to get as maximum evidence in, we would run the
10 hearings all the way until the end of July, which only affords us one month to write.

CHAIRPERSON: Less than, oh, one month to write. I thought you were saying from today, we are left with one month. I was going to say we are left with less than a month for the hearing of evidence.

ADV HASSIM SC: Yes. So we had very little choice. It was either we present the evidence to the Commission, or we do not present the evidence relating to General Khan at all.

20 **CHAIRPERSON:** So that addresses the point about possibly postponing and not hearing any evidence, which is a point made by Mr Vally.

ADV HASSIM SC: And Chair, that was the point that was made in response to the *in camera* application as well. Thank you.

CHAIRPERSON: Thank you, thank you. A very short reply. Two minutes, two minutes and no more, please.

MR VALLY: Thank you, Chair. The manner in which we expected the evidence leaders to proceed in terms of this matter, is set out in the 10.6 notice. This evidence is not covered by the issues that they have raised there. And this is why it is concerning. It seems that it is being made up as we plod along and placing General, even if he was here in that position, he does not know what is the case that he
10 needs to prepare.

CHAIRPERSON: I have never understood the Regulation 10.6 notices to mean that that is all that will be covered at the hearing. What the 10.6 notice does is to focus on certain, underlying, certain specific issues that the Commission wants to get an idea of ahead of the hearing. I have never understood it to mean that that is the sum total of what will be covered at the hearing.

MR VALLY: Indeed, and I accept that and that is the reason why there is the statement in the 10.6 that this is not all of
20 the evidence, we may amend, expand, et cetera.

CHAIRPERSON: Yes.

MR VALLY: However, notice is still required.

CHAIRPERSON: I probably misunderstood you then. I am sorry.

MR VALLY: No, no. No need to apologise, Chair. We are

still unpacking the issue. We would expect at the minimum a reasonable amount of notice be given and in the absence of notice, we are prejudiced. That is the point. I will leave it there, Chair. I am not going to take it any further, except that the objection is now recorded. Thank you for the opportunity.

CHAIRPERSON: Thank you. Thank you, Mr Vally. If it were a witness who is not in the situation General Khan finds himself, this would have been quite easy to resolve, in
10 the sense that we would simply say General Khan will have access to all of the documentation that has been served on him, and he will also have access to the transcript, and he may down the line address whatever issue he needs to address before we conclude the hearing of evidence.

But because he is in the situation in which he is, we do not know whether by the time we conclude the hearing of testimony he will be in a position to address all of these issues, having had sight of what I have referred to. What happens will depend on what his situation is when we
20 conclude the hearing of the evidence, but to cut a long story short, we must proceed with the hearing of evidence, we will not postpone.

MR VALLY: As it pleases. Thank you, Chair.

CHAIRPERSON: Thank you.

ADV HASSIM SC: Chair, that concludes the issue I wish to

deal with that related to the use of Crime Intelligence resources for purposes other than lawful policing objectives.

[Cell phone ringing]

CHAIRPERSON: Now we know Commissioner Baloyi loves Maskandi music. [Laughter] Yes, Ms Hassim.

ADV HASSIM SC: Thanks, Chair. So, Chair, what I propose to do now, then, is to return to the tenders chapter and the last tender that we were dealing with was the
10 tender on auto parts and for this, Commissioners, you will need the annexures file, annexures to WhatsApp chats file, and your core bundle. It is with page 5204. File 1, I am advised. Thanks, Chair. Okay, so 5204 is where I believe we left off. It was the chat where Mr Vally, on the 17th of June 2021, at 1.54 p.m., says:

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

So if I can pick it up from there, what we see next is, well, let me just, if you scroll down to 5205, you will see more of
20 this sentiment that is expressed throughout this chat about needing additional income. So 5205, about halfway down, it is the third chat from the bottom, at 4.52 on the same day, Mr Vally says:

“We need another source of income, bro.”

And then on page 5214, the preparation of the documents

for the tender seem to now be complete, and you will see on the third chat, Mr Vally says:

“Hi, sir, this is the front of the file.”

That is, in fact, a forwarded message from one of his employees, which he sends to General Khan, and in the next message, you will see a screenshot of the cover of the file, which is the bidding documents, the tender documents that will be submitted by the company, Kaizen MSD, Kaizen Motor Spares. Immediately below the screenshot of the
10 front page is a response from General Khan with a thumbs up.

ADV BALOYI SC: What page is that?

ADV HASSIM SC: 5215, can you flight that?

ADV BALOYI SC: Thumbs up, we do not...

ADV HASSIM SC: So I think what is happened, Commissioner Baloyi, in the process of producing the bundles, the emojis did not print. So just to show it to you, I think we need to go to the electronic version of this. If you could just give us a moment. So, Commissioners, we
20 are just locating, because we cannot go to the electronic version of the bundle, obviously, we need to go to the actual chat itself. So we are just going to pull that up. I think they need to see it as well.

CHAIRPERSON: Are we waiting?

ADV HASSIM SC: I think we are now there, Chair.

CHAIRPERSON: Oh.

ADV HASSIM SC: So on the screen now you will see, Chair, the WhatsApp message with the thumbs up immediately below the screenshot of the front of the file.

CHAIRPERSON: It is strange because what appears to be the chat is actually there when I look at the time, including the seconds as well, it is exactly the same as what we have, except that the emoji is not there.

ADV HASSIM SC: That is correct, Chair, and I do not have
10 an explanation for why in the process of producing the bundle the emoji went, but on the original it is there and I think that we might... There is another chat where this happens again, and so we will need to go back to the original.

CHAIRPERSON: All right, thank you.

ADV HASSIM SC: But, Chair, as you rightfully point out, the date and the time to the second is exactly the same.

ADV KHUMALO SC: Then, Ms Hassim, to avoid an accusation that you can add and remove things from chats,
20 we may need a better explanation of what happened with this specific chat, because otherwise all the chats that we are reading, somebody will say, oh, you can add and remove any words that you do not like. So, just to avoid that accusation, we need to get a better explanation.

ADV HASSIM SC: I will find out from our technicians how

it is. It is only the emojis that seem to not print when you convert it into this bundle format. Not the text, but I will find out exactly what the reason for that is. But what the Commissioners have and what General Khan has are the original versions of the chats.

CHAIRPERSON: Have we used exactly the same format we have been using throughout? I am asking because we have always had emojis on there.

ADV HASSIM SC: Chair, we are. I really do not know how
10 this happened. It only came to my attention also in the preparation.

CHAIRPERSON: Anyway, let us not belabour it for now. Let us wait for the explanation that you are going to seek from...

ADV HASSIM SC: I will obtain an explanation, but Chair, I must emphasise that on the original, and all parties have the original extracted data.

CHAIRPERSON: Yes. By original, you are not referring to what we have before us. Because what we have is what
20 does not have the emoji.

ADV HASSIM SC: So, Chair, you...

CHAIRPERSON: Or maybe, Mr Vally, what do you have?

MR VALLY: Chair, just like you, we have got the hard copy where there is not an emoji, and I have got an electronic copy, the one that was part of the third disclosure, where I

do see an emoticon.

CHAIRPERSON: All right. All right. Thank you. Thank you. Yes, Ms Hassim.

ADV HASSIM SC: Thanks, Chair. So, to return to this chronology, that was 3rd of July 2021 and then on 5232...

ADV BALOYI SC: Ms Hassim, you have referred to the WhatsApp at 5215. After the emoji, it seems to be important.

ADV HASSIM SC: Oh, I got distracted with our discussion.

10 Yes, immediately after the emoji, the next message from Mr Vally is:

“In case he forgot the company name, nè?”

And General Khan says:

“Yes.”

ADV BALOYI SC: Thank you.

ADV HASSIM SC: Our interpretation of that is to send the screenshot of the front cover of the file to General... Well, he was not General Fani then, but Mr Fani and/or other individuals within Procurement so that they are able to
20 easily identify this tender amongst all the tenders. So, 5232, what you see on this page is a screenshot sent by Mr Vally of the tender being dropped in the box and we know that because in the next message, he says:

“Dropped off, bro.”

And General Khan's response is:

“Alhamdulillah.”

CHAIRPERSON: Are you able to assist us with what that means?

ADV HASSIM SC: It basically means praise to God, thanks to God.

CHAIRPERSON: Thank you.

ADV HASSIM SC: So, that is 12 July 2021. 5253, if the Commissioners could turn there. 5253, about two weeks on, Mr Vally says... It is in the middle of the page.

10 “Sir, I had a...”

There is a word missing. I am not sure what it is;

“...at National Treasury, still nothing on there.”

Maybe I had a look at National Treasury. Maybe it is had a look at National Treasury website.

“...still nothing on there, sir. I even tried calling from this morning as well, sir. No picking up the phones.”

The next message is:

20 “I think maybe tomorrow I should take drive to the office and speak to the person that run the information bid department, sir.”

Chair, these are messages that are forwarded to General Khan and we do not know who they are from, but I think it is, again, it is his employee who is responsible for putting

the bid together. So, he forwards this to General Khan, and then if you scroll down to 5254, he says:

“Nothing on the system on who tendering
and there was zero register.”

By that, I think maybe he was referring to a register of people who arrived to drop off the bids and then the next message, he says:

“Can bro trouble your guy to see if all
okay?”

10 And General Khan responds:

“Wslm, I am meeting him now.”

And then the next message, Mr Vally thanks him, and then General Khan says:

“Can you talk now?”

That takes place on 26 July. Two days later, at 5257, you will see there is an attachment on that page, Commissioners. Mr Vally sends General Khan a list of the bidders for the auto parts tender, and you will find that attachment at page 145 of the annexures bundle, the
20 WhatsApp chat annexures. So, on that page, you will see, Commissioners, it is a list of 23 submissions for this bid. Mr Vally's submission is at number 13, Kaizen MSD and what Mr Vally says in the chat is, after he sends this document, he says:

“AHK also tendering.”

And you will see AHK at number 2. This is an alphabetical order, the numbering does not mean anything. But at number 2, you will see AHK motor spares. So he says AHK also tendering. This is his competitor. General Khan responds to this, saying:

“Okay, he is greedy.”

Mr Vally then replies:

“He is killing it in Cape, bro.”

General Khan responds:

10 “Okay.”

Mr Vally says:

“Must target Cape, bro.”

And General Khan responds:

“I am going to very soon, inshallah.”

We then can move on to the next ...[intervenes]

ADV BALOYI SC: Maybe before you move on, just for the record, it seems from your page 145 that this list was already published, a public document, at least on the website. Do you accept that to be the position?

20 **ADV HASSIM SC:** I believe so. What we can see from the chats is that Mr Vally's employee was constantly checking the National Treasury website for the publication of this list and he is the one that shares it with General Khan, not the other way around.

ADV BALOYI SC: Okay.

ADV HASSIM SC: And the top of the page, on page 145, says Publication of Names of Bidders, and it is a National Treasury document.

ADV BALOYI SC: Thank you.

ADV HASSIM SC: So, what we need to go to next, Chair, is page 5261 and it is now the 29th of July 2021. At the bottom of the page, you will see Mr Vally says, I mean, they have conversations about other things, and then they return to this. 29 July 2021 at 7.41 in the evening, Mr Vally says:

10 “Inshallah, we get SAPS deal.”

And if you just scroll down to page 5262, Mr Vally says:

 “Then we stash that money, you and I. Do
 not put back into system.”

And General Khan responds:

 “I am not mad.”

Mr Vally says:

 “100 percent, billed elsewhere.”

General Khan replies:

 “Definitely.”

20 The indication is that this is not merely a contract that would benefit one party, being Mr Vally, but that it would benefit General Khan as well.

CHAIRPERSON: Do you have any idea what putting back into system means?

ADV HASSIM SC: I can only speculate.

CHAIRPERSON: Which, of course, they say they are not going to do here. But what is that?

ADV HASSIM SC: Chair, I can only speculate. It could mean one of two things. One is that the system is a system, a network of their partners and business arrangements. Because we have seen other tenders, that there is a network that may benefit from these kind of tenders and what he is suggesting is, this one is for you and me, bro, not for the rest of us, not for the rest of the
10 potential beneficiaries of this project. That is one potential interpretation.

The other is, do not put it back into the system, meaning tax evasion. So that there is a form of skimming in the project so that it does not all get back into the fiscus, in other words. Those are the two interpretations that I see. I am not sure if the Commissioners have any alternative interpretations.

CHAIRPERSON: I do not.

ADV HASSIM SC: The point is that it is going to be a joint
20 project between the two.

CHAIRPERSON: I am not taking issue with what you have said. I am just saying I cannot come up with more.

ADV HASSIM SC: Maybe we will think of more as we go along, but those are the two that come to my mind immediately. So that is 29 July 2021, Commissioners. On

the 5th of August, at page 5303, at the top of the page, Mr Vally says:

“How long do you think before Treasury awards?”

General Kahn responds:

“I am with our friend now. I will ask.”

And then Mr Vally thanks him, and then General Kahn says:

“I wanted you to greet the brother.”

And Mr Vally says:

10 “Marf, bro, was sleeping.”

Meaning, sorry, bro, we are sleeping. General Kahn responds:

“He has gone now.”

So this is an enquiry about when Treasury will make the award, and General Kahn is indicating that he is with our friend, and he will find out and that he wanted to introduce Mr Vally, he wanted Mr Vally to speak directly to our friend. On the 20th of August, at page 5322, halfway down the page, Mr Vally asks:

20 “Bro, what did our man say? Is all on track? Will we win a good slice?”

And if you scroll down to 5323, there is another exchange that happens immediately afterwards. Mr Vally sends a stream of messages, including about providing certain documents and keys. I am gliding over it for now, Chair, but

it is relevant to another chapter, so I will come back to it. But in the end, General Kahn says at the bottom of page 5323:

“Yes, bro.”

And I am not sure whether he is responding, because it all happens in the space of about half an hour, this conversation, whether he is responding to the question about what our man says. He does not say anything at this point in time. But it is a follow-up query by Mr Vally, will we
10 get a good slice and what did our man say? And then if we look at 6 September 2021, 5336, what you see on this page is that Mr Vally sends General Kahn a letter from the acting Chief Director for Transversal Contracting with the National Treasury and what the letter says is that there are missing documents that they require them ...[intervenes]

CHAIRPERSON: Please enlarge this. Yes, Ms Hassim?

ADV HASSIM SC: Basically what the letter refers to is missing information in relation to distributors and the letter says should they be accredited distributors, those that I
20 mentioned in the paragraph before, those companies:

“Please provide us with confirmation from manufacturers of the parts or tools in question as per the abovementioned clause. Furthermore, the authorisation letter submitted from the manufacturer,

Auto X, did not include the item number or item description. It was noted that the following documentation (SBD 6.1) was not fully completed in your bid submission.”

So that is SBD clause 6.1, not fully completed.

“Please submit the requested documentation before the end of business on 13 September 2021.”

And it is signed off by the National Treasury Officer. The
10 next screenshot is the same letter, it is just the first page of the letter. Below the letter, Mr Vally says:

“Bro, it seems they are nit-picking. We need to reply. 6.1 was filled in proper.”

So that is a reference to the SBD 6.1.

ADV BALOYI SC: Ms Hassim, we do not have the parts about we need to reply.

ADV HASSIM SC: Sorry, you do not have that page, Commissioner Baloyi, 5339?

ADV BALOYI SC: Ja, no, we do not have it.

20 **ADV HASSIM SC:** Okay, it is flighted, if you could have a look at your screen.

“We need to reply. 6.1 was filled in proper.”

That was the SBD 6.1 that was referred to and then they continue with another conversation.

CHAIRPERSON: I trust that the attorneys are keeping a running list because on Friday there was a number of pages that we did not have. Thank you.

ADV HASSIM SC: The next page may not be in your bundle as well, Chair, and it is page 5341, because what you will see in 5341 is then screenshots of the form, and I think this is the SBD form that was in issue and what Mr Vally sends to General Khan are these screenshots to show that they were filled in and there are a series of
10 screenshots that are being flighted. At 5346 after the screenshots, Mr Vally, again, this is a forwarded message from his employee.

“Hi, sir. This is sad. 6.1, page 125. I just checked now, sir. It all filled in.”

So those were the screenshots that he is referring to. All filled in and then page 5347, this should be in your bundle. At the top of the page ...[intervenes]

CHAIRPERSON: Yes, it is.

ADV HASSIM SC: At the top of the page, Mr Vally says:
20 “Can I have Gonnie at the table tonight,
bro? He will draft letter. Gonnie is very
trustworthy and quiet.”

And we have established that this person is probably the employee that is forwarding him these messages. He is the one who signs the bid documents as one of the directors of

Kaizen MSD and then as you scroll down, Mr Vally says:

“I think our man forgot meeting.”

And General Khan says:

“I will call him now.”

On page 5348, just to remember the timeline here, this is now 8 September 2021, Mr Vally says:

“Blood, we can meet him tomorrow, no problem.”

General Khan says:

10 “Okay.”

Then at page 5359, on 17 September 2021, at 7.36 in the evening, Mr Vally says:

“Blood, we will touch base with your man tomorrow and see how we are looking.”

And then there is an emoji that is in the next message that seems to be present on your version this time and it looks like the open hands are pleading hands.

CHAIRPERSON: This is the second time we actually see emojis on our copies after the one that did not show.

20 **ADV HASSIM SC:** Yes, Chair. I am not sure what you are asking me, but I will try to get an answer for you.

CHAIRPERSON: But let us not worry about it now. But you will still find or get that explanation.

ADV HASSIM SC: Yes, indeed, I will, Chair. And General Khan responds:

“Okay.”

And Mr Vally says:

“Thank you.”

That was 17 September. At page 5372, this is now 28 September 2021, three chats from the bottom Mr Vally says:

“Please trouble our man for progress,
please.”

And General Khan says:

“Okay.”

10 And Mr Vally responds:

“JZKL bro.”

Meaning thank you. And then we do not hear much on this contract for a while until, this is 28 September, until 21 October 2021 at page 5377. After the message from Mr Vally greeting him and saying how is George and George is referring there not to the name of a person but to the place and that will become relevant later, General Khan responds:

“It is tops, bro.”

And then he says:

20 “Morning, meeting sitting today at 10.00 to
adjudicate. Regards.”

So meeting sitting today at 10.00 to adjudicate. That was a message that was forwarded. So General Khan got this from somebody inside Procurement, probably Mr Fani, saying that they are now going to be adjudicating the bid.

And then at page 5390...

ADV BALOYI SC: Maybe before you go you deal with 5390, you say that message was forwarded. How do we distinguish what is written by General Khan and what is forwarded on the bundles that we have?

ADV HASSIM SC: So one is by context and the second is the metadata which is a separate spreadsheet that is in the electronic bundle that shows which messages are forwarded and which are not. It is quite voluminous to produce the
10 whole set of that metadata but it would be very easy for us to cross check to see that these are indeed the forwarded messages or not.

ADV BALOYI SC: I ask because we do not have the insight that you have, the insight of the metadata and yet our treatment of these messages has to reflect the correct position, so without you burdening us with the voluminous material that shows the distinction, it is probably advisable for the record, which we will read without you, that you indicate this was forwarded, this is original text.

20 **ADV HASSIM SC:** Yes, Commissioner, it would have been, I mean this was prepared for questioning by the witness as opposed to the process that I am now going through. The metadata is in the bigger files that are with the Commission, so it is part of our record and so I think what we would be to do, given that we are now going through this process, is to

just indicate on the relevant chats together with the page from the metadata that is relevant.

CHAIRPERSON: Thank you, thank you.

CHAIRPERSON: So you have annotations which will be what assist you to tell us whether this is forwarded or not.

ADV HASSIM SC: That is correct, Chair, so it would not be difficult to pull out just the relevant aspects of that.

CHAIRPERSON: All right, thank you, thank you.

ADV HASSIM SC: So we are at page 5390 and it starts at
10 the top of the page with General Khan saying on 16
November 2021:

“Wslm bro, I am with our man. He wanted
to speak to you.”

Nothing further on this particular chat in relation to that.
And I will just say, Chair, as I did on Friday, that there is
more than one device that is used in the communications
and there is more than one form of communication that
takes place between General Khan and various individuals.
So there is nothing on the face of this chat that says that
20 anything followed after this message on 16 November. But
we just simply do not know.

ADV KHUMALO SC: I am sure it is a matter of public
record when the BAC in relation to this tender would have
sat. I am just going back to the previous chat where they
said adjudication at 10 o'clock today. Are we able to obtain

that so that we can be certain that the chat did not relate to some private business they have but related specifically to the tender we are dealing with?

ADV HASSIM SC: Commissioner Khumalo, we could get that quite easily.

ADV KHUMALO SC: We have to draw inferences and exclude other possibilities, it makes sense that we get as much as we can on the facts that are readily verifiable.

ADV HASSIM SC: Absolutely. I mean, again,
10 Commissioner, it was prepared for the purposes of questioning a witness. So there are certain aspects which we now have to, and we are hoping that we will get a response to this in any event, but this information is information that we could easily obtain either through public records or through requesting it from National Treasury, which we will do.

ADV BALOYI SC: Sorry, a different point, Ms Hassim. We have looked at earlier text and the one example that I remember at least is there is a text that speaks about
20 Gonnie at the table and you have said that seems to be an employee who would have been involved in the preparation of the tender. If you look at 5389, the top message, I do not know if you still plan to deal with that, but it seems to me on a reading of it that that kind of text would have come from someone else with inside information about what is

happening at Treasury about the processing of these tenders. Is that a topic that you were going to cover?

ADV HASSIM SC: Commissioner, it is...

ADV BALOYI SC: Do you agree? If you read this, that is the impression that it creates.

ADV HASSIM SC: I agree with you on your interpretation of the message. There is... Mr Vally himself is not attending to all of the logistics of checking on this. His task is to deal with another level of this and that is to talk to
10 General Khan and to the higher level Procurement officials to ease their way, to facilitate the process. So I agree with you that this is someone else that is reporting to Mr Vally. What I cannot say is whether that is the same person or not, whether it is Gonnie, but it is somebody who is paying attention to the logistics and the progress of the deliberations on this bid.

ADV BALOYI SC: The point I am making about it is that on the face of it, it suggests that someone else who is reporting, this person who is reporting, or who is forwarding
20 this text, in fact has got another person that they are talking to, possibly in National Treasury, who is giving them this kind of information, because this does not look like publicly available information. I think that is the point that I am making about it, that you have got General Khan who is discussing with our man, and then you have got this person

who is forwarding these messages to him, who in fact seems to be talking to somebody else who is within Treasury, who is telling them what is going on with this tender.

ADV HASSIM SC: That is correct, Commissioner Baloyi, but we just do not know who that person is.

ADV BALOYI SC: Yes, okay.

ADV HASSIM SC: But that there is a conversation happening is apparent from the text.

10 **ADV BALOYI SC:** Yes. Thank you.

ADV HASSIM SC: What happens is that Mr Vally receives information, he then goes to General Khan and he says, you know, will bro ask your guy? Our guy, in fact. Oh no, your guy. He says, will bro ask your guy? And then he follows it, did bro speak to the main man? That is on 5389. And throughout these messages, there is a reference to our guy, your guy, the main man, et cetera and I have submitted in the context of the previous chats, the previous tenders were not, the previous tenders I was dealing with on Friday
20 where Molefe Fani was involved with different tenders with a different individual.

But I will show in the course of this text that at least one of the guys inside Treasury that they are talking to is Mr Fani. So on page 5390 he says, I am with your man, our man, he wanted to speak to you and that was the

end of that conversation. Mr Vally says, and we are still on 5390, and that is 19 November 2021, he says:

“Do you know those guys, AKH?”

Now you will recall that that is the other competitor in the list of tenders that Mr Vally pointed out to General Khan, and General Khan said he is greedy.

ADV BALOYI SC: Maybe a mix-up of letters. He speaks of AKH and your list is AHK.

ADV HASSIM SC: Yes, I believe it is the same.

10 **ADV BALOYI SC:** It is the same company.

ADV HASSIM SC: And it, why do I say so? Because the next message says:

“They are going around and stating they have won this contract.”

So it is obviously one of the tender’s bidders, et cetera. General Khan responds at 12.29 as you see it. He says:

“Wslm. Balls.”

And Mr Vally responds:

“100 percent.”

20 On page 531 it continues. He says:

“But I do not talk. Keep you and other men hidden.”

And then the next message:

“Love this, and especially that AHK oke...”

And then language we cannot repeat on national television

and then General Khan says:

“Big one.”

So that conversation takes place as I said 19 November. So they do not know yet about the award of the tender. 5393 this is now 22 November 2021 Mr Vally asks middle of the page:

“Will big bro see if they are going to award this month, please.”

General Khan responds:

10 “Yes, bro.”

And Mr Vally says:

“And landed cost is mad.”

General Khan says:

“That is going to give us a boost.”

Mr Vally responds:

“Bro can make us solid.”

Over the page 5394 General Khan responds:

“Inshallah.”

ADV BALOYI SC: Can you just remind us, the business
20 that General Khan is involved in, is the spare parts business?

ADV HASSIM SC: Yes, Commissioner Baloyi and this is the subject of the next chapter I will be dealing with, well, one of the chapters to come, which is General Khan's financial disclosures. He has several spare parts stores.

ADV BALOYI SC: Thank you.

ADV HASSIM SC: And two separate companies that deal in auto parts.

ADV KHUMALO SC: But he is not, at least directly related to the bidder that we are dealing with in this chapter. So in other words, he is not a shareholder or a partner in that business, as far as you are aware?

ADV HASSIM SC: He is not a formal shareholder in Kaizen MSD or a director or anything like that, no.

10 **ADV KHUMALO SC:** I am asking because the previous chapter he says this is going to give us a boost and this is one of those where it is him talking. So 'us' must refer to him, whereas in other instances where Mr Bali is talking, 'us' could be Mr Bali and somebody else.

ADV HASSIM SC: Yes, Commissioner Baloyi. He refers to the two of them as I said, as General Khan being one of the beneficiaries. But the beneficiary is not going to be a – it is not straightforward. It is not you are a member of the company. I mean, I think that would be, they just would not
20 be that stupid. So when he says it is for us, it is through some other means. Chair, it is 11.02, I have just noticed.

CHAIRPERSON: Okay. Let us adjourn and resume at 11.30.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Hassim.

ADV HASSIM SC: Commissioners, we ended on 22nd November 2021, where Mr Vally was asking about whether they were going to make, when they are going to make an award and it will give us a boost, et cetera. If I could ask you to please go to page 5428. I am sorry, 5427 is where it begins and we are now at 14 January 2022 and Mr Vally asks, halfway down the page, he says:

10 “Will bro trouble your man? See how we
 looking?”

General Khan responds:

 “I was supposed to see him today. Change
 of plans.”

Over the page, Mr Vally says:

 “Will my brew let me know?”

And General Khan replies:

 “Sure.”

20 And then at 5435, and this is on the 21st of January 2022,
 you will see the chat I want to take you to is the one that
 says:

 “Please see what your man says about
 progress on big one.”

And that comes in the context of the earlier chat, which deals with, you will see:

 “Quote for Randburg SAPS done, being

delivered now.”

At the top of the page. And it says:

“This is a small one, sir. It is for two vehicles in their workshop. It is for 8,000, but it is our way in building the relationship there, sir.”

And then that is just for context. The message is, ‘please see what your man says about progress on big one’, which I interpret to mean the RT45 auto parts tender and he says:

10 “We quote all the time and we get zero.”

General Khan says:

“I am going to meet him today.”

And at 5436, Mr Vally says:

“Shukran bro.”

Which is another way of saying thank you. That is 21st January 2022. On the 30th of January 2022, page 5438, at the bottom of the page, General Khan sends a message to Mr Vally saying:

“Can we meet Fani on Tuesday evening?”

20 And Mr Vally responds:

“Sure, blood, where?”

General Khan says:

“Nova.”

Mr Vally says:

“Perfect.”

And then he says:

“Inshallah, some good news will go down nicely.”

And General Khan says:

“Ameen.”

Or amen. On 5441, 5439, no, sorry, Chair. 5441, this is now the 1st of February 2022 and Mr Vally asks:

“My bro, what time are we meeting Fan?”

He spells it F-A-N. General Khan responds:

10 “I am waiting for him to respond.”

Mr Vally says:

“JZKL.”

General Khan says:

“Seven o'clock, Nova.”

Mr Vally says:

“Perfect, my bro.”

And then he says, on the next page:

“Can we do 7.20?”

20 That is in February 2022. If we go to page 5444, you will see that Mr Vally says, this is 22nd February 2022, 9.12 a.m.:

“Got feedback for us. When is bro back?”

And then over the page 5445:

“Need Fan...”

F-A-N;

“...to sort one last hurdle.”

And General Khan responds with a pin location. At the bottom of the page, Mr Vally says:

“See if big bro can pull Fan for a supper,
please.”

F-A-N. 5446, General Khan says:

“When, bro?”

He says:

“When bro is back.”

10 And then General Khan says:

“On the weekend.”

And Mr Vally responds:

“Perfect.”

Okay, so I am sticking with this theme. So there is things in between I am glossing over for now. At page 5448, 23 February 2022, he says, Mr Vally says:

“They try to call each other, they miss each
other.”

General Khan says:

20 “At parliament now? Please WhatsApp”

And then Mr Vally says:

“Blood, buy me one day, please, doing my
numbers, please.”

Followed by a series of GIFs and then they continue to have a different discussion about this gentleman, Josie Adams,

but it is not related to this particular tender. Then at 5452, still February 2022, 24 February 2022 in particular, General Khan at the top of the page says:

“Eastern Cape, Limpopo, and Northern Cape prices were not submitted. We should have.”

So this was a transversal tender for SAPS across provinces. General Khan is saying that there are three provinces here where prices were not submitted in the tender, we should
10 have and then he follows in the next message by saying:

“We were too cheap, but we must find a way to up prices later.”

Mr Vally responds immediately. He says:

“We must apply for price increase soon as we get tender, because it has been delayed too long.”

And you can see as we are going through this, he keeps asking about when is the award, have there been any news? There is quite a big delay between the submission of the bid
20 and the actual award. So he says, we must apply for a price increase as soon as we get the tender, because it has been delayed too long and then the next message:

“But your guy, Fan, is the man.”

F-A-N.

ADV KHUMALO SC: Ms Hassim, as you go through the

chats, so two observations. The first question I have is, was Mr Fani part of the various committees that evaluate and adjudicate this specific tender? I am sure we are able to get that information. The second observation is, on its face, it appears to be improper that while a bid is being evaluated and you are one of the bidders, you are having meetings with a senior supply chain person in the very department.

ADV HASSIM SC: Yes, so on your question, Commissioner
 10 Khumalo, even if we, assuming it was not in relation to the tender, the meeting, it would nevertheless be improper.

ADV KHUMALO SC: Ja, because you do not know what influence he has. Does he appoint, for example, the people who sit in various committees? What exactly is his role? And those are some of the questions that may have to be answered for us. Because how else do you explain the various requests for meetings with him? And it is clear that the discussion is about the tender, where there is interest by these two parties in that tender, they want it to be
 20 awarded to them.

ADV HASSIM SC: Indeed, and what we see also, Commissioner Khumalo, from the chats, is that there is information that you could only have if you were talking to somebody inside. So it has been brought to General Khan's attention that they failed to include in their bid three

provinces and that this is something that needs to be rectified at some point. So the information is coming from somebody who is close to the process, whether Mr Fani is sitting on the committee or not, we would need to establish. But it is certainly information that he has access to.

ADV BALOYI SC: Ms Hassim, as you find out whether Mr Fani was part of one of the committees, perhaps you might as well find out or get a copy of the, I do not know whether it is procurement, the relevant extracts about employee
 10 conduct when it is tenders in which they have an interest. Because this communication from General Khan suggests that he does have an interest in how this tender is evaluated. I think one of the questions that would have to be asked of him is whether he declared an interest and I think it is advisable that we know what is the requirement. So if you would get the necessary extracts.

ADV HASSIM SC: We will do so, Commissioner Baloyi.

ADV BALOYI SC: Thank you.

ADV HASSIM SC: Chair, Commissioners, we will be
 20 making submissions about that, because while, what is clear is it cannot be correct that you are, so there are two issues. One is the conversations with somebody in Treasury, that is clearly improper. The second is the fact that you are a senior member of the SAPS, this contract concerns the SAPS. And I would say there is a third issue

and that is that General Khan himself is in the spare parts business and there is a conflict of interest concern that arises there that, again, would be up for investigation, I am not drawing conclusions.

So to return to the timeline, in February, 24 February, the exchange was needing to apply, already anticipating that we are going to need to apply for a price increase on the tender and if you scroll down to 5453, Mr Vally checks and he, this issue of pricing for all the regions, 10 and he responds on the same day at 12.37 in the afternoon. He says:

“Bro, we applied and priced all regions, every region.”

And then he sends a screenshot. So this, you will see at page 5453, and then it rolls over into 5454, is a screenshot that is sent to him from someone who, it is very small, the print, but basically what it says is:

“We applied and submitted pricings for all the following regions, which is all the files 20 that were provided for by the tender.”

And then he lists all the regions. Eastern Cape, Free State, Gauteng, KZN, Limpopo, Mpumalanga, Northwest, Northern Cape, Western Cape. And then we get to 8 March 2022 and that is at page 5458. In fact, again, the pages are, it starts on 548, but the second page is above it. But let us start

with the first page, because this is where General Khan sends Mr Vally a copy of the Treasury letter recommending the appointment of Kaizen MSD. So at 5458 is the first page. RT45-2021, Supply and Delivery of Automotive Parts. Paragraph 6 says:

“The following government institutions participate in the contract.”

And then if you scroll up, Commissioners, you will see paragraph 7:

10 “Name and address of the contractor and other relevant information”

And there were two of those list of bidders that have been selected, awarded the contract. The first is All Part (Pty) Ltd, and the other is Kaizen MSD. Now, here we have this problem again with the emojis, but we will display it at the bottom of page 5459. So General Khan sends this to Mr Vally to show him. Oh, sorry, one last thing. It is dated 7 March 2022, this letter and it is sent to Mr Vally immediately the next day, 8 March 2022.

20 Okay, and then Mr Vally responds with love and kisses emojis, which you would have to look at on your screen because the PDF Adobe did not transfer it and then he says:

“Busy with them today.”

On page 5459 and General Khan says:

“Bismillah.”

ADV KHUMALO SC: Ms Hassim, I thought that name that we were looking for on page 5457, the contact person. Remember, we only had the name, but not the surname.

ADV HASSIM SC: Oh, yes, yes, yes, yes. This is why I believed Gonnie to be this person. You see his full name there.

ADV KHUMALO SC: Yes.

ADV HASSIM SC: Thank you, Commissioner Khumalo. So
10 that is the Gonnie that is being referred to, who was the contact person for the contract.

CHAIRPERSON: Sorry, Ms Hassim, are you able to assist with the translation of the second text at 5459, please?

ADV HASSIM SC: Yes. Ja, it is...

CHAIRPERSON: Ja, if you can just...

ADV HASSIM SC: Well, I can, but it is hard, I do not know how to translate it. It is another way of saying thanks to God, in the name of God.

CHAIRPERSON: Oh, thank you, thank you.

20 **ADV HASSIM SC:** So that is where we learned that the contract was in fact awarded, on the 7th of March 2022.

CHAIRPERSON: And do we know if this one ran its course, no cancellation, no challenge, no nothing?

ADV HASSIM SC: Ja, it did run its, well, I am not sure what ran its course. It did continue, and you will see as I

go through this, Chair, that there is more communication about servicing and getting purchase orders, and complaints about purchase orders, not enough, et cetera, et cetera.

CHAIRPERSON: Yes.

ADV HASSIM SC: There was a challenge from other bidders, unsuccessful bidders brought a legal challenge to this tender, and we do not know yet what the outcome of that challenge is, but that they acted upon it will become
10 clear in the course of the chats.

CHAIRPERSON: Thank you.

ADV HASSIM SC: But that is also information that we can objectively obtain, at which point this contract was terminated.

CHAIRPERSON: Thank you.

ADV HASSIM SC: It was meant to, just as a reminder, to run for 36 months.

ADV KHUMALO SC: Ms Hassim, taking you back to 5457, I think you have said it and we understood it, but you said it
20 in passing, maybe then to place it on record that one of the two companies, number 2, that is the company that belongs to Mr Vally.

ADV HASSIM SC: Yes, Kaizen MSD, yes.

ADV KHUMALO SC: Yes. As you sort of said, you see there it is, it is one of those, and then we understood what

you meant, but just for the purposes of the transcript.

ADV HASSIM SC: Kaizen MSD is Mr Vally's company. That was the company, one of the companies that was awarded the tender. So, Chair, could I ask you and Commissioners to go to page 5472 and here, Mr Vally sends General Khan a copy of an email from the SAPS with the, naming the individuals who are responsible for this particular contract within the SAPS, and that is followed with a letter that ...[intervenes]

10 **ADV BALOYI SC:** And you see that from what, that they are the individuals responsible for this contract? Is it the RT45?

ADV HASSIM SC: Contracts.

ADV BALOYI SC: The subject line.

ADV HASSIM SC: And it makes sense that these are the individuals responsible from their positions, which follows their names. Accounting Officer, Component, Head Vehicle Fleet, et cetera. The next, this is then followed by this letter that is dated 19 March 2022, and it is a letter from
20 Kaizen to the, to National Treasury and it is essentially a complaint or a request or a plea to vary some of the terms of the contract because of the COVID pandemic and the shortage of supply from parts that are meant to be, so basically OE, Original Equipment Manufacturer parts, that are part of the contract, that they are required to use, that

they are unable to obtain timeously because of the COVID pandemic and importation of these parts into the country.

So it is a letter from Mr Vally, asking the, it is addressed to Zanele Mkhwanazi, as you will see.

CHAIRPERSON: Did you place the page number on record? You may have, I do not remember. For purposes of the record, please.

ADV HASSIM SC: 5473.

CHAIRPERSON: Ja, we do see it, ja. Thank you, thank
10 you.

ADV HASSIM SC: So I will just read the relevant part because it is a long letter, but he explains the problem and then he says:

“Please understand, our intention is to
provide the best service at the best price
with minimal downtime in order to keep our
country and community safe. We would
appreciate your swift and positive response
to our request and we thank you for the
20 opportunity.”

The paragraph above it, in fact, it says, maybe just for the sake of the record, I paraphrased it, but let me ...[intervenes]

ADV BALOYI SC: Ms Hassim, maybe also read the one that starts ‘madam’.

ADV HASSIM SC: That that is the paragraph.

ADV BALOYI SC: Is that where you are going? Okay.

ADV HASSIM SC:

10 “Madam, taking the above into account and
always looking ahead, our kind request,
which has been documented and previously
allowed in prior SAPS tenders, is if we
could kindly purchase or buy out OEM
automotive parts and supply to you at a
maximum mark-up of 15 percent on our
OEM cost. We do not mind making a 15
percent mark-up on the whole to ensure we
give you the best possible service and to
keep our SAPS vehicles on the road. To
ensure transparency, all OEM invoices will
be provided or can be attached to the
quote.”

This is the concern that he is raising that I was
paraphrasing earlier.

20 **ADV KHUMALO SC:** Please remind us, I may have
forgotten. Weekend might have come in. This tender
relates to SAPS vehicles, but was done through the
National Treasury. Do you remember why that is the case?
Why it was not done directly with SAPS?

ADV HASSIM SC: Because it is a transversal contract. It

is centralised in National Treasury and it is for procurement for SAPS, but across provinces and I think that is why it is done by National Treasury and not the SAPS itself.

ADV KHUMALO SC: Because that fact is relevant to the question Commissioner Baloyi asked earlier, the question of conflict of interest. Because this is SAPS procurement, although it is done by a National Treasury.

ADV HASSIM SC: Absolutely.

ADV KHUMALO SC: So if you are a member of the SAPS, especially somebody at senior level, issues of disclosure become relevant.

ADV HASSIM SC: Absolutely, absolutely. The fact that it is a transversal contract and it is centralised with the National Treasury, and that is why I am saying, Commissioner Khumalo, there are two problems here. One is with the contact with somebody in Treasury as they are going along. And the second is that General Khan is a senior officer himself in the department that is meant to be serviced through this tender. So, and...

20 **CHAIRPERSON:** Oh, you were saying, so please finish.

ADV HASSIM SC: No, no, I was going to move on, Chair. So please ask your question.

CHAIRPERSON: Please read into the record the paragraph that follows, starting 'basically'.

ADV HASSIM SC: The paragraph following the paragraph I

just read, which began ‘madam’, says:

“Basically, madam, this is a request to change brands on some components to ensure that the supply rate is...”

CHAIRPERSON: Should be perfect. Misspelled, but it should be perfect.

ADV HASSIM SC: It says prefect, but they mean perfect.

CHAIRPERSON: Yes, yes, yes.

ADV BALOYI SC: And as in procurement, prefect has a
10 special meaning.

ADV HASSIM SC: We can find that out, too. But, Commissioners, the purpose of the letter is clear.

CHAIRPERSON: Do we have any idea what the change of brands, what that is about in this context?

ADV HASSIM SC: Chair, I think, again, I do not have the specific... The final specifications of the contract. But part of it, as I recall, from when we looked at the draft, remember there was a draft specs, was that they would have to use original equipment manufacturer parts. And
20 they would obtain these directly from the – so if it is a Mercedes vehicle, then they would have to get the spare part, whatever it is, from the manufacturer and what they are wanting to do here is to source it from other suppliers and he is trying to say they will get quality, but they cannot be bound to these terms in the context of the COVID

pandemic.

CHAIRPERSON: Ja. Thank you.

ADV HASSIM SC: Okay, so they are now... But they are willing to servicing the contract, as we can see now in March 2022. If we go to page 5484.

CHAIRPERSON: Do we put away file 1 for a while, or do we keep it close by?

ADV HASSIM SC: Chair, I know at some point, and I cannot scroll down right now to see where it is, at some
10 point, I am going to go back to file one. So maybe do not put it away yet. There is only one reference there, but it is an important one.

ADV BALOYI SC: We go to page?

ADV HASSIM SC: 5484. Volume 2.

ADV BALOYI SC: 5484?

ADV HASSIM SC: 5484. It is the second text below the picture. It says, from Mr Vally, it is dated 30th March 2022 and Mr Vally says:

“Rumour ATM...”

20 Meaning rumour at the moment;

“...they want to pull a region from All Parts.

Can they give us?”

All Parts is the other successful bidder and yes, he is hearing that they want to pull a region, and he wants to know if they can get it. General Khan responds:

“Let me ask him if it is true.”

And then 5489 and again, I just must point out, Commissioners, that it will be obvious to you that there is a conversation above the one that I am going to, that is important, where General Khan says:

“We just have to make it disappear now.”

At the top of that page. That is important, but it concerns the theme of abuse of authority. One of the themes I said we would deal with that arises from the chats. So I am not
10 going to deal with it now.

CHAIRPERSON: Ja, I was about to say at this point, it is out of context.

ADV HASSIM SC: It is. So I am just letting the Commissioners know that I am sure you have seen that it is something that you would have an interest in, and it will be dealt with and Mr Chaskalson will deal with it when he deals with the topic of abuse of authority. For this chapter on tenders, what I wish to refer you to at 5489 is the message in the middle of the page where General Khan says:

20 “Tomorrow, two o'clock, we can see him at the hotel.”

And Mr Vally says:

“Bro, can we do later or earlier? Meeting one auntie from SAPS to also ask what is going on with systems. They are blaming

systems and paperwork.”

Over the page, General Khan says:

“What time?”

Meaning if not 2.00. He responds:

“11.00 a.m....”

Mr Vally responds:

“...11 a.m. or say 4.00.”

And I cannot remember whether I said it when I began, but this is now 23 April 2022. General Khan responds:

10 “4.00.”

Mr Vally responds:

“JZKL.”

General Khan says:

“Sorted, four o'clock.”

Mr Vally says:

“JZKL, bro.”

At 5491, General Khan says:

“Wslm, our guys, on the way.”

And then Mr Vally responds:

20 “Wslm, I am at deli, bro.”

General Khan says:

“Okay, thanks.”

Mr Vally says:

“You coming, blood, or must I put forward queries about processing orders myself?”

They are blaming the process put in place by Treasury. Garages do not know how to use.”

General Khan responds at 5492:

“Tell him like it is.”

Mr Vally responds:

“Okay.”

And then on the next day, that is now 25 April, Mr Vally says:

10 “We found out some info as to what the delay is on SAPS. Brigadier Jugerdeson has been away for six weeks and has not signed off on orders.”

So that is in April 2022, and it is a series of conversations that has to do with the purchase orders and processing of those orders. Then we get to May 2022, on page 5497. In the middle of that page, 1st May 2022, at 6.30 p.m., Mr Vally sends the following message to General Khan and again, this is one of those messages that are forwarded, and you
20 can see it is a message that is addressed to Mr Vally, who is Ish in this context. The message says:

“Hi, Ish, we are having a Microsoft Teams meeting on Tuesday, 3rd May 2022 at 9 a.m. with Peace Gumede and Zanele Mkhwanazi from Treasury and team from

SAPS to discuss SAPS garage's purchasing buyouts (items or categories not listed on the RT45 2021 pricing schedule). We need them to agree to add this to the price list, as it is crucial for us. If we do not get this approved, we will be losing money.”

General Khan responds at 7.13 p.m., saying:

“Please attend, bro, it is important.”

And Mr Vally replies:

10 “Jee.”

Which means yes and then over the page 5498, he says ...[intervenes]

ADV KHUMALO SC: Before you go to the next page, I thought you had indicated that where chats are forwarded, you will point them out. My reading of the third one is that it is forwarded, because I do not see how Mr Vally can write to himself. Is that how you...

ADV HASSIM SC: Yes, yes, Commissioner. So before I read it out, I indicated that this was forwarded.

20 **ADV KHUMALO SC:** Oh, sorry, I may have missed that.

ADV HASSIM SC: And so Mr Vally responds, ‘jee’, and then on 5498, he says:

“Will big bro tell Fan...”

F-A-N;

“...to make sure it is approved? This is

exactly that letter and email. We must
supply from agents.”

So they are cross-referencing. This is the same problem
that was in the letter that he sent to Ms Mkhwanazi earlier
on.

“We must supply from agents.”

General Khan responds:

“Okay, bro.”

And then, if you scroll down to page 5499, at the top of the
10 page, on 4 April, so remember the meeting is set for 3rd
May, when we read that, the one that says, ‘hi Ish’. So on
4th May, Mr Vally sends a message to General Khan saying:

“Meeting went...”

Meeting went, I do not know what I can and cannot say in
this Commission. Meeting went badly. Meeting went S-H-I-
T.

“They want a retender for all the parts they
missed. Basically buyouts, which are 70
percent of the volume.”

20 General Khan responds:

“Wslm. Dumb...”

C-U-N, no, this I should not spell, should I just say C?
Chair, I see you stopped me, so I will stop there.

CHAIRPERSON: You could say C and four letters.

ADV HASSIM SC: C, four letters, dumb, C, followed by

four letters.

CHAIRPERSON: Oh, is it on the screen? Oh my gosh.
[Laughter] I am still thinking about the tongue-lashing we
got for the song.

ADV HASSIM SC: Chair, it did not come out of my mouth,
but it is the evidence.

CHAIRPERSON: Thank you, thank you.

ADV HASSIM SC: Mr Vally's response to that is:

10 “Very, we chase tyres, but we never give
 up.”

And then, just to be clear, what you see next is not actually
about this tender, but it is page 5500. General Khan
forwards to Mr Vally, other tenders, another tender, another
National Treasury letter, and an announcement of a tender
for a contract for the appointment of service providers for
provision of reflective marking of SAPS vehicles and that is
for the periods, as you can see stated there, April 22 to
March 2025.

20 **ADV BALOYI SC:** Where do we see what this is for? On
the 5500 page.

ADV HASSIM SC: Sorry, Commissioner Baloyi, your
question?

ADV BALOYI SC: You said at 550, we see that
information, but it relates to another tender and my question
is, well, on this page, where do we see what tender it refers

to?

ADV HASSIM SC: It is what I have just read out on the, I think it is 5501.

ADV BALOYI SC: Ja?

ADV HASSIM SC: It is the email.

ADV BALOYI SC: You say 550 is part of 5501, is that what you are saying?

ADV HASSIM SC: I think the two go together. We do not have the top of the page on 5500, but that is sent, what you
10 will see on the letter is, and the reason why you do not see the top of the page, it seems that what was most important for General Khan to forward was who was awarded that particular tender, because just above the signature, it has the names and addresses of the contractors and then the date, 12 April 2022. And then is the email with the appointment of this service providers for the provision of the reflective equipment.

So the two are to be read together, appointment of service providers on that tender and then if you scroll down,
20 Mr Vally did not read it closely because when he received it, he thought it was another tender for which he could bid. So his response is:

“On it, bro.”

Meaning, well, what is obvious. And then he says, thank you:

“JZKL”

Jazāk Allāh. And then General Khan says to him no, or did not say no, he says:

“This was awarded to the above companies.”

And then Mr Vally responds:

“Oh, shit.”

And then General Khan replies, another disaster on the way and then Mr Vally says:

10 “Yes, bro, they are effing it up.”

And then he follows that with the following:

“We need one big one and then we chill.”

General Khan replies to that, ‘we need one big one and then we chill’ with an emoji which needs to be flighted because, again, the Adobe conversion removed it. What you see is he responds with 100, 100 and a strong arm muscle emoji.

ADV BALOYI SC: Ms Hassim, at page 5501, that email, the top of the email, I do not know if on the electronic copies you have a better visual, but on the face of it and
20 tell me if I am incorrect, it looks like it is an internal email that is being shared, just looking at the addresses.

ADV HASSIM SC: Commissioner Baloyi, I share, I am in agreement with the way you see it. We do not have a better copy than this. But what we see is what you also see is that it is internal, it SAPS all email users. It is in fact, it is

a group that is created, an email group that would be an internal email group.

ADV BALOYI SC: Thank you.

ADV HASSIM SC: At 5535, and we are now in June 2022. So on the 14th of June 2022, General Khan sends a message to Mr Vally and the content of the message is as follows.

“Grootman, I am getting lots of backlash from the market players on K. We need to regroup ASAP so that they give me info.”

Mr Vally replies:

“Okay, bro, we can meet him.”

So let me just pause there for a second, because again, this is a forwarded message and it seems to be that it comes from Mr Fani, who is getting backlash in relation to this particular tender and K may be a reference to Kaizen Motor Spares. So Mr Vally says, ‘okay, we can meet him’.

General Khan says:

“This evening?”

20 And Mr Vally says:

“Is it competitors?”

And then he says, ‘to this evening’ he says:

“Jee, that is okay.”

Then he says:

“Must I get Gonnie here?”

And General Khan says:

“Yes, competitors.”

And just pause there, and you will see later that there is a challenge, as I mentioned earlier, there is a challenge to the award of this tender.

“Yes, competitors.”

Mr Vally says:

“Okay, tell me time, bro.”

General Khan says:

10 “I am waiting for him to confirm the meeting.”

Mr Vally replies:

“Okay, blood. Main thing is we are sticking to the prices quoted, but we applied twice for an increase, but no response.”

General Khan replies:

“Okay.”

And then over the page 5538, Mr Vally says:

20 “So lekker, we meet F, because he can chase that email.”

General Khan says:

“Please call.”

That is at still 14 June 2022, at 10.38 in the morning. He says, ‘please call’ and then we do not see anything until the next day, 15 June 2022, at 5.26 in the morning and Mr Vally

greeted General Khan and says:

“See you just now.”

Then we go to 27 June 2022, 5541 and here what we see is Mr Vally sends General Khan a copy of an email from Kaizen to Ms Mkhwanazi, complaining to them, SAPS and Treasury, about not getting enough orders. So the email starts on 5541, it continues on to 5542. I have described what it is about, Chair, would you like me to read it into the record?

10 **CHAIRPERSON:** Read what you want to read and then make the explanation?

ADV HASSIM SC: So, Chair, the gist of the message is a complaint about the contract not being financially viable because they are not getting sufficient purchase orders. He sends this, this is an email that is sent from Kaizen. It is then forwarded to General Khan and Mr Vally says on page 5543:

“Will bro manage to chat to F?”

So it is the same complaint that we have seen in previous
20 letters about the buyouts and parts and purchase orders.
So he says:

“Will bro manage to chat to F as to get that
meeting about all this and buyouts?”

And General Khan replies:

“I will call him tomorrow.”

And Mr Vally responds:

“JZKL”

Thank you. And then if we scroll down, so the concern here is about the financial viability of this contract. Clearly they are not happy with what they are getting out of it and on page 5544, well, let me just say this, because 5544 to 5545, what you will see is a media announcement of the President, Mr Ramaphosa, approving the Just Energy Transition Framework, which is a move away from fossil
10 fuels to sustainable energy sources. So that is what this media announcement is about.

South Africa approves \$8.5 billion plan to move away from coal and then Mr Vally responds to that with more objectionable language. That is not the relevant part. If you scroll further down, 5546, what he says is:

“We have got to make some huge money.”

General Khan seems to agree with Mr Vally's assessment of the President, as you see from his response, which is big C followed by three letters and then Mr Vally says:

20 “Inshallah, we land a big one, bro. You will see.”

And General Khan responds:

“Inshallah”

And then on 5547, the next page, on 13th of July 22, Mr Vally says:

“Can bro push to meet F?”

And it appears there are two points he wants to discuss in the meeting with F and that is:

“1. Price increases, please.

2. Two, buyouts, please.”

General Khan responds:

“Okay, bro.”

Mr Vally says:

“Thank you.”

10 Over the page, 5548, General Khan says:

“He can make it now at 12.00. Please confirm.”

This is 13 of July 2022 at 9.30 a.m. and ‘he can make it now at 12. Please confirm.’ And then the next message is at 9.46 a.m. and he says:

“I am rescheduling.”

So I just want to pause here for a moment and take the Commissioners to the chat between General Khan and Mr Molefe Fani on the same day at this time and you will find
20 that at page 4706. That will be the volume 1. Okay, so this is a chat between General Khan and Mr Molefe Fani and at the bottom of 5706, well, let us just read the whole thing. It starts off:

“Good morning, sir.”

It is 13 of July 2022. It starts at 8.12 in the morning.

“Good morning, sir. How are you doing?

When can you make time to meet with us?”

That is General Khan. And then you see Mr Fani responds at 8.35 a.m.:

“Are you available now at 12? I can come through. I must give other feedback. I am well, nonetheless.”

General Khan says:

10 “I am not around. Do you mind meeting with Ismail?”

Mr Molefe says, I do not, Mr Fani says:

“I do not mind. Will you be available later?”

He says, General Khan says:

“Yes, I can do after 16.00.”

Then Mr Fani says:

“We can do 19.00 if that is okay.”

General Khan says, he cannot, he has got a family dinner.

Mr Fani responds saying, it is 9.20 a.m.:

20 “It is impossible earlier. Let me meet the guys now then at 12.”

General Khan responds:

“Let me...”

It is spelt no, K-N-O-W, arrange, but I think what he means is let me now arrange. Mr Fani responds:

“Cool.”

And that is at 9.30 a.m. on the 13th of July and you will recall from the earlier chat we were looking at, he was trying to engage Mr Vally to say, can we meet at 12. At 9.46, he says to Mr Fani:

“Let us reschedule, Ish is not answering now. Sorry about that.”

And Mr Fani says:

“No problem.”

10 So when we look at 5547, no, where was it? Yes, 5548. At 9.46, he says to Mr Vally, ‘I am rescheduling’. So basically, he has already rescheduled on the other chat with Mr Fani. He comes back and he says, ‘I am rescheduling’. So again, as we saw with the other tender that I was dealing with on Friday, there is now direct communication between General Khan and Molefe Fani.

So we then go to August. 5556. Actually, it is 5554 is where it starts, 5554 and you will see in the middle of that is an attachment, it is a PDF document. I am just going
20 to, we are just going to flight it, Chair, because it is not in the annexures document. It is not in the annexures bundle. You will see what it is, is a Notice of Motion. It is the review that I referred to earlier to set aside this tender. Chair, maybe I will just move on and I can come back to it once we find it.

This is bringing the whole topic of the tender to a close though. But what we see is that this is a Notice of Motion brought by several unsuccessful bidders and Mr Vally sends General Khan a screenshot of the Notice of Motion, which refers to affidavits, but he does not attach the affidavits that underpin the Notice of Motion. General Khan then responds. This is, by the way, 4th of August 2022. He says:

10 “Do you have the affidavits he is referring to?”

Mr Vally says:

 “No, bro.”

And then on 5555, he says:

 “I will get it, bro, on it. It is this normal bull S-H-I-T behaviour, nè, when guys lose.”

And then General Khan says:

 “What did AHK get awarded?”

20 AHK, we have heard of before. They were not a successful tenderer here in this contract, but they were one of the applicants in this review application. So Mr Vally responds immediately to that to say:

 “No, marf, it is Keegan's Jamie's partnering with AHK and DAR. Those three are all taking this on.”

So those are three different companies that had separately tendered for this contract and he said, these three are all taking this on and then General Khan responds big C, followed by four letters. Commissioners, that is the closure of this particular sub-topic on the chapter of tenders.

We will follow up on the legal challenge, but what is important for us is the engagement here between General Khan and Mr Vally on this and what I submit to the Commission, it shows, is that as with the other tenders, this
10 again is feeding into and growing the pattern of engagements between General Khan and certain individuals and from this particular tender, we see that Mr Vally from Kaizen treats General Khan as a person who can unlock access.

Pardon me, you now see the Notice of Motion flight is in front of you. So we see that he sees General Khan as a person who can facilitate access for him, not just to one tender, but to several. Any opportunity that could possibly come their way. We see that General Khan arranged
20 meetings with a contact within procurement and obtained information from that contact. We see that that contact is Mr Molefe Fani.

We see that Mr Vally requested General Khan to modify the tender specifications to see if he could, through his contacts, assist in the modification of tender specs. We

saw that earlier on in the chats. Meaning he sees General Khan as somebody who could maybe assist him on that, whatever may have come of it or not. We see that General Khan receives information during the procurement process, before it is awarded, while it is a live procurement process, receives information and passes it on to Mr Vally.

We see Mr Vally sharing information as well with General Khan on issues of the purchase orders and the buyouts and requesting assistance from General Khan. We
 10 see that Mr Vally talks about him and General Khan stashing the money, getting a big slice, making sure it does not enter the system and we see that General Khan is the one who is the first person to inform Mr Vally when the tender is awarded and then what we see is after the award and after the recommendation is made, there is continued engagement between the two on making the contract work.

That is all apparent from the evidence and all of those, as I mentioned on Friday, are part of this pattern on the tenders.

20 **ADV BALOYI SC:** Ms Hassim, in this Notice of Motion that is shown on the screen, we see the citation in the end of it. We do not see the relief that is sought. I would have thought that is the important part you want to show us.

ADV HASSIM SC: Well, it is not in the chats, Commissioner Baloyi, but we will, we are trying to get the

full documentation in relation to that.

ADV BALOYI SC: Okay, thank you.

MR VALLY: Chair, Commissioners, if I may briefly interject. It is very unique proceeding this because as much as we are before the Commission, we are also before a number of people who have an interest in the matter by way of social media. I mentioned to Ms Hassim on Friday if I might have an opportunity to clarify for purposes of the audience, the greater audience. My name is Mohammed Vally, I am not
10 Ismail Vally. [Laughter]

And unfortunately, there is an element of our society who believes that I am Ismail Vally. I am not, I am not trying to impute any guilt or anything, it is just by way of clarification. And then there is another segment of society who believes that I may be related to him, I am not. I am just an attorney who shares a surname with Mr Vally. For the record, thank you, Chair, Commissioners. I appreciate that.

CHAIRPERSON: No, thank you, thank you. All of us here
20 know the true position. But I must say, it did cross my mind that some people might think exactly the way you have explained. But thank you for again placing it on record, Mr Vally.

MR VALLY: Thank you, indebted as always.

CHAIRPERSON: Thank you, thank you.

ADV BALOYI SC: I see now, Mr Vally, that I should have gone with my instinct to ask you the question earlier.
[Laughter]

ADV HASSIM SC: So, Commissioners, I am going to leave that topic and turn to a new chapter and it should not take us too long. It is a small section and it deals with a person named, the Commission is very familiar with this person, Ms Imogen Mashazi and for that, the best place to start is probably page 6670.

10 **ADV BALOYI SC:** 66?

ADV HASSIM SC: 6670, Commissioner Baloyi. I mean, we will need to flight it for you if it is not there and the reason it is not in your bundle is actually, as I am about to show you, the images are blurred. We believe that these are passport, screenshots of passports of several individuals who travelled on a private charter to the UK. But when screenshots are deleted from a device, it appears in this manner, just blurred. So, we will not be able to get the actual unblurred versions of this, but it is where this
20 conversation begins on this topic.

So, these are passport pictures, but we cannot see the detail of it. At the bottom, how we know this is from the attachments that follow and this is the chat that is between Mr Mo Sayed and General Khan and you will see that there are, from 6675 to 6676, there are several attachments. And

those are what is called an entry form and those forms are in your bundle, marked Annexures to WhatsApp Chats and it begins on page 23.

It is immigration clearance to enter the UK, and it is for an individual named one Mr Maleka and it lists as a UK residential address, Corinthia Hotel, London and it is for travel. If you look at the block in the middle of the page on the right-hand side, travel on the 29th of July 2022 to 31 July 2022. So, for two days. It was a weekend. And if you
10 turn over to page 24, it is the second immigration clearance form and that is for Ms Seletswane. Same period of travel, and the same hotel in London.

ADV BALOYI SC: [indistinct]...

ADV HASSIM SC: Pardon?

ADV BALOYI SC: Names are female names. It is miss, I think you said mister.

ADV HASSIM SC: No, Ms Seletswane. And on page 25 is the third immigration form. It is for a Mr Bonginkosi Mashazi and same dates of travel and the address is the
20 same address, Corinthia Hotel, London and then the fourth on page 26 is the immigration clearance form for Ms Imogen, well, for Ms Mabotlanyo [?] Imogen Mashazi. Same dates of travel, and the same residential address in the UK, the Corinthia Hotel, London.

And then what you see on page 27 is the certificate

for, a copy of the authority, the Executive Charter Certificate Authority from the Civil Aviation Authority. It is a licence, basically, to ExecuJet Aviation that will be operating that flight. That is on page 27. What is not in the chat, but which we obtained separately, is a payment from Onyx Aviation, not a payment, pardon me, an invoice from Onyx Aviation to a company called Zig Revenue Management and that, Commissioners, I am going to have to ask you to look at your answering affidavit file, because

10 we attached it to the answering affidavit at page 320.

ADV BALOYI SC: At page?

ADV HASSIM SC: 320. It is TN27 and you will see it is an invoice by Onyx Aviation that is issued to Zig Revenue, Z-I-G, Revenue Management, in the amount of 3.35 million. But also, what is important from this document is what is the description on the invoice and it refers to a charter fee and the dates of travel are 28 July 2022 to 31 July 2022 and the routing is there, Lanseria via Accra to Farnborough, and the return, Farnborough, Accra, Lanseria and Farnborough

20 would be Farnborough Airport in the UK.

And we point out in the answering affidavit, and this is commissioned, this is on oath by our investigator, Mr Nyatlo, that Zig Revenue Management, which is a business owned by Mr Z Nxumalo, also a name that has cropped up in this commission several times, a businessman, paid Mr

Sayed's company, well, paid this company, Onyx Aviation. Mr Sayed is not a director of Onyx Aviation, but he is associated with it. He is associated with people who are directors of Onyx Aviation.

Mr Nxumalo paid Onyx Aviation to fly Ms Mashazi, her husband, and her friends to London for a weekend in July 2022 and the charter flight itself was 3.3 million. Commissioners, what I want to say about this, I think there is several points to be made about this body of evidence.

10 The first is that this is not an ordinary private – this is of interest to the Commission for obvious reasons. These individuals have been, well, at least Ms Mashazi has appeared before the commission, Mr Nxumalo's name has come up and we have not had this evidence placed before the Commission before.

And it is clear that this is no ordinary private trip. While there may be no question that Mr Nxumalo paid for this trip, there has been some question about whether it was ultimately funded by somebody else, but we do not
20 know that yet. What we do know is that it was in the amount of 3.35 million and that it was for a private flight for Ms Mashazi, who was then the City Manager in Ekurhuleni at this point in time. It was for her, her husband, and her two friends.

And so we say that on its face of it, the conferral of

a benefit to the tune of 3.3 million is extravagant and it raises obvious concerns for us of a conflict of interest and of possible corruption, gratification, and abuse of public office. That is the first point I wish to make in relation to this evidence. The second is that it raises the question of disclosure and if this trip was declared by Ms Mashazi, we believe it was not, but if this trip was declared by Ms Mashazi to the city or the council or an ethics or compliance structure within the city, then that record should exist.

10 If it was not declared, then the failure to disclose a trip like this, as I said, it is not an ordinary trip, this is not just an economy flight with your family to a low-budget hotel in London, then the failure to disclose itself would be a matter of grave concern. Because it would mean that a senior municipal officer accepted or was associated with a private benefit of an extraordinary value without any transparency to the public institution that she served in.

So that is the second point and submission I would like to make of concern that emerges from this evidence.

20 The third is that the commission would want to consider who benefited from this trip beyond Ms Mashazi and her husband and her friends. Because a payment of 3.3 million for a weekend flight is so far outside of ordinary hospitality or gift that it invites the inference that the person who paid for it expected something in return.

And the question would be if this was a gift of gratification, what influence or protection or access was expected from Ms Mashazi in return in her capacity as a City Manager of Ekurhuleni. The fourth submission I would make on this is that General Khan is provided with this information and that his receipt of this itself is significant and the question would be what interest did he have in this information? On the face of it, it is not apparent what interest he has in receiving this information.

10 And the fifth and final point I want to make is that the question would be not just what interest General Khan had in it, but what did he do with the information? Did he refer it to the city or to the Hawks or to the NPA? One would have expected, normally one would expect that that would be the normal course, that it would be referred to the relevant authority or something would be done with it. It would seem not because Ms Mashazi held her position as a City Manager until last year and this trip took place in 2022. So she remained in a position until she retired last year.

20 So on the face of it, it seems that nothing was done with it while she would not have remained in her position.

ADV KHUMALO SC: And when did General Khan become aware of this because you seem to be implying that it was in 2022 when he became aware.

ADV HASSIM SC: I will tell you, just to confirm the date

that I was looking at. It was in October 2022, Commissioner.

ADV KHUMALO SC: Is it those chats that we do not have?

ADV HASSIM SC: Well, no, no, it is on page 6676.

ADV KHUMALO SC: Thank you.

ADV HASSIM SC: All of this information was forwarded to General Khan, including the passport pictures which are blurred out.

ADV BALOYI SC: Ms Hassim, it seems to me that perhaps
10 a further question, you have listed questions. It seems to me that a further question to ask and whether you get an answer to it is another matter altogether, is considering this is two days or three nights visit for that amount of money paid for by somebody else, at least on what is before us now, what was the purpose of the trip? And that kind of question. So I would add it in the list of what was the purpose of the trip and maybe or not, it leads or explains an interest what was General Khan's interest in this, but not just General Khan. Why was Mr Syed interested in this
20 trip? Questions that I am not suggesting we will get answers to, but it seems valid questions to ask.

ADV HASSIM SC: Absolutely, Commissioner Baloyi. I mean, a number of questions arise, including how Mr Sayed obtained this information. I mean, we know of his relationship with Onyx Aviation, et cetera and so it is not so

surprising that he had the information on the immigration forms and the ExecuJet licence, but the passports, I suppose it would have been all part of that bundle. But we do not know the background to it and I am in agreement with you, Commissioner Baloyi, that that would be another question. So those are my submissions on this Mashazi chapter.

ADV BALOYI SC: A different question on that. How do you connect the invoice to this trip as per immigration
10 documents? I do not know if you understand what I am saying. So you have got the passports, and you have got the immigration clearance documents, and then you have got the invoice, and you say that this invoice was payment for this trip. Where do we see that connection?

ADV HASSIM SC: It is in the description. So the charter, it is not in the ExecuJet document, unfortunately, but it will be in one of the other documents, the aircraft ZSFCL. Oh, it is in there, operator aircraft. Sorry, Commissioner Baloyi, on page 27, it is there. Paragraph 2:

20 “Operator aircraft

Operating aircraft registration ZSFCL”

And on the invoice, you see under charter fee, it is for the aircraft ZSFCL, and then you see the dates, and then you see the destination and the route.

ADV BALOYI SC: I had not understood. Thank you for

clarifying. So page 27 relates to this particular trip. It is not just a general licence for this aircraft, but it relates to this trip in particular.

ADV HASSIM SC: It does, Commissioner Baloyi. You will see above the dates.

ADV BALOYI SC: I see that, yes. Thank you.

ADV HASSIM SC: Chair, I am going to move to the next chapter, which is on finances. It is three minutes to one. I can begin, or we could break.

10 **CHAIRPERSON:** Let us adjourn and resume at 2 p.m.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV HASSIM SC: Afternoon Chair, Commissioners. This is the last topic from me for today and it is the chapter on finances, gifts and lifestyle and I would like to begin with ...[intervenes].

ADV KHUMALO SC: What do we put away?

ADV HASSIM SC: You should have first of all the file that says financial documents and then the two files on the
20 chats. There may be some references to the chats that are not in your bundles but Ms Poee will display it for the Commissioners.

CHAIRPERSON: [Indistinct]... [microphone off].

ADV HASSIM SC: No, there will not be.

CHAIRPERSON: Sorry. Will there be attachments?

ADV HASSIM SC: No.

CHAIRPERSON: Oh, all right.

ADV BALOYI SC: So you want us to have financial documents and then those two files that we were working off.

ADV HASSIM SC: And then, Commissioner Baloyi, there may be pages to which I go that are not in your bundles but Ms Poee will display it for you. So I will begin, Commissioners, with the theme of the finances, gifts and
10 lifestyle as it emerges from the chats and I will just point out that I go there only because it is relevant in so far as it bears upon whether General Khan benefited financially from his relationship, some of the relationships we have already seen, from tender syndicates or misuse of his SAPS position. That is the only purpose for us to look at this. It is not a gratuitous enquiry into his private life and even in that regard I will not go to every aspect of the chats where we see evidence of lifestyle and wealth. It is really to give a sense to the Commissioners of what we are looking at.

20 So I will begin with page 6497 and you will see on that page several pictures of a farm. Well there is a picture of a farm with cars on the farm.

ADV BALOYI SC: Sorry, 649 ...[intervenes].

ADV KHUMALO SC: [Indistinct]... 8.

ADV HASSIM SC: Sorry, 6499.

ADV KHUMALO SC: Yes.

ADV HASSIM SC: Sorry, 6498.

ADV KHUMALO SC: 8.

ADV HASSIM SC: It is over two pages.

CHAIRPERSON: Okay.

ADV HASSIM SC: 6498 and then 6499. And on 6498 this is the chat with Mr Mo Sayed and just for the record this is in December 2021, 14 December 2021, that these images are being shared and Mr Sayed says to him:

10 “You on the farm, bru?”

 And he says:

 “Yes.”

 And then if you look at page 4962, oh sorry, sorry, sorry Commissioners, the order is a bit wrong, it is 5075. 5075. And this is January 2021. It is the chat with Mr Vally and he says in the second chat:

 “Your farm?”

 And General Khan says:

 “Gee.”

20 Immediately before that exchange are a series of pictures of the farm. If you scroll upwards you will see the pictures.

ADV KHUMALO SC: Does “gee” means yes?

ADV CHASKALSON SC: Yes, gee. Then we can go to page 4962 and what you see on this page is in the middle of

the page General Khan, again this is October 2020, 22 October 2020, General Khan says:

“How is the new M5?”

I take it that M5 is a BMW motor vehicle. Mr Vally responds:

“Amazing car, get this car bro.”

In the next page General Khan says:

“Price.”

And Mr Vally says:

10 “I paid for this 2.3 with carbon ceramics.
If you do not push spec I will get for you
at 2.1.”

And then General Khan says:

“A bit heavy for me. I am building my
house at the moment, all extra cash
going to the project.”

And then Mr Vally says:

“George?”

And General Khan says:

20 “Yes.”

So again this is a reference to George in the Western Cape.

ADV KHUMALO SC: 2020?

ADV HASSIM SC: This is in 2020, October 2020. And if you look, stay on the house, if you if you look at page 605,

6075, 6075 and following pages. It goes all the way to 6084 and what you see there are a series of photographs of the new house in construction. So, Commissioners these are the house that was being referred to in the chat with Mr Vally and ...[intervenes].

ADV BALOYI SC: Not that, I do not know how much it matters but we seem to have different pictures from what you are flighting. Maybe it is since you are looking at different pages from where you have referred this.

10 **ADV HASSIM SC:** Well, okay it is fine. The first set of pictures were the house in construction. The second set of pictures start at 6248, 6248 and there you see the house now looking more finished and luxurious. So that is a second set of pictures. You can see it is a coastal property and this is the George property.

ADV KHUMALO SC: Do we need to show all of them?

ADV HASSIM SC: No.

ADV KHUMALO SC: I think just one to make a point. Is there any reason why we are showing all of them?

20 **ADV HASSIM SC:** No, Chair, Commissioner, it is just taking you through the pictures to show you what the extent of the property is.

ADV KHUMALO SC: I am mindful of privacy issues and other things.

ADV HASSIM SC: Well, we can move off them. I am

moving on to the next thing and that is at page 4713 and at the bottom of the page this is a chat between General Khan and Mr Feroz Essay. At the bottom of the page General Khan offers him, he says:

“Do you need cash, 150,000.”

On 4714 Mr Essay says:

“Salam, we will take it.”

General Khan says:

10 “I will send it with Uzi. You can EFT for me on the 28th.”

Mr Essay says:

“No problem. Send details.”

And General Khan says:

“Can I drop it off if you are at home now?

I am leaving for Durban now.”

And then Mr Essay says:

“I am in Kempton Park but leave it with someone else.”

And then at 5715 he says:

20 “Send me details when you get it.”

And then you see the account information General Khan sends to Mr Essay, presumably for the EFT. Immediately following that Mr Essay says:

“Need name of account.”

And then there is a phone call and then General

Khan gives him the name of the account and that name that you see there is not General Khan but his minor son. That is the name on the account.

ADV BALOYI SC: You say it is not General Khan but?

ADV HASSIM SC: His son.

ADV BALOYI SC: Oh, I see.

ADV HASSIM SC: Still staying in the same chat with Mr Essay at page 4725, in fact, it starts at 4724, Mr Essay sends to him pictures, a series of pictures of Rolex watches
10 or luxury watches. Some of them are Rolexes. And on 4725 he says:

“Choose which one.”

He says to General Khan. General Khan selects an image from those that were sent to him, the first image. Well actually no, it is not. It is one of the images, the Submariner, and he says:

“This one, please.”

And then there are calls that are made that are not answered and that is the end of that chat. So
20 ...[intervenes].

ADV BALOYI SC: Do we know who Feroz Essay is? Does he not sell watches and that is why he is getting 150?

ADV HASSIM SC: No, it is a subject of another theme.

ADV BALOYI SC: Okay.

ADV HASSIM SC: Which the ...[intervenes].

ADV BALOYI SC: You do not need to get into it then.

ADV HASSIM SC: And it is, I can say to you, let me not, let me rather leave it for when we can develop it properly, but we do know who he is and he is not in the watch business. The next set of chats that we are going to look at concern cars. So we have seen some of the property, we have seen some of the gifts, we have seen cash of 150,000 that passes hands. If we look at the cars, we can start at page 5094, 5094. We will display it for you Commissioners.

10 This is on February 12th 2021, where General Khan says to Mr Vally:

 “Bro, work out a special price on the V8
 M3 for me.”

 And Mr Vally says:

 “Okay.”

 And if I could just ask the Commissioners to make a mental note of these dates as we go through this. So this was February 2021. And if you look at page 5106, at the top of that page, Mr Vally says, this is now 25 February
20 2021:

 “You fetching M3 or must I bring?”

 And General Khan responds:

 “Wasalam. I will fetch it. JZK.”

 Thank you. And then Mr Vally responds:

 “Okay, thank you.”

ADV BALOYI SC: This is a different vehicle from the V6 that we just looked at now or is it the same?

ADV HASSIM SC: I think it is the same.

ADV BALOYI SC: Okay.

ADV HASSIM SC: The V8.

ADV BALOYI SC: Thank you.

ADV HASSIM SC: Page 5272, you see on the 3rd of August 2021, Mr Vally is saying:

“Is bru selling white M3?”

10 **ADV BALOYI SC:** That is another page that we do not have, right?

ADV HASSIM SC: Do you see it on your screens Commissioners? Page 5272, the second one.

“Is bru selling white M3?”

General Khan asks:

“Who wants it, bro?”

And then he responds, and then they have a conversation about what is he offering. And then page 5336, if you could look at the screen in front of you if it is
20 not in the file, it says, this is now September 1st, 1st September 2021 in the conversation with Mr Vally, it says:

“Got M3 natis for bru and key.”

And General Khan responds:

“Wasalam bro. I will get it later.”

So he is saying he is got the registration papers

and the keys ready for the M3 for General Khan's collection. And then if we look at page 5565, and I think it is best that the Commissioners follow on the screen, because I think some of, quite a few of these are not in the printed bundle. 5565, at the top of the page Mr Vally says:

“M3 be 100 percent ready Juma polished done. Latest.”

Meaning it will be ready by Friday latest, the M3. And then on the third chat, he says:

10 “M5, still some work especially with oil line ...”

Et cetera. And General Khan responds:

“Okay, thanks, bro.”

ADV BALOYI SC: Ms Hassim, if we do not alert you, that we do not have a page, should we assume that the attorneys are keeping track and they know what we have and what we do not have, because you have just said we should look at the screen so you did not get from us whether we have got the page or not.

ADV HASSIM SC: I think that we should put together a
20 separate bundle on this.

ADV BALOYI SC: Okay.

ADV HASSIM SC: And even if it duplicates some of the pages, it is better to have a set that just deals with this topic.

ADV BALOYI SC: Okay.

ADV HASSIM SC: So these chats on these vehicles, this BMW, is now August 2022, the M3's. Okay, so that is on the cars. There might be one or two more, but I am going to move off cars now to look at businesses. If we start at 5260, this is in July 2021, we see General Khan saying:

"I am not ready now. Got to replenish 10 bar stock in the four shops."

Now, a bar usually refers to a million. So he seems to be saying got to replenish 10 bar stock, 10 million worth of stock in four shops. So we know there are at least four shops. At page 5993, you will see an image of a spares, motor spares store.

ADV BALOYI SC: It is on page?

ADV HASSIM SC: 5993. Chair, if you could bear with us for one minute, because what you are seeing now has got a redacted version. 5993. So, Commissioners, this is the picture that was redacted on the initial screen. So it is a picture of the shop and below it Mr Sayed asks:

"Which shop you at bru?"

20 And General Khan replies:

"Vosloorus."

And the date is June 2021, 16 June 2021. At 6494, General Khan sends another picture of a shop to Mr Sayed, and this is in December 2021 and beneath it is a message from Mr Sayed, which says:

“Which shop bru?”

And he says:

“Boksburg bru.”

General Khan replies:

“Boksburg bru, our first shop.”

And then if we look at page 928. Again, I would suggest Commissioners, you look at the screen.

CHAIRPERSON: Sorry, page?

ADV HASSIM SC: 928.

10 **CHAIRPERSON:** 928.

ADV HASSIM SC: And this is 29 May 2021, where General Khan sends a picture of Magic Moto Spares, another one of his shops and Mr Sayed responds:

“My man.”

And General Khan replies:

“Graafing today.”

And then if we look at page 1205, and this is 19 June 2021, and it is another image of his store, Magic Moto Spares and Mr Sayed says:

20 “My man, so proud of you.”

And then 1398, well, it starts on 1397, 1397, General Khan sends several images of his Moto Spares business. And if you scroll down to 1399, you will see General Khan says:

“Kaalfontein Ivory Park.”

So this is his Ivory Park store.

CHAIRPERSON: Are there some inferences that will be drawn at some point from everything we are seeing now?

ADV HASSIM SC: Yes. Yes, Chair. So this is the evidence that emerges from the chats of the businesses, of the cars, the houses and it is important that I take the Commission through all of this, including the reference to the dates, before we look at the financial disclosure forms.

CHAIRPERSON: Okay.

10 **ADV HASSIM SC:** In fact, Chair, I think that this gives sufficient, well, let me do one more. It is page 1117 and Mr Sayed sends General Khan a picture of a 911 Turbo Porsche and on 1118, he says:

“Remember your old car, bru.”

And General Khan says:

“The identical one, bro. I still remember it clearly.”

Now, Commissioners, there is a lot of this type of, you know, information that is shared. These are not the
20 only vehicles. There are other vehicles. There are videos of other vehicles, but this gives you a sense of what is being shared on these chats. But to save time, I am not going to go through every single one of those.

These images are shared with several people across General Khan's conversations. So with that

information in mind, which concerned, as I said, gifts, cash, property, cars, and the businesses, I would like to turn to the financial disclosure forms.

So we have the financial disclosure forms for General Khan for 5 years. They begin in 2021 to 2022.

ADV BALOYI SC: May I close these files?

ADV HASSIM SC: You may close them. We will not return to the chats. So it starts at page 1 of the financial documents folder and the first form is for the financial year
10 2021 to 2022 and you will see on the first block of information on personal details, the salary level is level 14. That is the salary band, which is approximately 1.3 million per annum. The form goes on to disclose shares, loan accounts. There is not much to be said there. Section 3 is on any other financial interests and here we see a number of companies that are disclosed by General Khan as financial interests. But there is only one company in which he describes as having financial value and that is Spares Oasis. It is fourth from the bottom and it is in the amount of
20 3 million. So you will see the first is Magic Spares. You would have seen some of the images of those businesses that date from 2021 and it has a nil value on this form. So the only company that is listed here with a value is Spares Oasis.

And then if you look at section 6, directorships and

partnerships, there is only one that is listed and it is Spares Oasis. And again, the value, in fact, what is listed here is amount of remuneration and the remuneration is 3 million. And in section 7, which is where you should disclose other remunerative work outside of employment, again, General Khan discloses Spares Oasis and he says the amount of remuneration, his own remuneration he says is 3 million. It is the same amount as disclosed in the other blocks.

ADV BALOYI SC: This is for the year 2021 to 2022.

10 **ADV HASSIM SC:** 2020 to 2021.

ADV KHUMALO SC: In the shareholding, section 3, is it not supposed to state the percentage, because the way it is recorded there does not make sense.

ADV HASSIM SC: There is several issues with it, Commissioner Khumalo. The first is, you will see the way he fills it in, it is interchangeable, shareholding and member. He is, in fact, a director of all of these companies, but he does not disclose that what his particular ...[intervenes].

20 **ADV KHUMALO SC:** What his interest is.

ADV HASSIM SC: Yes, what his interest is. And he does not disclose the amount of the interest.

ADV KHUMALO SC: Ja.

ADV HASSIM SC: So what percentage of it he has an interest in is not disclosed. And then the third thing is that

the only one that has any value listed is Spares Oasis and none of the others.

ADV BALOYI SC: Ms Hassim ...[indistinct] [microphone off] 21. Your page 1 says financial year 21 to 2022.

ADV HASSIM SC: I am sorry, Commissioner, I might have got – you are right, it is 2021 to 2022. If we look at page 9, pardon me, page 3, section 9, sponsorships is not applicable, gifts not applicable, immovable property, one immovable property is listed.

10 **ADV BALOYI SC:** It is on page?

ADV HASSIM SC: Page 3. And under vehicles, one vehicle is listed, an Uno Fire with a purchase price of R14,000.00. But what we see from the chats is that there are more vehicles and we have reason to believe more immovable property that is just not disclosed on this form.

ADV BALOYI SC: For purposes of a complete record, even if you do not do it now, should we not have recorded the additional assets that you say there are? So if you say in this period he had more than an Uno Fire, it seems to me
20 that it must go on record that in fact there was also this vehicle and that vehicle, so that we are locating whatever assets in the right period.

ADV HASSIM SC: Well, again, Commissioner Baloyi, if we had General Khan here, we would have gone through this in a different way.

ADV BALOYI SC: Yes.

ADV HASSIM SC: I will not be able to list all of the assets at this point in time. We have been able to match some of them with the period in time, but not all of it.

ADV BALOYI SC: Yes.

ADV HASSIM SC: So I would not want to make a claim that is an incomplete claim. In the absence of getting any answers from General Khan, we would need to do further investigations to be able to get the full list of property and
10 of vehicles. But as we go through this, Commissioner Baloyi, you will see in the further disclosures that more vehicles become added. So at this point in time, you know, but what I can say at this point, all I can say is that there were more than just this Uno Fire. The full extent I cannot say.

ADV BALOYI SC: Ja, I accept you may not be able to say the full extent, but if you are going to make a submission that in this period he had more than this one vehicle, more than this house, even more than this income in this period,
20 then there has to be on record some list of what are the additional assets that you are able to place in that period, because as matter stands, if we are going to end at one Uno, because this is what this form says and that is all we have got, I can see how we get constrained saying in that period he had five vehicles.

ADV HASSIM SC: Yes. So I must also add, Commissioner Baloyi, that this is not going to be the end of our discussion on the finances because we do need to have, for example, what is in this folder of yours of the spreadsheets is something I am not going to get to. We are going to be returning to the issue of the finances, so ...[intervenes].

ADV BALOYI SC: That gives me comfort.

ADV HASSIM SC: Yes. So this is to get us sort of started, for example, and to place the financial disclosures before
10 the Commission and that is as far as I am going to be able to go today on this. But this is not the end of the evidence, obviously. But this at least provides a backdrop for the Commissioners to know what it is that goes into disclosure forms.

ADV BALOYI SC: Thank you.

ADV HASSIM SC: And the purpose of going through the chats is to show, well, there is more there and we are going to have to come to it. But it is not in the absence of having some context that I am going through these forms.

20 **ADV BALOYI SC:** Thank you.

ADV HASSIM SC: So that is 21 to 22 that we first went through.

ADV BALOYI SC: Before you go to the next year, I may have missed it if you have said it, that this is financial disclosure to whom, for what purpose?

ADV HASSIM SC: These are financial disclosure forms that are, it is an HR requirement. It is a regulatory requirement that senior management, members of senior management, disclose their financial position and it is precisely for the purpose of managing conflicts of interest and addressing issues of corruption. That is the whole reason these forms exist. The Government does not have an interest in your private life, except to the extent that it needs to manage conflicts of interest and corruption. These
10 are the forms that are SAPS forms that are filled in by all senior management.

ADV BALOYI SC: Okay. It might be helpful. I am seeing at page 3, right at the bottom, it seems to tell us this is in terms of chapter 3 of the Public Service Regulations. So it is a statutorily required disclosure.

ADV HASSIM SC: It is a statutory requirement. And again, Commissioner Baloyi, we are going to have to return to this topic. It is an important topic of financial disclosures and it needs to be addressed in the context of the
20 regulatory framework and we intend to call a witness, in fact, to address that more fully.

ADV BALOYI SC: Thank you.

ADV HASSIM SC: So, that is the first year. The second year is 2022 to 2023. I mean, to move more quickly through it, unless the Commissioners have a question. But again, I

want to point out several things. On page 5, in section 3, we have the same disclosure. It is 3 million for Spares Oasis as a financial interest and then 3 million as an income, but it cannot be both. Either you earning 3 million or the value of the asset of the company is 3 million. Either way, something is not being disclosed.

On page 6, again, we have the amount of remuneration as 3 million for Spares Oasis. Under section 11, we have the same description for the immovable
10 property and we have, as a vehicle, the Uno Fire in section 12. So this is for the year 2022 to 2023.

On page 8, we have the disclosure form for 23 to 24. On page 9, we now see something different. We see under section 3 any other financial interests, not applicable. Income generating assets, not applicable. Directors and partnerships, not applicable. Remunerative work, not applicable. Nil values, not applicable. That is 23 to 24.

ADV BALOYI SC: Okay.

ADV HASSIM SC: Page 10, none of it is filled in. Well, it
20 is filled in as not applicable.

ADV KHUMALO SC: Not applicable?

ADV HASSIM SC: Not applicable. You will see under 13 that, you will see on page 10 under section 13 that it was received and acknowledged. So it is not a form that went nowhere it did go into the system. Page 11, we have the

disclosure for 2024 to 2025. What we now see, page 12, for any other financial interests is different again, because now you have a list of companies but not all. Now there are only six companies that are listed, not the full list that we saw in the initial financial disclosure. And we know from the CIPC records that General Khan remains a director of the other companies. We also see that it is the 3 million again.

ADV BALOYI SC: Sorry, you say he remains a director, not shareholder, not member.

10 **ADV HASSIM SC:** In all ...[intervenes].

ADV BALOYI SC: [Indistinct]... a director of the other companies.

ADV HASSIM SC: Yes. Yes, he is listed as a director in all of the companies. So we see the disclosure again. Now this is the year 24 to 25. Financial Interests Spares Oasis is the only one at 3 million. Magic Motors Spares and again I will refer the Commission to the pictures of Magic Motors Spares, the shops which were clearly in business, but the value that is reflected here is nil. It is reflected as nil under
20 the financial interest which would be the asset value of the company. But under other remunerative work it is not listed at all, Magic Motors Spares. The only one that is listed is Spares Oasis and again it is listed as 3 million.

On page 13 for immovable property it is the same property. And then on page 14 ...[intervenes].

ADV KHUMALO SC: The information stays the same for 3 years.

ADV HASSIM SC: Pardon. Sorry?

ADV KHUMALO SC: In the section 11, immovable property, that information does not change for 3 years, those entries there.

ADV HASSIM SC: It has not changed.

ADV KHUMALO SC: So, if you go back to page 1, sorry, the very first disclosure on page 3, is it on 3? That
10 information remains the same throughout and that is now over 4 years. So in section 11 on page 3 remember that is the very first disclosure.

ADV HASSIM SC: Yes.

ADV KHUMALO SC: We are now in 2025 and it has not changed.

ADV HASSIM SC: That is right. And that is 24 to 25. Now when we look at the vehicles under section 12 we see that there are 30 vehicles that are listed. So recall, Commissioners, in the year prior, immediately prior to this
20 there were no vehicles listed. And in the year immediately prior to that one there was only one vehicle listed. In this year there are 30 vehicles that are listed including the Uno Fire, but many more.

We see in section 13 on page 15 that it was submitted to the HOD and we see there is a column for

comments and in none of these disclosure forms are any comments noted. And one would have thought that there would be comments in these forms, especially if there is a form that suddenly does not disclose information that was in the form prior to that or in this case where it suddenly discloses ownership from zero vehicles to 30 vehicles but there is no comment that is noted on the financial disclosure form in section 13.

And then the final disclosure form is 25 to 26.

10 **ADV BALOYI SC:** Maybe before you go to the final, this 2024/25, at least until explained by General Khan, if you consider that in the previous year, and I am speaking specifically to the vehicles, if you consider that in the previous year there was nothing, then it is fair until explained to assume that all these vehicles would have been procured in 24/25 year, financial year and in that period nothing is owing as at the time of the disclosure so on the face of it, it looks like vehicles for 900,000, 950, 500, 700, would have been procured for cash because
20 nothing is owing in that period or paid off within the 12 months period. You understand the logic of what I am saying?

ADV HASSIM SC: That is correct, Commissioner.

ADV BALOYI SC: Ja.

ADV HASSIM SC: So it would have all been acquired, fully

acquired for cash.

ADV BALOYI SC: Ja, in that one year.

ADV HASSIM SC: In that one year.

ADV BALOYI SC: Ja.

ADV HASSIM SC: And as Commissioner Baloyi notes, it is, if you look at the value of vehicles, there are several luxury vehicles.

ADV BALOYI SC: Yes. Thank you.

ADV HASSIM SC: And hence my drawing to your attention
10 section 13 of this form because it seems to have gone unremarked by the person responsible for administering this form or for the person who supervises above that person.

ADV KHUMALO SC: Aligned to Commissioner Baloyi's point, there is no change in the disclosure about income.

ADV HASSIM SC: There is no change in the disclosure. It remains, in fact, to the number, the round number of 3 million.

ADV BALOYI SC: I suspect your answer will be that the witness that you are going to call will deal with this but just
20 let me test this. At page 10 where you have got that comment in the comments box, bulk acknowledgment by PSC official, I think you said, and if you did not say that then that is how I read it that that is a PSC official comment, whoever received the form. Am I reading it wrong? Or do you read it differently? I had read it that way

and then when we get to page 15 there is no comment and then it caused me to ask in fact who is supposed to complete this comment section.

ADV HASSIM SC: Well it is very unclear. I mean on page 10 it is not clear to me whether it is the official himself or herself that is annotating this and saying bulk acknowledgment. What is bulk acknowledgment? It seems to me that it might be some other person who says there was a bulk submission of these disclosures and there is a
10 bulk acknowledgment that they have been filed and nothing more. So no scrutiny of the form, merely an acknowledgment that it has been filed. And it is not clear to me that who actually annotated that.

ADV BALOYI SC: Your witness can speak to this I suppose, whoever is going to speak about these disclosures.

ADV HASSIM SC: Indeed Commissioner Baloyi. I think it is an important topic for us as a Commission to understand when it comes to the institutional reforms.

20 **ADV BALOYI SC:** Thank you.

ADV HASSIM SC: I think I was on the last form which is 25 to 26. It is unchanged in all of the respects regarding financial interests, sorry, no, regarding the remunerative work, the 3 million but you will see under section 3 any other financial interests, not applicable at a nil value.

Under directorships and partnerships only one, Spares Oasis. Other remunerative work, 3 million, Spares Oasis. Under immovable property it remains the same. Under section 12, vehicles, it is now not 30 vehicles but 22.

And then we see in section ...[intervenes].

ADV BALOYI SC: [Indistinct]... [microphone off].

ADV HASSIM SC: Yes.

CHAIRPERSON: 2020 ...[intervenes].

ADV BALOYI SC: ... 2021.

10 **CHAIRPERSON:** Oh, ja, ja, ja.

ADV HASSIM SC: Well, what it, yes it has kept its value, the purchase price.

CHAIRPERSON: And I am going to buy, you know I see that it has quite some longevity hey, 2,000.

ADV HASSIM SC: But now it is listed as the last vehicle in the list, so maybe it is on its way out, Chair. So it is now 22 and not 30 and in the last, let me say this, it is important, because now we have got the section 13, other financial liabilities and it says nil to Commissioner Baloyi's
20 point earlier.

And then section 14 it shows that it was submitted on the 28th of April 2026 and all it says under status is:

“Disclosure submitted by employee.”

So, now we see a different note under status. We do not even know who completed that form, who wrote that

in. There is no comments in the comments block. The form is just not, yes, there is just no information on that. So those are the financial disclosures as we have it for the last 5 years.

There is a lot for us to deal with on finances. For now, Commissioners, what I wish to submit is that the evidence of his lifestyle and financial interest that we pick up through the chats but also other information which is contained here but we are still to deal with it and we have
10 had some engagement with General Khan's legal representatives on the spreadsheet that is in this folder and we need to check the figures that is in the spreadsheet because there seems that there are discrepancies to be resolved and that is why we are not going there now before the Commission, because there is no value in putting up information to the Commission that we are not 100% sure of is accurate.

So that will be explored at a later date. But what we can say is that the evidence as we have it thus far, and
20 put it no further than this, is that it suggests that there has not been a full disclosure of his financial interest in these forms. That is the first thing. But even if it is, even if one were to say that what is contained in these forms is a full disclosure and is accurate, there are not any other companies. There is not any other source of income.

There is not any other asset, whatever it may be.

It raises serious concerns because the problem is not that we have a police officer, a senior police officer with outside interests. It is not that you may never have an outside interest and that is not at all what I am suggesting to the Commission. The problem rather is that General Khan was a senior Crime Intelligence officer and is a senior Crime Intelligence officer so at the time of the disclosures and he was earning two and a half times more a year than
10 his public salary. So on his own version, on his own disclosures he is earning two and a half times more a year from a private motor spares business than from his public office and at the same time what we have seen from the WhatsApp chats that we have gone through since Friday is he is simultaneously involved in discussions concerning the automotive parts procurement. He is talking about procurement officials and access and the like. We have been there already.

So, even on his own version there is a concern. It
20 is the amount of income relative to what he earns as a public servant and then it is the nature of the business. This next concern is that it is not merely a financial interest that comes from, it is not just a passive income.

CHAIRPERSON: At this stage are we aware of anything more than the 3 million or 3.5 million in terms of income?

ADV HASSIM SC: We have some records, Chair, but I did not want to go there because we are still clarifying the accuracy of those records. We know that there are many more companies.

CHAIRPERSON: I am asking because at this stage before you are able to talk about income that is more than what we see, let us say objectively, are you able to draw any inferences before you sort out the issues around the spreadsheets? For example, it says that the 3 million
10 comes from Oasis Spares shop. Let me just call it that. I am not sure of the exact name now. Are we able to say anything to gainsay that at this stage?

ADV HASSIM SC: Well, Chair, not – well, yes, we have some evidence. One is in relation to his other business, Magic Motor Spares which is a running functioning business. So there is ...[intervenes].

CHAIRPERSON: It does not, if somebody has a business it does not necessarily mean that they are making money but I do know of course there may be issues of when did he start
20 running that business, can he continue running it for example for 7 years if he is not making any money out of it? But I am not sure that at this stage we have that kind of detail.

ADV HASSIM SC: Chair, you do not have that detail in front of you right now.

CHAIRPERSON: Yes.

ADV HASSIM SC: What I am putting before you is a series of things.

CHAIRPERSON: Yes.

ADV HASSIM SC: And including the other businesses. Now even if he is not earning an income from it, it has an asset value and that is not recorded in the disclosure forms. And there are other companies, we do not know the full extent yet of that which is what we want to come to once we
10 spend a bit more time looking at those spreadsheets, which is why I am making the proposition at this point in time that we do not think so. We have reason to believe this is not a full disclosure. I am not saying anything more at this point about it. What I am rather addressing you on is let us assume this is a full disclosure let us take him on his version, and my submissions to the Commissioner, they are nevertheless serious concerns even on this version for the reasons I have been setting out which is one, the fact that it is two and a half times more than the public, his salary in
20 public office, that it concerns an industry in which he, we have seen, has had engagements with regard to procurement. And in fact, you know, it is also a, let me leave it there, I do not want to give evidence on other things.

CHAIRPERSON: And perhaps I should correct myself for

saying what we objectively see in front of us. I should rather have said what we see in front of us, because objectively suggests that we are able for ourselves to see what the position really is in terms of what we see. I should have just said what we see in front of us, and not use objectively.

ADV HASSIM SC: Oh, that is true, Commissioner, Chair, even off the financial disclosure form.

CHAIRPERSON: Yes.

10 **ADV HASSIM SC:** So let us assume that what it is, is correct and ...[intervenes].

CHAIRPERSON: Yes.

ADV HASSIM SC: And then my concerns remain, but they are different concerns. So I think the concerns are going to grow, but even at this stage, the concerns remain. We have also seen that this is not, you know, we have seen from the chats that there is a lot of engagement with the businesses. So this is not in the nature of shareholding in a company where you earn a passive income. This is an active
20 business. And again, General Khan may have an explanation, and he may say, we do not know what he may say about it, but it is not that kind of a financial interest where you earn a passive income.

And then the final point to be made on these financial disclosures is the one that I began to engage with

Commissioner Baloyi, and that is an institutional one. What is the purpose of these forms? And are these, is the design of these forms fit for purpose? Who do they go to? Who checks that they are completed properly? What follow-up and consequence management is there? We do not know that yet, but it would seem that this is not a workable or a functioning system that lends itself to accountability.

And so I think it would be important for us, in the time that remains with the Commission at some point, to
10 engage with the issue of the financial disclosure forms, but from the view of somebody who has a better knowledge and understanding of how this process is meant to function, and what it is meant to achieve, and whether in fact in this context, and remember, we are not talking about financial disclosures here of any government department, we are talking about financial disclosures in the SAPS, and so there will be a particular unique requirements, one would think, for these kind of financial disclosures.

So for now, Chair, that is what we wish to say on
20 the finances, with the caveat that we are not done with it yet.

ADV KHUMALO SC: Advocate Hassim, your first point, you highlighted the fact that General Khan is very senior within Crime Intelligence, and you state that as a fact. What we do not have is the organogram, the hierarchy

within Crime Intelligence, and what his role entails, and where it fits in, and why somebody in that role is so important, and why these disclosures are relevant, because that position is a particular position where that person deals with these types of issues.

ADV HASSIM SC: I think, Commissioner Khumalo, that would be something that we want to deal with, along with these other points that I have been making about financial disclosures. We know he is senior for several reasons, his
 10 position, but also his salary level is at 14, and also these kind of financial disclosures only apply to senior management service. But the point that you are making is that it is, the function that he serves is relevant, and so it must be tailored to, so conflicts of interest, for example, are different when you are a senior Crime Intelligence officer than when you hold some other position, and those are the things we need to explore through somebody who has better knowledge of how that system should work. So, Chair, that is for now, that is it from me.

20 will be back, but the next chapter is going to be presented by Mr Chaskalson, and I think if we are able to take a short adjournment to allow him to set up, that would be appreciated.

CHAIRPERSON: Let us adjourn. We will come back when we are told to.

ADV HASSIM SC: Thank you, Chair.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Good afternoon, Mr Chaskalson.

ADV CHASKALSON SC: Thank you, Chair. I have much more than half an hour's worth of open material to traverse, but what, with your permission, I would like to do first is, after I have switched off my phone, is to move the *in-camera* application so that we know where we stand in
10 relation to the *in-camera* application and then to use whatever time remains today to do a piece of the open material. And if we need to pick up the open material again, either tomorrow or at a later stage, well, we will need to pick up the open material tomorrow or at a later stage, we can do so then.

Chair, we have made an application for some of the chats of General Khan to be dealt with *in-camera*. It was posted and there has been no opposition to it, but for the benefit of the public, I would like to explain at least the two
20 central principles as to why we need to deal with those chats *in-camera* and the context, of course, is that before he was shot, General Khan had flagged the confidentiality of some of the information and had brought an *in-camera* application himself, which was subsequently withdrawn.

But it is clear to us from a, simply from inspecting

some of the chats that we have seen, that traversing those chats would disclose the identity of informants who are placed within organised crime gangs and are supplying information to General Khan and if we were to disclose their identities or even the evidence from which their identities can be inferred, that would put the lives of those informants and possibly other people at risk. So that is one category that we need to address *in-camera* because it really does pose a risk to life.

10 And then there is another category which relates to ongoing investigations into specific offences committed by organised crime groups and offences in respect of which there are ongoing investigations but the suspects have not yet been arrested and if we were to disclose that information, we might well either prejudice the investigations or possibly signal to the suspects that they are under investigation and that there is evidence against them and essentially invite them to abscond.

20 So those are the two categories that we have identified that we would like to lead *in-camera* and in the absence of any opposition to the *in-camera* application, I would ask that we are granted leave to lead that evidence *in-camera*. We were planning to do so tomorrow but that can be addressed later after, Mr Vally has certain concerns in relation to tomorrow which he would, I think, like to put to

the Commission. We would want to respond to that. But for now, we would ask for an order that those categories of evidence be permitted to be led *in-camera*.

CHAIRPERSON: Thank you, Mr Chaskalson. Mr Vally, before you state the concerns that Mr Chaskalson has referred to, I assume that there is no opposition to the application itself?

MR VALLY: Indeed, Chair, and it is not because there is an intention to not oppose. It is simply because we are
10 unable to extract instructions at this stage from our client.

CHAIRPERSON: Yes, yes.

MR VALLY: Now, if I may, while I have got the mic, address the concerns. The irony is not lost on me that we brought an *in-camera* application for the very reasons on which my learned friend, Mr Chaskalson, relies. And we have gone through their five-page Notice of Motion and Founding Affidavit and we now learn from his address to you what the actual concerns are and it is concerns which we shared, but we had additional grounds as well.

20 So if one now relies on the residual powers vested in me based on my previous instructions from General Khan prior to him becoming injured and unavailable, in principle, we do not have an objection had we had instructions to the matter proceeding *in-camera*. There is a lot more that we would like to say in any event. But now this creates a

procedural quagmire.

I understand from Mr Chaskalson that there is an intention to continue tomorrow. However, if I draw your attention to the 10.6 notice, this matter was set down for four days. It was last week, Wednesday, Thursday, Friday, and today being Monday. So we did not make any further days available for the continuation of the evidence. We will try, and in fact attempts are underway, for us to try to identify a date where we might be available, particularly for
10 the *in-camera*, because it may not necessarily be available publicly, the record, or how matters would proceed.

Ideally, we would want someone here. Now, had we been made aware at the earliest time that there was an *in-camera* application that was intended to be brought, or perhaps our *in-camera* application had succeeded for different reasons, but coming to the same relief, we could have made those arrangements earlier. So tomorrow is probably a no-show and I do not know what time we have left. I am happy to sit here until the early hours of
20 tomorrow morning, if needs be, to try to traverse as much ground as we can, because we are not here to frustrate the Commission's endeavour, or that of my learned friend. It just places us in a procedural quagmire.

Now, the way we see it is that there is one of three ways in which we can proceed. Either General Khan's

health does not permit him to come at all, or to tender a statement, or the more likely is that General Khan may, based on what has already transpired in these proceedings, commit to an affidavit from his hospital bed, or from another place of convenience. Or the ideal scenario is that his health permits him to actually attend, and then we can make up for the time that he was not here.

I cannot make any predictions on which of those three is likely, but my colours are pinned to the mast of an affidavit at the minimum, so that at least there is evidence
10 before this Commission which answers many things that we know the answers to, and things that we do not know from which we can get instructions from General Khan. For purposes of achieving that eventuality, it is important that we are given a line in the sand to say, well, this is the evidence, or this is the documentary evidence on which we expect answers, and ideally, these are the pro forma questions that we would like you to focus on.

Now we have certainty, and hopefully we can plan
20 something for the near future before the Commission's function comes to an end. So, in as much as I have said what I have said, I do not know the answers, and I would be looking to the Commission for guidance, and at the same time, still record our reservations about the matter proceeding in the absence of General Khan. I know I have

raised it before, I know you have made a ruling, but now given these new circumstances, I have to revive the objection. So that is where we are, Chair, the most difficult of circumstances that any legal practitioner can face in these circumstances.

CHAIRPERSON: You do not even have a PA, a professional assistant, that could be in attendance tomorrow?

MR VALLY: What we are trying to do is to make
10 arrangements that somebody can attend to the various matters. In fact, I will give you an example. I was briefed in a matter for the urgent court in Pretoria. I have contacted my professional assistant in an effort to try to ask that the presiding officer consider rolling the matter over to later in the week when I can attend, but we do not have answers just yet, so we are not entirely sure. If the matter is to proceed tomorrow, and we are not here, we ask for, well, we ask to be excused, number one. And number two, we will make arrangements with Mr Chaskalson for whatever
20 record we might be able to procure.

If in the off chance, Lady Luck smiling upon us, we are available, then that sorts out the dilemma. Perhaps Mr Chaskalson can give us an indication of how long his address is intended, and we can try to make ourselves available. If not, that we attend on time at half past 9 when

the Commission starts, perhaps later in the day as well if there is any other business that they may suitably interpose or deal with while waiting for us. And I certainly do not want to keep the Commission waiting, so I am trying my level best this afternoon to make those arrangements.

CHAIRPERSON: Thank you. Part of the takeaway for me is that you are saying if push comes to a shove, you will be asking to be excused.

MR VALLY: Indeed, to the extent that it may be required.

10 We are here, as I previously explained, on those conditions.

CHAIRPERSON: Yes, yes. Thank you very much. Thank you, Mr Vally.

MR VALLY: Thank you, Chair.

CHAIRPERSON: Yes, Mr Chaskalson.

ADV CHASKALSON SC: Chair, I think that Mr Vally and I should stay in touch over the evening and early tomorrow morning. There are really two ways that we can do this. We will have, I still have a couple of hours at least of open session address to go through. That will be addressed in
20 public with a full recording, and if Mr Vally is unavailable at a particular time tomorrow, we can schedule around that time so that the open address is done at that time.

The *in-camera* session, my sense, is probably three hours in total, and we would prefer Mr Vally to be there in person or a representative to be there in person, but we will

ensure that it is transcribed and recorded and given that we are dealing with a situation where there is no witness who needs to be protected or advised live in the moment, we submit that, although it is not ideal, if Mr Vally gets a full transcript and recording, and obviously he has all of the documents to which reference are going to be made, he will still be able to advise General Khan in advance of any affidavit that General Khan is going to prepare or indeed any appearance that General Khan is going to make if he
10 recovers, as we certainly hope he does, speedily enough to appear before this Commission.

So we would ask for the *in-camera* order to be granted. We undertake that we will coordinate with Mr Vally so that to the extent possible tomorrow, that session will be held at a time convenient, I want to say convenient, less inconvenient to Mr Vally, and we will certainly make available a transcript and a recording of that session to Mr Vally, and that then, and he will have ample time to consider it before we demand any statement from General
20 Khan.

CHAIRPERSON: Thank you, Mr Chaskalson. The application is granted, that is the ruling, but for a fuller expression of what exactly the ruling entails, I am asking for a draft order. This is similar to I think what we did with Witness K, if I am not mistaken, because sitting here I will

not be able to delineate everything. And also there is that about a list of persons and so on, so all of that will require a draft order. And for purposes of publication and the interest of everybody, the order once granted after receipt of the draft order will be posted in the Commission's website and will also be circulated to the media, and of course it will be sent to the attorneys. Thank you, thank you very much.

We heard you, Mr Vally, but as much as one would
10 have loved to have you here tomorrow, we take comfort in the fact that you did say that if push comes to shove, you will ask to be excused. My view is for us to continue. You will be furnished with a copy of the transcript. If you do not attend, if you are unable to attend, and if you are not able to even send a professional assistant, you will get a copy of the full transcript, and the copy that you get will not be redacted. What will be redacted will be what goes out to the public.

And you are free, and indeed if General Khan is in
20 a position to give instructions, he too is free through you to give instructions as to what should be done with the content of the transcript. Thank you.

MR VALLY: As it pleases you. Thank you, Chair.

CHAIRPERSON: Thank you.

ADV CHASKALSON SC: Chair, we have 15 minutes left. I

am in the hands of the Commissioners. I could certainly start a subtopic. I am unlikely to finish any discrete topic.

CHAIRPERSON: Let us go on until half past 4.

ADV CHASKALSON SC: Thank you, Chair. For the purposes of this presentation, I am not going to try to direct you in and out of a core bundle, because the core bundle was not drawn up with this presentation in mind, so we will flight the relevant passages, and we will flight them also to your laptops. There are some details where we will not be
10 able to flight them publicly, because I mean in particular I have to refer to the officer who was not named earlier, and whose name appears on one of the chats to which I want to refer quite soon, and so that will not be displayed publicly.

But the first topic which I want to raise is the relationship between General Khan and the late Mr Wiandre Pretorius. And, Chair, you will recall that we heard testimony from the late Witness D that Mr Pretorius was part of a gang that was essentially a criminal theft and extortion gang, comprising several members of the EMPD
20 and in particular, Witness D testified that Mr Pretorius was part of the group responsible for torturing Mr Emmanuel Mbhense to death during one of the operations of this gang, and then suggested that they should call General Khan to fix it, when they were debating what to do with the body of the man they had just killed.

Now, if we go to page 1894, we see that General Khan in a chat with another person, who is, posts a happy birthday picture of himself next to a man who is in fact Mr Pretorius and we have identified Mr Pretorius independently, but that in fact is confirmed by General Khan himself, because after some questions from his counterparty in this chat, which take a while to decode because they are full of, there is a bit typo in the middle of them, the counterparty writes:

10 “His tjay?”

And what he wants to say is “who is that”. He follows that with that, and if you go over the page to 1895, General Khan responds, Wiandre. And the counterparty says:

 “Okay, cool, his birthday.”

And General Khan says:

 “Mine, bro.”

20 So, certainly by January 2021, Mr Pretorius and General Khan were on birthday card greeting terms. Later that month, if we go to 3428, and here we may not want to display it publicly, because this is the chat with the officer who was responsible for counterintelligence against the journalist Marianne Thamm, and whose name we have not yet mentioned. If we go to the footer page 3428, I do not know, Commissioners, if you see 3428, if you can get to

3428. In fact, we can display a redacted copy, which will not be a problem.

On 14 January, at message time 14:33, the officer says:

“Hi, General, with your permission, I am issuing Wiandre with a permit, just letting you know.”

We will not then display the next message, where the General says:

10 “Hi, so and so, no problem.”

And then over the page, the officer says:

“We need team players on our side.”

The processes involving Mr Pretorius next appear on the ...[intervenes].

CHAIRPERSON: So, just to say, we should be careful. I am just looking at the picture that was shown there. We should warn sensitive viewers that something like that is going to appear on screen, because I thought the focus was more on the text than the picture. Or am I mistaken?

20 **ADV CHASKALSON SC:** I was also focusing on the text, not the picture.

ADV BALOYI SC: The mic.

CHAIRPERSON: Oh, sorry, sorry, your mic, your mic.

ADV CHASKALSON SC: I was focusing on the text, not the picture, so I did not even, but I will pay more attention

to pictures.

CHAIRPERSON: Thank you, thank you.

ADV BALOYI SC: A different issue, where you are reading for us and you are not projecting, do Mr Vally's team have copies of what you are referring to? Do they know, even if it is redacted, because it might be sufficient for us to have you read, but for them to want to see what it is you are referring.

ADV CHASKALSON SC: I understand Mr Vally's team to
10 have all of our, the full set of chats to which I am referring.

MR VALLY: Thank you, Commissioner Baloyi. If we identify we do not have one, I will be sure to interject. Thank you very much.

ADV CHASKALSON SC: Then, the next reference to Mr Pretorius is on the 10th of May of 2021, and it is at page 5837. It is in the chats between Mr Sayed and General Khan and it is a video that Mr Sayed sends to Mr Khan, which we will display, because it is a video that he sends of Mr Pretorius next to an unmarked car with blue lights.

20 **ADV BALOYI SC:** You say this is sent by?

ADV CHASKALSON SC: Mr Sayed.

ADV BALOYI SC: To General Khan?

ADV CHASKALSON SC: To General Khan.

ADV BALOYI SC: Thank you.

ADV CHASKALSON SC: And General Khan's response is,

he is looking sharp in the next chat. A few days later, Mr Sayed sends two more videos of Mr Pretorius with blue lights. That is on the 15th of May at page 5873. It is the media files at 10:01:44 message time. We do not seem to have volume, but I know from my experience of that video, it comes with sound as well, the sound one expects in a vehicle with a blue light. There will be other videos where we need volume.

VIDEO PLAYED BACK

10 And the second video that he sent.

VIDEO PLAYED BACK

And Mr Sayed follows up those two videos at the top of 5874 with a message to General Khan:

“That is how we roll, boys in blue.”

And General Khan responds:

“Too good bro.”

Now, the chat suggests that General Khan arranged for Mr Pretorius to work for Mr Sayed, where he would conduct raids on the competitors of Carnilinx in the illegal
20 tobacco industry and we infer that from a chat on the 21st of June 2021 at page 6005. And there at message time 7:50:18 a.m., Mr Sayed says to General Khan:

“Bru, won't Shaheen get upset that W ...”

And W is a reference to Wiandre.

“... is resigning? Will you please handle

it for me when the time comes and tell him that you placed him by me for other reasons.”

And General Khan responds:

“I discussed it with Wiandre, we have a plan.”

ADV BALOYI SC: Do we know or will it become apparent who is Shaheen in this scheme, if it matters at all?

ADV CHASKALSON SC: We think we know. It will
10 become, certainly before this Commission ends, we will have established with certainty. Now, what Mr Pretorius was doing with Mr Sayed is illustrated by a series of chats from 6038 and there at the top of the page, General Khan messages Mr Sayed:

“Salams brother. Wiandre has a lead on a big cigarette bust on the East Rand. Maybe give him a call.”

And I just want to pause there so that we can contextualise what we are looking at. We are looking at a
20 Crime Intelligence General calling an executive in the tobacco industry, saying that someone who they both know has a lead on a cigarette bust on the East Rand and so the tobacco industry executive should give him a call. And it requires some explanation because one would imagine that if a bust is taking place in an industry, one does not notify

players in the industry, even if they are competitors, while that bust is taking place. It is something for the police to do, not for the industry to be told about.

ADV KHUMALO SC: Mr Chaskalson, when you started on this topic, you said that officer, whose name we will not mention, was discussing with General Khan the issuing of a card or a document to Mr Pretorius. Is that card or document issued in terms of the law or does it reflect that he is a law enforcement officer? What does it show
10 exactly?

ADV CHASKALSON SC: We do not know. We have not seen. That is a question we would like to ask both of those officers, both General Khan and that officer, what is that permit? He refers to it as a permit. We do not know what it is, but, yes, I mean it is a document that would purport to permit him to do certain things. Whether it was lawfully issued and what it purports to permit him to do, we do not know.

But then there are a series of voice notes that are
20 sent by Mr Sayed to General Khan, some of which are forwarded voice notes that Mr Pretorius has sent to Mr Sayed, and we will play them through one by one. So, starting with the first one.

VOICE NOTE PLAYED BACK

“Salams Gen. No, he sent me a message

also. He sent me a voice note right now.
He was at the factory. He is on his way
to Benoni. I told him I will dispatch the
boys. He must just identify where he is
going to.”

So that is Mr Sayed telling General Khan that Mr
Pretorius has sent him a message too. He is on his way to
a place in Benoni for the bust and Mr Sayed has told Mr
Pretorius that he will dispatch the boys. So there are some
10 boys who Mr Sayed controls who apparently are going to be
part of this bust as well. Whether they are police or private
agents of Mr Sayed or Carnilinx, we do not know.

VOICE NOTE PLAYED BACK

“Ja, no, please be on standby. Be on
standby. I am rushing to Benoni. The
informer just phoned me. The truck just
arrived now. Fuck, the truck arrived,
they are busy offloading the cigarettes
now in Benoni. I am rushing there. I am
20 going to quickly pick up the informer to
show me the place.”

That is a message that Mr Pretorius has sent to Mr
Sayed and he has now forwarded it to General Khan.

VOICE NOTE PLAYED BACK

“Okay, listen, must I, must I send the

boys there to Benoni as well? I can send them as well to Benoni.”

And that we understand to be Mr Sayed. We may be wrong saying but the, he can send the boys to Benoni.

VOICE NOTE PLAYED BACK

10 “Okay, let me just pick up the informer quickly and ID the place. I just spoke to Colonel Singh now as well. He is with the General. We are quickly going to arrange people so we can hit there, because you know if it is in a warehouse there is going to be a lot of cops involved there. So I want the big brass to be there so they can assist us and take over the scene.”

So that again is Mr Pretorius saying he has spoken to a Colonel Singh who is with General Khan and he wants General Khan to be there because he wants big brass there to be able to take over the scene. Then there is a message
20 just “okay” from Mr Sayed to General Khan and then a series of further messages that he forwards from Mr Pretorius to General Khan.

VOICE NOTE PLAYED BACK

“Let us hit them hard. Let us hit them hard. I am rushing to pick up the

informer quickly so he can show me the place. We are going to *moer* them hard today.”

That message speaks for itself. It is Mr Pretorius.

VOICE NOTE PLAYED BACK

“But you must come there and you must try for the General also to come out.”

So he wants both Mr Sayed and General Khan to come.

10 VOICE NOTE PLAYED BACK

“But you must come there and you must try for the General also to come out. Arrange with the General, then you come here, man.”

Arrange with the General so that you can come, you can come there. There is then a call from Mr Sayed to General Khan. Those earlier messages are at 11:23. At 11:24 there is a call that is not answered. And then from 11:50 there are a series of photographs of people lying on
20 the ground, presumably having been arrested or apprehended and of a truck which we see at 6043 that has boxes in it. And at the foot of 6048 we see some cigarette packets which we can infer were found in the boxes.

CHAIRPERSON: You have stopped the flighting.

ADV BALOYI SC: [Indistinct]... [microphone off].

ADV CHASKALSON SC: I am not sure. I mean, do we need a disclaimer here? I mean these are people lying on the ground. They do not appear to have been shot.

CHAIRPERSON: Ja, I think it is fine.

ADV CHASKALSON SC: And if we can just scroll through those pictures.

ADV BALOYI SC: Mr Chaskalson, you said there are boxes of cigarettes. Where do we see that?

ADV CHASKALSON SC: I saw some boxes of cigarettes
10 on the ground, but not many. I am inferring that the boxes, well, if one goes for instance to the top of 6055, one sees an open box with sort of blue coloured stuff, the blue coloured boxes inside it. And then if we go higher one sees at the foot of 6048, and if we can zoom in on that, I think that those would be examples of the contraband cigarettes that were allegedly found at the scene. If you look at that together with the open box at 6055, the suggestion certainly is that these boxes are all, and at 6061 as well, are boxes of cigarettes. There is later voice notes which I have not
20 actually prepared as media files.

CHAIRPERSON: Sorry, sorry, for the record maybe I should say they do not look branded, the boxes.

ADV CHASKALSON SC: I think that they may be branded.

CHAIRPERSON: Is it?

ADV CHASKALSON SC: I think that they may be branded.

If we zoom in on the boxes on the ground I think we might see some branding.

ADV KHUMALO SC: Mr Chaskalson, I think Chair is referring to the big boxes.

CHAIRPERSON: I am talking about ...[indistinct] [cross-talking].

ADV CHASKALSON SC: The cardboard boxes ...[indistinct] [intervenes].

CHAIRPERSON: I think the cardboard boxes
10 ...[intervenes].

ADV CHASKALSON SC: ... no, they certainly are not branded.

CHAIRPERSON: Yes, that is what I am talking about. Ja, no, what was on the floor I think are obviously cigarette packs at least.

ADV CHASKALSON SC: I seem to remember media files where Mr Pretorius actually says there are cigarettes underneath packets of sweets and bananas.

ADV BALOYI SC: You can always come back to it if it is
20 important to you.

ADV CHASKALSON SC: Ja.

ADV KHUMALO SC: And on 6048 those are packs of cigarettes.

ADV CHASKALSON SC: Yes, inside the cardboard boxes would be the cigarettes and they would be covered on the

truck. So, if, for instance, we look at the back of the truck on page 6046, we see a whole lot of plastic bags of sweets and behind them the cigarettes.

ADV KHUMALO SC: At least the one cardboard box that is open, you can see that what is inside those cardboard boxes looks like the cigarette packs that are on the floor on page 6048.

ADV CHASKALSON SC: Indeed. What I did not do is download, it is a video file where he is describing what is
10 taking place and that we will, we can arrange for that briefly to be shown tomorrow. But what I do want to draw attention to is the response of General Khan at 6069 where he says to Mr Sayed:

“Great work brother.”

And again, this is something that I think we need to step back and consider. What we have is a Crime Intelligence officer whose job it is to police the illicit tobacco market who is complementing a player in the tobacco market for essentially doing the work of Crime
20 Intelligence in relation to a competitor of his and it looks very much like what is going on here is that the Crime Intelligence resources are being used to enable Carnilinx to take out a competitor or to raid a competitor in the name of the law.

That inference that we draw is reinforced by a

number of exchanges between Mr Sayed and Carnilinx, where if we go to page 5966 ...[intervenes].

CHAIRPERSON: Sorry, perhaps we should have read the text below the one that says great work or something. That is where Mr Sayed is saying:

“All thanks to you basically.”

ADV CHASKALSON SC: Indeed.

“No my bru, jazakallah to you.”

Thanks to you.

10 **CHAIRPERSON**: Yes, yes.

ADV CHASKALSON SC: And then we have a series of exchanges between Mr Sayed and Mr Khan where Mr Sayed is, sorry, General Khan, where Mr Sayed is essentially asking General Khan to target a competitor of his, called Protobac. Protobac. It starts at 5966, at the foot of 5966 on the 11th of June 2021 where Mr Sayed says:

“Protobac factories in Old Union Cotton Mills factory, East London. They will know. Can't get it wrong.”

20 Over the page:

“Please bru, they are manufacturing cigarettes, Pacific, Pegasus. I need to F them out of sight.”

And General Khan says:

“Okay bro.”

At 6185, a month and a bit later, Mr Sayed sends to General Khan a SAPS tweet recording a successful raid at the Protobac factory and he says underneath that on 6186:

“This is the same f'er in East London,
Protobac that is busy with s... there.
Govender's guys must seize it.”

And at 6190, Mr Sayed sends to General Khan a tweet from, issued by SAPS which describes a raid on Protobac. Not only does he forward the tweet, but he also
10 forwards what looks like an extract of a SAPS register of what has been seized, because if we see the next chat, also on 23rd of July, 1:26:13, and we zoom in there, what it shows is particulars of the goods detained and it says:

“152 x 200kg boxes of raw tobacco; 1127
x 200kg of cut rag.”

And he says underneath:

“Pro tobacco. All seized. Seems these
people are doing funnies via a bond
store.”

20 This is all Mr Sayed. And he says:

“Next week they are going to pounce on
the bond store.”

So he has been given advance notice that SAPS is going to raid Protobac's bond store where they are doing something in relation to excise tax. And he then complains

that there is a discrepancy between what is reflected as having been seized and the output of that, because he says after next week they are going to pounce on the bond store.

He says:

“The cut rag is imported from Zim as raw lamina at 200kg, but this is contradictory because cut rag one can fill 100 to 110kg per box. I will keep you in the loop.”

And then underneath:

10 “Protobac is looking at under entries and penalties of 120 bar.”

He is saying they are going to be fined R120 million for tax evasion, or excise tax evasion. Protobac is not the only competitor who is being targeted in these chats between Mr Sayed and General Khan. There is another competitor, Gold Leaf Tobacco, whose primary brand is Remington Gold, and we see several chats where Mr Sayed and General Khan exchange information about raids on Gold Leaf and the seizure of Remington.

20 So if we go to page 451, there on the 20th of April 2021, General Khan forwards to Mr Sayed a SAPS report on a Customs and Excise Act, Tobacco Control Products Act operation which is against Remington Gold and we see Remington Gold mentioned at page 452 where the operations, the Parys, SAPS Parys conducted operations on

one, JJ wholesalers, two, Delight Wholesalers and the goods seized in Parys SAP13 register, 110 times carton Remington Gold; 50 times cartons that says Pagasus. I think it is Pegasus. And if you recall from Protobac, one of the Protobac brands was Pegasus.

Mr Sayed's response is:

“Brilliant bru.”

General Khan says:

“Did Green tell you?”

10 And so General Khan expects that someone called Green would already have briefed Mr Sayed on this raid on one of his competitors or involving one of his competitors brands. And Mr Sayed said:

“He did mention to me but not in this detail.”

We see another operation targeting Remington on the 11th of June 2021. That is at 5969 and there Mr Sayed says:

20 “Salam. Do you have anyone at Komatiepoort ...”

The border between South Africa and Mozambique.

“... that can check if they intercepted the truck for us.”

If they intercepted the truck for us. So the executive from Carnilinx wants to know from SAPS if they

have intercepted a truck for us.

“Let me ask. The one I sent to Hog was intercepted in Bela Bela. Waiting for feedback. Koffiefontein. It is positive. They are busy now. The other truck was caught other side of the border.”

Over the page.

10 “Bela Bela truck cannot get through to people on scene. We flagged about 15 trucks of GL.”

That is Gold Leaf, the Remington company.

“And now it is paying off.

What was on?”

There is a “why” and then the answer comes:

“Remington Gold.

How many cases?

Truckload.”

20 Now, while this is taking place, we see a parallel set of chats where, although Mr Sayed is very enthusiastic about raids on competitors, he is particularly unenthusiastic about general attempts to crack down on the illicit tobacco industry and in particular about the activities of Mr Yusuf Abramjee who was at the time running a campaign against illegal tobacco.

ADV BALOYI SC: Before you go to those. These which we

just looked at, this is Mr Sayed and who?

ADV CHASKALSON SC: Mr Sayed is communicating ...[intervenes].

CHAIRPERSON: Your mic is off.

ADV CHASKALSON SC: General Khan. The chats are between Mr Sayed and General Khan. There may well be chats that are forwarded from chats that somebody else has sent to Mr Sayed and that he is forwarding to General Khan, but the third party we cannot identify because we do not
10 have Mr Sayed's chats. We only have General Khan's chats.

ADV BALOYI SC: Okay, so what we looked at, what you showed us now in that screen it is a series, all of them from Mr Sayed. Where do we see that they are going to General Khan?

ADV CHASKALSON SC: Because these chats were taken from General Khan's phone.

ADV BALOYI SC: They were received from his phone ...[intervenes].

20 **ADV CHASKALSON SC:** So there are chats ...[intervenes].

ADV BALOYI SC: Okay.

ADV CHASKALSON SC: So anything in white on these chats is chats that the sender sends to General Khan.

ADV BALOYI SC: Yes.

ADV CHASKALSON SC: Anything in green is what

General Khan sends to the sender.

ADV BALOYI SC: You have answered me, thank you.

ADV CHASKALSON SC: If we go to 6107, there we see that on the 7th of July 2021, Mr Sayed forwards to General Khan a post from Mr Abramjee, which is taking issue with the scale of tax evasion and tax criminality in the illicit tobacco industry. And it quotes, the post quotes Mr Abramjee:

10 “Just when South Africa needs every cent
available to combat the pandemic and the
country is crying out for the enforcement
of our laws, criminals are being allowed
to loot the nation of billions of rands by
making and selling tax-evading
cigarettes, warns Yusuf Abramjee,
founder of the Tax Justice South Africa.
We need an immediate enquiry into the
industry to investigate how this is being
allowed to happen. The new report by
20 market researchers Ipsos, which is
published today, reveals 2 in 3 shops in
the hotspot provinces of Free State,
Gauteng and Western Cape sell illegal
cigarettes. Illegal cigarettes are on sale
in nearly half, 41% of all shops

nationwide.”

And then there are a whole lot of statistics. And down at 6108, we see a complaint about Gold Leaf Tobacco, which Mr Sayed would not presumably object to. It says:

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

That is the minimum collectible tax. I do not know
10 if we have discussed it, but that is the total amount of tax that would be paid on a packet of cigarettes. And what these studies are showing is that cigarettes are retailing at a price which is below the tax that ought to be paid on them. So there has to be tax evasion because it is not even a cost price. It is below a tax, below, you know, the amounts, the retail price is below the amount of tax that ought to be paid by the retailer, never mind the retailer's purchase price itself.

So this post says that:

20 “Brands belonging to Gold Leaf are winning the illegal price war with a number of South African brands purchased below the MCT rising by 25%. The number of brands belonging to Carnilinx bought below MCT has rocketed

by a third.”

And so he is not only pointing a finger at Gold Leaf, he is pointing a finger at Carnilinx, saying that the number of your brands that are purchased below the minimum collectible tax, which means they must involve tax evasion, has rocketed by a third. And then there is a lengthy description of the problems that this causes to the country and at the bottom of the post one sees:

“#LockThemUp.

10 For media queries contact Yusuf
Abramjee, yusuf@taxjusticesa.co.za.”

And a phone number is given. The response of Mr Sayed to this is to forward to General Khan, who ought to be investigating illegal tobacco:

“Abramjee going to get effed up, bro.”

General Khan responds back:

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

So what we have here, and sorry, Mr Sayed says:

20 “100%”

What we have here is a General in Crime Intelligence whose job it is to investigate the illegal tobacco industry agreeing with the executive of a company whose brands, on a large scale, are being sold below the minimum collectible tax rate, in other words, at a price which must

involve tax invasion, that the person raising objections to this state of affairs needs to get effed up and must stay in his lane.

That, and if we can just pause here, what makes this so pernicious is that these laws, it is not that these laws are not being administered, it is that they are being administered selectively. So what one sees is, in the earlier chats, a series of exchanges between Mr Sayed, who is the Carnilinx executive, and General Khan
10 enthusiastically applauding raids of illegal tobacco products that belong to competitors, either Protobac or Gold Leaf. But when the finger is pointed at Carnilinx, there is, you know, abusive comments about the person pointing the finger and saying stay in your lane.

There is then a second episode of this nature which we see at the foot of page 6458 and this is now in October 2021. The first set of posts that we saw was in July. It is now three months later. And in October 2021, Mr Abramjee is posting about the same issue and now the numbers have
20 changed three months down the line.

“Brands belonging to Carnilinx, the chief member of the FITA ...”

I think that is the Free Trade Association of Tobacco.

“... were the most frequently (62%) found

below MCT.”

Minimum collectible tax.

“Purchases of brands owned or licensed by Afroberg, whose name has been removed from the FITA website in recent weeks, were the second most prevalent, 59% below MCT. The usual suspects are implicated just as TJSA has found ...”

Tax Justice South Africa.

10 “... has found in its own investigation, said Mr Abramjee. TJSA has been conducting research independently into the illicit trade over recent months and will be releasing our report soon. We hope it serves as a wake-up call to the authorities. South Africa cannot afford this industrial-scale looting to continue a single day longer.”

And then another post:

20 “Tax Justice SA has uncovered breathtaking new details about the crime wave that is sweeping South Africa and robbing honest, hard-working citizens of billions of rand. We will be releasing our explosive report soon.

#LockThemUp@sarstax@SAPolice

Service@Abramjee@EdKieswetter.

Coming soon, explosive new report on the biggest crime wave sweeping South Africa.”

The response of Mr Sayed is:

“This P is asking for it, bro.”

And General Khan says:

“We can sort it out easily.”

10 Now, that is the, I have come to the end of that topic, about the apparent alliance between General Khan and Carnilinx, through Mr Sayed, both in terms of raiding competitors of Carnilinx and in terms of resisting, or at least expressing an intention to resist, the campaign of Tax Justice SA to crack down on tax evasion in the illicit tobacco industry.

I am going to move on to a completely different topic now. It is ...[intervenes].

CHAIRPERSON: Do we do that tomorrow?

20 **ADV CHASKALSON SC:** I was going to suggest we do it tomorrow. My guess is I probably have an hour to go.

CHAIRPERSON: Let us start it tomorrow morning, then.

ADV CHASKALSON SC: Thank you, Chair. And then we will start, subject to what Mr Vally and I discuss tonight, we will probably start the open session tomorrow, unless it

makes sense to do it the other way around, given Mr Vally's arrangements for tomorrow.

CHAIRPERSON: Thank you. Thank you. I got word that what I said, or rather the ruling, something technical happened or cropped up, and as a result, I do not know what part of the ruling was not heard. I got a message from our spokesperson, so I do not even know what to repeat.

What I said was the application is granted. Details will be contained in a fully stated or expressed ruling which
10 will be posted on the Commission's website and which will also be published or served on the media. I think that is the important part that I said. And, of course, the ruling will be served on the attorneys as well.

I hope that captures whatever it is that was not captured for reasons not known to me, because my mic was on. Let us adjourn and resume at 9:30.

INQUIRY POSTPONED TO 7 JULY 2026

INQUIRY ADJOURNS

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