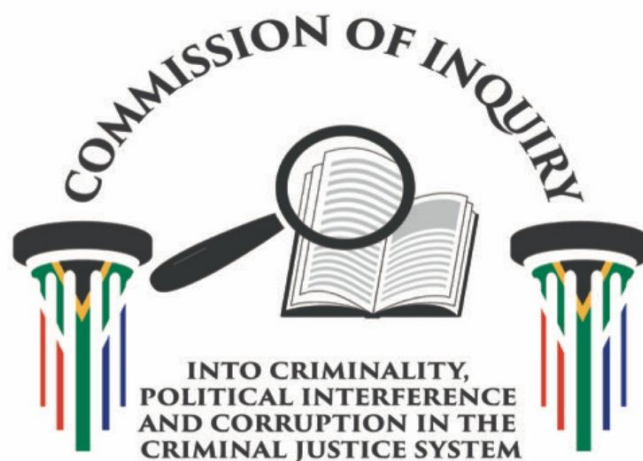


JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

18 AUGUST 2026

DAY 161



PROCEEDINGS ON 18 AUGUST 2026

CHAIRPERSON: Good morning, Mr Chaskalson.

ADV CHASKALSON SC: Morning, Chair. Chair, as you are aware more than me, we were supposed to be dealing with Mr Matlala today, but because he is postponed and because we do not have another witness who can just drop in on a day's notice, we have decided to use today to deal with evidence flowing from the WhatsApp chats of the late Mr Msibi. So I will be presenting some evidence extracted
10 on the WhatsApp's extracted from the late Mr Msibi's phone. And some of it speaks for itself, some of it I will be suggesting some inferences which other witnesses may have to clarify or refute.

I would ask the Commission to bear with me a little today because this has been prepared on relatively short notice, so it may not flow smoothly as might otherwise be the case. But let us kick off. And the first issue that I want to address is a project that seems to involve, at different stages, Mr Msibi, Mr Katiso Molefe, and Mr Steven Motsumi,
20 involved in dealing in grabbers. Grabbers are technology that enable you to eavesdrop on cellphones and to extract information from cellphones.

And the starting point for this topic is Mr Nkosi's chats, sorry, Sergeant Nkosi's chats. And if we can go to page 116 of the bundle, and there we see extracted from

Sergeant Nkosi's phone, extracts from a chat with someone whom he describes as Shaun Jacobs, or whom he has saved as "Shaun Jacobs phone expect", but I think that is a typo, it should be phone expert. And at chat number 4 on the 20th of January 2023, the person who we will call Shaun Jacobs, because that is what Sergeant Nkosi calls him, says, writes to Sergeant Nkosi:

10 "Hello Fannie, please give me a call
 when you have a moment. I want to
 know if the Swazi deal is still on the
 table."

That is from Mr Jacobs to Sergeant Nkosi. If we then go to page 95 of the bundle, which is Sergeant Nkosi's chats with Mr Msibi, the late Mr Msibi, we see in chat number 1 that Sergeant Nkosi, after receiving the message from Mr Jacobs, forwards a screenshot of that message to Mr Msibi, and if we go back to 116, we see that on the 23rd of January, Mr Jacobs says:

20 "Hello Fannie, hope you are well. I have
 a team coming in for the demo in early
 February. Let me know if you guys are
 still interested."

And Sergeant Nkosi immediately responds:

 "Yes, we are."

That response, yes, we are, comes at 9:12 in the

morning. If we go back to page 95, we see that Mr Msibi tells Sergeant Nkosi in relation to the earlier screenshot of is the deal still on the table, he says:

“It is on the table but they have to display, we do not want to become fools.”

Sergeant Nkosi responds to Mr Msibi:

“I think this time they are more ready.”

And he sends again the screenshot of his exchanges with Mr Jacobs. If we then go back to page 116,
10 we see on 27 January:

“Hello Fannie, hope you are well.”

Says Mr Jacobs.

“We are available 9-11 February to do a demo for your team.”

And that too gets forwarded on page 95 from Sergeant Nkosi to Mr Msibi. That is at 1:27 p.m. on the 27th of January. Zigzagging again back to page 117, and there are a series of chats from the 30th of January at the top of page 117 about arranging the demo. Mr Jacobs says:

20 “Hi Fannie, please confirm the dates you are available for the demo above. As mentioned, I will be in Johannesburg from 9-11 February, I have the 9th or 11th available. Demo will be at the Irene Country Lodge.”

Sergeant Nkosi says:

“Morning. I am confirming at 12:30.”

Mr Jacobs sends emojis indicating thanks. On the 31st, he has not had his confirmation. He says:

“Morning Fannie, can we ...”

Oh, sorry, he has had his confirmation, because morning, I am confirming at 12.30 means, you know, we will do it at 12:30. Mr Jacobs the next day says:

10 “Good morning Fannie. Can we please move our session to 12:30 on Thursday as we have another team from 9 to 12. Please advise if this is okay, I do not want to create unnecessary issues for the different teams.”

Sergeant Nkosi says:

“Okay, let me confirm with them. I will call you in 30 minutes.”

And:

20 “Thanks. I just do not want the different teams to meet each other.”

Explains Mr Jacobs. And if we then go, no, sorry.

“Hi Fannie, hope you are well. We confirmed for Thursday at 12:30 at Irene Country Lodge.”

And on the first page of 118:

“Good morning Fannie. Due to logistics issue we had to move the venue.”

There is a new venue and details of it. That is on the 9th of February. And then comes a very important document. It is in chat number 3, and it relates to the demonstration that is now scheduled for the Thursday, which was the 10th of February and that document is sent by Mr Jacobs to Sergeant Nkosi at 7:23 and straight after sending it, he says:

10 “Fannie, can you put it on a SAPS letterhead, or your agency you are with. We will not share it with anyone.”

So Mr Jacobs is saying, can you put this draft letter on a SAPS letterhead, or if you represent some other agency on that letterhead, we will not share it with anyone. And Sergeant Nkosi says:

“So I am signing and then I will put a stamp.”

20 Now if we go to that document, it is at page 129, and it is an interesting document, the draft document, because it explains what this demonstration is all about. It is a draft that is addressed to the Ministry of Trade and Industry of the Czech Republic, and it is headed:

“Demonstration of dual-use goods in South Africa. Entity demonstrated to /

Place of demonstration.”

And it is, Sergeant Nkosi has identified the entity who is going to get the demonstration as the South African Police, Pretoria, South Africa. The demonstrating company is a Czech company called Invasys and Invasys are a company that specialize in high tech security hardware and software. People who are going to do the demonstration, authorized people from Invasys are identified. It says:

10 “The demonstration will take place at the
 above address.”

Suggesting that it will take place at the South African Police, Pretoria, South Africa.

“Throughout the demonstration, the goods will be in the hands of an authorized person.”

Authorized by the SAPS.

20 “The following goods will be
 demonstrated: Tellus™ IMSI catcher with
 Tungsten™ SW GSM A5/1 and Luna™
 MITM mobile.”

Now, IMSI stands for International Mobile Subscriber Identity. So, an IMSI catcher is something that catches a mobile identity. In colloquial terms, it is a grabber. What it does is it, what it is, it is a surveillance device that mimics a legitimate cellphone tower, cellular

tower and it tricks nearby mobile phones to connect with it, rather than the cellphone tower and then you can download what is on, the communications from the mobile phone that are connected to your grabber, as opposed to the nearby cellphone tower.

If we go to page 128, this is from the Invasys webpage and it is Invasys advertising its solutions and if you look under Invasys Mobile360™, it says:

10 “The mobile phone is today's primary
data access point. How to best access
its information is a technical question.
Our solutions, Tellus™, Luna™,
Tungsten™, enable you to do it in any
way necessary, ground based, maritime,
or airborne.”

So Invasys is advertising its capacity to intercept mobile phone communications from the ground, from the sea, from the air. And if we go back ...[intervenes].

20 **ADV KHUMALO SC:** Sorry, before we go back, I thought
you were going to show us where Sergeant Nkosi signs and stamps.

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

ADV KHUMALO SC: Okay.

ADV CHASKALSON SC: If he does in due course sign.
But if we go back, it is quite clear in this context that the

Czech Republic, having a sense of responsibility in relation to this technology, will not let its company sell it to anyone they want. It can only be sold to authorized representatives, presumably not just of foreign states, but also of foreign states with whom the Czech Republic is happy to share this sort of technology.

If we go back first to the chats with Mr Msibi on page 97, we see Sergeant Nkosi shares that draft letter immediately with Mr Msibi. That is at 8:37 p.m., chat
10 number 2. That is the draft. Mr Msibi responds to him:

“That is okay.”

If we go back to 119, we see Mr Jacob sending the, in chat number 1 sends the address at which the demo is going to take place. And in chat number 2, still on the 9th of February at 10:24 p.m., 10:24:29, just remember the 29 for later reference, Sergeant Nkosi returns the signed document, we will look at the signed document in a minute, but 10:24:29 was when he returned it to Mr Jacob. If we go back to page 97, we see two seconds later he forwards it to
20 Mr Msibi, 10:24:31.

That letter itself appears at page 130 and it is identical to the draft, except that Sergeant Nkosi has now signed it, given his force number, and put a SAPS stamp on it. So Sergeant Nkosi has represented to the Czech government that they are, that Invasys will be

demonstrating to the South African Police, and that for this reason Invasys should be allowed to do so.

If we go back to page 119, chat number 3, on the morning of the 10th at 7 o'clock, Mr Jacob says:

“Good morning Fannie. Thank you for the letter. I have sent it to the team. Let me know when you will send the driver. Thanks.”

Sergeant Nkosi replies:

10 “Driver is on the way.”

At 8 o'clock:

“Hi Fannie, we are ready, are your guys close?”

And then at 1:11, the next day:

“Hello Fannie, thank you again to you and your team looking after us yesterday. Let me know if Ubaba is happy and I will drive the process from my side now.”

Sergeant Nkosi's response is:

20 “Morning, we are on our way to the kingdom as we speak. I am calling you tomorrow late.”

Now the kingdom to which Sergeant Nkosi is referring is the Kingdom of Eswatini and what will emerge is that Mr Msibi, Sergeant Nkosi and quite possibly Mr

Motsumi and Mr Molefe, we will get to them later.

“Have a plan to sell grabber technology
to the kingdom of Eswatini.”

Now of course that is not what the Czech Republic
has been told at all. The Czech Republic has been told that
this is a demonstration for the South African Police Service.
If we follow this plan and we run down from page 120, chat
1, Mr Jacob says:

10 “Thank you, sir. I will be available for
you.”

Chat 2, Sergeant Nkosi is responding to that earlier
message which is, let me know if Ubaba is happy and he
says:

“Yes, he is happy.”

And then the process continues. If one goes to
page 121, chat number 7, the foot of the page:

“Hi Fannie, I hope you are well. We need
the company name for the contract with
Invasys ...”

20 And Invasys again was the Czech company that
makes this equipment.

“... and the email address we need to
send the contract to. This will come
directly from the Czech company.”

Over the page:

“This way Ubaba is protected if anyone tries to go behind his back.”

“Hello Fannie, hope all is well. I am still waiting on info for Ubaba's company and email details.”

Sergeant Nkosi responds:

“Sharp, I am sending.”

“Hello Fannie, hope you are well. Are we still on track?”

10 And this is now the 7th of March and Sergeant Nkosi says:

“Yes, tomorrow morning the King is having a final meeting with the old man.”

And that presumably would be the King of Eswatini.

And Sergeant, Mr Jacobs says:

“Okay, great. Thanks.”

ADV BALOYI SC: Just maybe for the record, if we could relate this message:

“The King is meeting with the old man.

20 We are on our way to Swaziland.”

How do they relate in terms of dates?

ADV CHASKALSON SC: So the, well, it was not we are on our way to Swaziland, it was we are on our way to the kingdom. That was the 11th of February. This is now the 7th of March, so the visit may not have been the same visit.

While this was going on, on the 27th of February, so the request for company details, if we go back to 99, we see at chat number 3 on page 99 that Sergeant Nkosi has sent a screenshot to Mr Msibi of Mr Jacobs' request for company details. There is then a lengthy process that runs, well, it is concentrated in March but then it starts dribbling out all the way through the rest of 2023. Starting at the top of 123 on the 14th of March:

10 “Hi Fannie my friend, hope you are well.
 Do you have any updates?”

And the response of Sergeant Nkosi is:

 “Old man is coming back tomorrow
 morning from Swaziland. I am sure we
 are going to move forward from
 tomorrow. Will call you when I am with
 him.”

 The next day, at 5 p.m., Mr Jacobs sends Sergeant
Nkosi a link which is no longer active, but reading the link
and the message that follows. It is an automated Adobe
20 document which will generate the contract that Invasys
wants signed. So it is a link to an Invasys site, an Invasys
directory at Adobe and it is a document that needs an e-
signature. Below, Mr Jacobs explains:

 “Hi Fannie, can your lawyer please fill
 out this form, then we will generate the

exclusive contract for Swaziland.”

Two days later:

“Hello Fannie, hope you are well. Did you share the link with Ubaba's lawyer?”

No response. 20th of March:

“Hi Fannie, any updates?”

Still no response. 21st of March:

“Hi Fannie, please advise if you guys had filled in the info for the link I sent. Without this we cannot send you the contract and I do not want it to seem as if we are holding up the process.”

22nd of March:

“Hi Fannie, hope everything is okay. Please advise.”

Finally there has a response from Sergeant Nkosi:

“Got it sorted.”

Mr Jacobs says:

“Thanks. Once they fill it in they will get the contract.”

24th of March:

“Hi Fannie, was the link completed? We have not received any confirmation that the link has been filled in.”

12th of April:

“Hi Fannie, I hope you are well. I was supposed to come to Johannesburg this week but I will have to postpone to next week. Please advise Ubaba.”

And Sergeant Nkosi says:

“Okay.”

A few days later:

10 “Hi Fannie, I hope you are well. Just a note from our side. It seems that Ubaba's lawyer has not completed the link as it is and it is now becoming embarrassing as the international company will not take us seriously. Please advise how we resolve the matter.”

“Hello Fannie, hope you are well. Is the deal for Swaziland still happening?”

20 What then happens is that Sergeant Nkosi sends a contact card, all of this is now the 23rd of May, for Mr Jacobs to contact Mr Msibi directly. Nothing then happens between the 8th of May and 18th of, sorry, 23rd of May and the 18th of August, Mr Jacobs is still trying on the 18th of August:

“Hello Fannie, hope you are well. Did you forget about me?”

And Sergeant Nkosi responds:

“Lol, no. I was speaking to Zweli yesterday. They spoke to the old man as well. We are hoping next month we would be winning.”

“That is good news. Our team is ready.”

On and on it goes. Top of 126:

10 “Hi Fannie, hope you are well. Please call me urgently. Our people are being contacted by Swaziland and we need to move quickly or we will lose this deal.”

Now, it seems that the deal was lost because if one goes to page 112, one sees that on the 17th of October, Sergeant Nkosi forwards to Mr Msibi a message that seems to come from a partner of Shaun:

“My brother, I am really ...” [intervenes].

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

ADV CHASKALSON SC: It is 111. Sorry, 111, chat 4.

20 “My brother, I am really disappointed about how things worked out on the Kingdom deal. One minute things are coming together, the next minute all of you are quiet.”

“Shane ...”

I think that should be Shaun, or maybe Sergeant

Nkosi has the name wrong and it is Shane not Shaun.

“... tries to call you but he never gets hold of you. I also tried to get hold of you but you never come back to me. You know, there has so much more work we wanted to do with you. We have many solutions that are in demand by governments but we want to do this deal first before we can introduce other solutions. I take it this deal is off now.”

And that is the last that we see of that deal. But what we do see is that in parallel with this process, Mr Msibi, Mr Motsumi and Mr Molefe are exploring other options and that story starts on page 196.

ADV KHUMALO SC: Before we get to the new story, what are we to make of Sergeant Nkosi signing documents on behalf of SAPS and purporting to represent SAPS in future agreements with either an international organization or international suppliers? What inference are we to draw?

20 **ADV CHASKALSON SC:** Well, I think the inference is that that is an out-and-out fraud, but it is a fraud to which everyone involved in that project is party. Everyone involved in that project with knowledge of Sergeant Nkosi's letter, was also involved. But the only people that we can identify in that regard are Mr Msibi, who is no longer alive,

and Shane or Shaun. We do not know who else was aware of this. We do not even know whether the Czech company were aware of who they were dealing with.

ADV KHUMALO SC: Because my concern, we are talking about a grabber here, we do not know what else. I mean, you can see one conduct where he is signing and putting a stamp and force number to allow an international organization to come and make a demonstration to private individuals in South Africa. What if it was weapons and
10 other things that are not authorized by SAPS?

ADV CHASKALSON SC: We do not know, but it is a very legitimate question, Commissioner. I mean, we did see the exchanges with the man whom he saved as ...[intervenes].

ADV KHUMALO SC: Didi.

ADV CHASKALSON SC: Like Deputy President Didi Mabuza who, Mr Mashile, I think, who seemed to have been suggesting an arms deal. We do not know where it ended.

ADV KHUMALO SC: And what does it say about the use of stamps at SAPS, I mean, if any Captain or Constable can
20 just put a stamp?

ADV CHASKALSON SC: I think every Captain must have a stamp, just because they have to use the stamp in their official duty. So, for instance, you go into your local police station to get an oath commissioned, the Captain uses his stamp to commission your oath. It is how the stamp is

used. And, of course, a South African looking at that document would think, no, this does not, on its face come, this on its face does not confer the authority of the SAPS to deal with a grabber, but someone in the Czech Republic would not have the faintest idea whether this was, you know, how South Africans issue authority at the highest levels of SAPS or not. So, the risk is particularly heightened in relation to transactions with foreign countries or with foreign entities.

10 **ADV KHUMALO SC:** Thank you.

ADV BALOYI SC: Mr Chaskalson, the, I mean this conduct by Sergeant Nkosi that you are discussing with Commissioner Khumalo, specifically the letter and the stamping on the face of it, is obviously prosecutable. That is why you refer to it as fraudulent conduct. Have we had the opportunity to investigate or find out who is this Shaun Jacobs that you are speaking to, because if it is a South African national, then they sit in exactly the same position as Sergeant Nkosi, it is a criminal offence. Have we had
20 the opportunity to investigate that?

ADV CHASKALSON SC: We have not yet traced Shaun Jacobs. I must confess we have not made a huge effort to trace Shaun or Shane Jacobs. We do not have, there are no obvious details relating to him other than the cellphone number and that does not automatically lead to someone

who on his or her face is Shaun Jacobs or Shane Jacobs.

ADV BALOYI SC: Sergeant Nkosi would have to say who is Shaun Jacobs. Thank you.

CHAIRPERSON: And our investigators could also look into it.

ADV CHASKALSON SC: I am not sure they will thank me for that. They have quite a lot on their plates at the moment, but we will look further. The parallel process I was describing starts at page 196, or our evidence of it
10 starts at page 196, and there we see on the 15th of May, Mr Motsumi WhatsApp's to Mr Msibi three documents. The first two are photographs of their two passports and the third is an itinerary and the itinerary is at page 206. It is an itinerary for both Mr Motsumi and Mr Msibi and it reflects a strange set of, or it reflects a broken set of connections. There has going to be a flight from Johannesburg to Frankfurt and then a connecting flight almost immediately from Frankfurt to Paris. That will take Mr Msibi and Mr Motsumi to arrive in Paris on the 16th of May at 8:20 in the
20 morning.

The next flight is not from Paris, it is from Hamburg in Germany and that is two days later on the 18th of May, and that is a flight from Hamburg to Zurich and then as a connection to get back to Johannesburg from Zurich. So one imagines that Mr Motsumi and Mr Msibi were going to

make their own way, or would make their way from Paris to Hamburg, which is relatively close, either by train or by plane at some stage between 16 and 18 May.

If we go back to the 16th of May, we see that is the day after the itinerary came. Mr Msibi sends to Mr Motsumi a company profile for a company which is actually a close corporation called Themis Style CC. And the WinDeed page for Themis Style is at page 347 and we see from 347 that the only director of Themis Style is Mr Msibi himself. And
10 according to the history of the, reflected on the WinDeed search, there has never been any other, sorry it is a CC, the only member, he has always been a member. And then after the conversion into (Pty) Ltd, the sole director. So he was the sole member, then the sole director.

If we go back to the profile of Themis Style, we see that at page 208 and that profile first reflects that the directors of Themis Style are both Mr Msibi and Mr Molefe, not Mr Motsumi, but Mr Molefe. That does not appear to be correct, at least not in terms of the CIPC records. CIPC
20 records just reflect Mr Msibi, but Mr Molefe's appearance on this document is significant in its own right.

Then it says the company vision:

“To be the number one trusted intelligence security services provider in Southern Africa and beyond.”

Its mission, over the page:

“To provide security services through protecting clients' valuable assets through preventative protection services, private detectives and investigators, consulting, technical surveillance, digital polygraph and covert operations.”

There are certain core values set out, including integrity and professionalism. And then the background:

10 “Themi Style is a security consultant company whose primary objective is to offer technical support, advice, training, report compilation and procurement of needed security systems. We ensure that state-owned assets are up to date with the latest security systems, tools, trends and technology. We further identify and eradicate potential security threats and act as an agent who shall be

20 capable of negotiating and entering into agreements on behalf of companies.”

Over the page, there are certain services that Themi Style advertises:

“Improved security management, improved risk management, provide

secure security systems, provide cross-border security detail, specialist security training, improve on reported security test results, analyse security systems and measures, improve, design, implement and monitor all security protocols, policies and procedures.”

So Themis Style is presenting itself as a state-of-the-art high-tech security company with surveillance
10 capacity and as a company that provides services to the state.

“We ensure that state-owned assets are up to date with the latest security systems, tools, trends and technology.”

If we go back to page 197, we see that together with the company profile, Mr Msibi forwards to Mr Motsumi an email and that email is at page 211. Sorry, it is the first chat at the top of page 197 where the email is forwarded, but the email itself appears at page 211. And the email is
20 an email that is on an email whose default is German, because it says at the top at in German, at 15 May 2023, at 20:20, Nokuthula Nxumalo wrote, but it is in German, not English, and Ms Nxumalo says:

“Dear Stephen, please find attached registration documents ...”

And you will see at the bottom of the email is a CIPC form for Themis Style.

“... confirming Mr Msibi as the director of the company. Mr Motsumi is a trusted partner in the business.”

And bear in mind that this is with a view to the itinerary that we have just seen that has a stop in Hamburg in Germany and which involves Mr Msibi and Mr Motsumi.

10 “Please be assured that they both have the capacity and mandate to conduct business on behalf of the company.”

So Mr Motsumi too can represent Themis Style.

“They shall present the letter of appointment and service level agreement from state.”

So they are purporting to have a service level agreement from the state.

“Confidentiality protocol, as stated below, is noted and shall be strictly adhered to.”

20 Now, again, we have a situation where a European dealer, and we will look at that we suspect was being sold here, but a dealer in high-tech security surveillance equipment and the like is being told that Mr Msibi and somebody else represent the state. There is then on the 16th of May a series of itineraries, additional itineraries and

changes, none of which are of consequence for us. But the next step, and bear in mind this is 16 May where the, 15/16 May, the original itinerary related to a trip from 16th to 18th May.

If we then go to page 185, we are now dealing with the chats between Mr Molefe, not Mr Motsumi, but Mr Molefe and Mr Msibi and at page 185, we see that on the 4th of June, Mr Molefe, in other words that is just over two weeks after the proposed return from Zurich, from Europe, 10 Hamburg via Zurich, Mr Molefe forwards to Mr Msibi in chat number 5 a quotation, and that quotation we see at page 193 and the quotation has a number. Femi-Style are identified as the agent of whomever is providing the quotation. We do not see the letterhead, so we do not know what the company is, whose quotation it is. The date of the quotation is 23rd May, so that would have been five days after, four days after Mr Msibi and Mr Motsumi returned from Europe.

And what the quotation is for, item 1, active 20 monitoring system including laptop software and 1 MultiRAT-BTS. That is multi radio access technology based technology system. That is a grabber. Item 1 is a grabber. The price per unit for the grab is 780,000 Euros, which at the time would have been, I have not done the equation, but it would have been somewhere between R15 and R18

million, I would imagine. Optional, 2 MultiRAT BTS. So you could have an additional extra set of grabbers which would come at 150,000 per unit and you could also get a tactical DDS jammer. And DDS stands for direct digital synthesis. And what a DDS jammer is, is digital technology that can essentially block out other, can be trained on particular frequencies very quickly and can block out other people's mobile communications. So you can shut off everybody else's mobile access with a jammer.

10 That quotation is issued by Themis Style, a company in which Mr Motsumi, Mr Molefe, and Mr Msibi have a central role in and it comes four days after the return from Europe of Mr Msibi and Mr Motsumi. And we do not see what becomes of this quotation, whether it ever gets taken up by anyone. We do not know to whom it was addressed either. We do know that it was exchanged between Mr Molefe and Mr Msibi.

 But if we can just step back and take stock of what we are looking at here, because it is quite alarming. Mr
20 Msibi, Mr Motsumi, Mr Molefe, and possibly Sergeant Nkosi are involved, well Sergeant Nkosi is certainly involved with Mr Msibi in one project. Mr Msibi, Mr Motsumi, and Mr Molefe are involved in another. The extent to which Mr Motsumi and Mr Molefe were involved in the first project is not clear. Anyway, they are involved in a commercial

project. The commercial project involves the selling of high-tech surveillance, digital surveillance systems, and jamming technology.

The three people we are talking about have received some coverage in this Commission. Mr Msibi has been described by General Khumalo, who is the Head of Crime Intelligence, as the then leader of the Big Five organized crime cartel. Mr Molefe is currently on trial for murder in a matter involving firearms that can be linked to
10 more than 30 other murder scenes in Gauteng in the last 5 years. Mr Motsumi is someone whose name General Senona, when he was still Head of the Hawks, was too scared to mention.

These three men are dealing with foreign companies to get access to grabber technology purporting to represent the state. And then, at least in the case of Mr Msibi, they seem to be looking to sell that technology to the Eswatini government in that first episode, the first case that we saw. Whether ...[indistinct] managed it seems in that
20 case to sell to the Eswatini government, they may well have managed in this case, we just do not know. But whether or not they are managing to sell the technology to a foreign state, they presumably can also have access to it for their own purposes. They are able to deal with the providers of this technology. They are being invited to sign contracts

with the providers of this technology, in the case of Invasys, on the basis that they represent the South African state. This is a worrying state of affairs. It is a very worrying state of affairs. This is the sort of technology that should only go into the hands of intelligence agencies, who are then constrained to use it under fairly strict legislative controls.

But what we have here is private parties passing themselves off as representatives of states, and trading in
10 this, or trying to trade in this technology.

ADV BALOYI SC: Mr Chaskalson, that brings me to the question that I was going to ask, and I know that the presentation of this evidence today has been sprung on you. The question I meant to ask is, have we gone so far as to establish whether private entities and individuals can lawfully be in possession, under South African law, of a jammer and a grabber? Have we gone that far?

ADV CHASKALSON SC: A jammer, I cannot speak to. A grabber, I can say with some confidence, is not something
20 that any private entity ought lawfully to be entitled to use, because digital, interception of communications, which is what a grabber is for, is something regulated by statute, which requires judicial warrant, and judicial warrants are not given to private parties to intercept communications.

ADV KHUMALO SC: Were you able to get that on affidavit

from a witness who is part of the government or intelligence agencies?

ADV CHASKALSON SC: I will look into it, and we will, one way or another we will establish this point. It may be a simple issue of law, having regard to the Interception, I think it is called the Interception of Communications Act.

ADV KHUMALO SC: I am concerned about the types, because it may be that some are regulated and therefore members of the public are not or should not be able to
10 access them, but some devices may be allowed for use by private entities, mobile companies and other people. So if we can just get that clarity from somebody who has knowledge of these kinds of things, to avoid having to burden you with the answers.

ADV CHASKALSON SC: We will certainly get an expert in the field to explain this all to us.

ADV KHUMALO SC: We do not want to force you to do research and give us answers. If an expert is able to provide us with an affidavit, then I think that should suffice.

20 **ADV CHASKALSON SC:** We will ensure that it is done. That takes us to the end of, you know, this grabber episode. The next ...[intervenes].

ADV BALOYI SC: Before you go to the next, I know you are not a witness, and you are not an expert in this. It is just, I am trying to wrap my head around a jammer as

against a grabber. I think I have understood what a grabber, how a grabber would work. A jammer would do what, would ...[intervenes].

ADV CHASKALSON SC: Block communications.

ADV BALOYI SC: [Indistinct]... ja, criminal activity.

ADV CHASKALSON SC: Well, I mean at a very low level, a jammer stops your remote control on your car from locking your car when you get out the car. So, a lot of small-time criminals have access to jammers which are used. I am
10 sure some of us have had that experience. You get out your car, you think you have locked it, you have not locked it because the signal is being jammed and someone steals something from your car while you have gone into the shop. At a much more grand scale, what a jammer can do is block communications. It can stop people communicating on their cellphones. It essentially can block communication that depends on operating at particular frequencies.

ADV BALOYI SC: It could block law enforcement from listening in.

20 **ADV CHASKALSON SC:** Certainly on, ja, ja.

ADV BALOYI SC: Thank you.

CHAIRPERSON: Please continue, Mr Chaskalson.

ADV CHASKALSON SC: Chair, it looks like you have been the victim of a small-scale jammer. I have too.

CHAIRPERSON: I was whispering to my co-Commissioners

about the incident at Parliament where everybody's devices were jammed, allegedly.

ADV CHASKALSON SC: If it happened, it was much grander than my experience. I just lost a briefcase. The next topic that I want to move to is actually a series of topics, but what was extraordinary about this phone was it showed, it drew connections between topics that we have been looking at in this Commission that seemed completely self-contained and unrelated to one another and Mr Msibi
10 was often, well, crossing over in relation to people involved in one aspect of our investigation and people involved in another wholly separate one.

So, let us take as our start Carnilinx, the tobacco manufacturer whom we came across in the context of General Khan's communications, who pleaded guilty to schemes essentially to defraud SARS, did not plead guilty, admitted, they were not ever taken to a criminal court, admitted to fraudulent schemes to defraud SARS of tobacco taxes and whose director, Mr Sayed, was in close contact
20 with General Khan and appeared to be trying to rig tenders with General Khan through the Covid period.

If we go to page 5, we see communications between another director of Carnilinx, Mr Kyle Phillips, and Mr Msibi and we see a connection between Carnilinx and Mr Msibi. And what we see in these chats, we see, well, we

see a number of things, but essentially what we see is that when Carnilinx gets robbed, they call up Mr Msibi to sort it all out and find out who has robbed them and get their stock back. And if we go to page 5, we see that on the 26th of February, Mr Phillips writes to Mr Msibi:

“Hey Pappa Joe, thanks for sorting out. Just tell us where to collect, but please ask if they can recover the firearms as well.”

10 So in this theft, which we will see, is the theft of stock. Firearms seem to have been ...[intervenes].

ADV KHUMALO SC: Pappa Joe is who, Mr Jothan Msibi?

ADV CHASKALSON SC: Jothan Msibi. And from chats 3 to 6 at page 5, we see a series of chats from either the robber himself or someone pretending to have inherited the stock from the robber and those chats are, hang on, I have now lost my, unfortunately I have lost my reference, so I will, those chats get increasingly desperate now that the robber understands that Mr Msibi is onto the job. So they
20 start at page 22, and the first one says:

“Hi.”

To which Mr Phillips responds:

“Hi, cannot talk. Send message. I am at work.”

“It is me, Ali, I want to talk to you, brother. I want to give back that stock. I

want to talk to you, call me. I made a mistake to buy that stock. I just want to ask, there has one my friend can I give him that stock so that he can give you?"

Then on page, the following page, the chats continue. The same chat:

10 "I want to be sure if he speaks to boss then I will give him. Please, brother, talk, brother, say something, what must I do, you are not saying anything."

And there are a couple of missed calls.

"Talk to me only for a minute."

And the response is:

"Send the stock at our factory."

"Just talk to me on call, please, for one minute."

20 So, whoever Ali is, whether he is the robber or the purchaser from the robbers, or somehow otherwise linked to the stock and the robbery, he is desperately wanting to make it better. If we go back to the chats, we see possibly why Ali is so desperate and if we see at the chat number 2, Mr Phillips says:

"Hey Pappa Joe, the guy has been contacting my guys. I said they must deal with you if you do not mind. Thank

you for all your help.”

And Mr Msibi responds:

“Hi Kyle, he spoke to me yesterday night.

He told me the cigar is on your street next to your factory, but he promised to come. I am also waiting. It is okay as long as he brings back the stuff.”

“Yes, his name is Ali. That is the name he gave me.”

10

And then if we go down to chat 6:

“Afternoon Pappa Joe. All stock is returned. Thank you so much. Everything is sorted.”

“Cool Kyle. We will see you guys on Thursday.”

And Philips responds, we are now on the 1st of March:

“You are the man.”

And Mr Msibi says:

20

“Cool. We will not stand out when you guys have got this problem. We will try to assist where I can.”

So Mr Msibi saying, when you have got this sort of problem in the future, I am here to help you. We go all the way down to page 11 and we are now on the 6th of June and

Mr Philips in chat number 2 says to Mr Msibi:

“Pappa Joe, I am so sorry. I think I had one vodka too many last night. Myself and Adriano ...”

And Adriano would be Adriano Mazzotti, who is actually the deponent to the affidavit that was flighted in relation to the agreement with SARS. Mr Mazzotti is the, I think the CEO of Carnilinx. He is certainly the leader of Carnilinx.

10 “Have spoken quite a bit about sorting you as a thank you for getting that stock back, but I did not want to interfere with your mourning process and worry you with trivial money issues, so please do not take it as any disrespect or discounting our friendship. So this week we will come and have a drink and square up with you. Thanks for everything my brother.”

20 If we go down to 3 August, it seems that Mr Philips had another occasion to call on the assistance of Mr Msibi. It is now page 14, chat 3, 9:34 p.m., Mr Philips writes to Mr Msibi:

“Your soldiers arrived. I owe you, my brother.”

Mr Msibi says:

“Cool.”

And next chat:

“I am sorry, I had to say they did not know who they were fucking with. Your boys were brilliant. Thank you again so much, my brother.”

So it seems that there was some sort of arrangement between Carnilinx and Mr Msibi that when
10 Carnilinx got into, when there were thefts or robberies at Carnilinx, Mr Msibi helped them out. There is a curious exchange on the 22nd of October. It is at page 16. And I must confess, because this was sprung at us on such short notice, we do not have the complete explanation of this exchange. We will look into it and come back to you. But if we go to chat 5, Mr Philips says to Mr Msibi:

“How are you, my brother? Do you know anybody wanting Red Water, 25 litre drums?”

20 Now, we have been given a whole range of possibilities as to what Red Water may refer to. The one most likely possibility, and I am not saying that it is, but the most likely possibility is water used by Zama Zama's, water with mercury in it that is used by Zama Zama's in part of the artisanal gold refining process. But it may well not. There

may be an innocent explanation for Red Water. We might ask Mr Philips.

“How are you, my brother? Do you know anybody wanting Red Water, 25 litre drums?”

Mr Msibi responds:

10 “Hi, my brother. I am out of South Africa. On our side we are strong, in other words, we do not need Red Water. But will check who might take. Have a great one, my brother.”

And then later on:

“No stress, my brother. Looks like it was sold.”

So the Red Water seems to have found a buyer. Then if we go down to 21, we see another request for assistance from Mr Msibi in relation to an armed robbery:

20 “Morning, Pappa Joe. Brother, I need your help. That same guy Ali arranged an armed robbery at our other factory at Wadeville. The security guards were in on it. Obviously, my people are now hunting high and low, but I know that one call from you will sort everything out. Please, will you help me out again with

this? Love and regards, Kyle.”

Now, those are the chats between Mr Phillips and Mr Msibi that I wanted to refer to, but what struck us as significant in this regard is we had seen no links whatsoever between what we saw in General Khan's chats and his dealings with Carnilinx on the one hand, and what we have been looking at for most of the Commission in relation to the so-called Big Five and Mr Msibi. But it seems that at the very least, there are some relations
10 between, or there were some relations between Mr Msibi and Carnilinx.

CHAIRPERSON: Yesterday, in his testimony, Mr Matlala explained how he got to know quite a number of people, and he said he met most of them at Mr Msibi's farm and I remember thinking I never thought this person, like for example, Mr Carrim, if the allegation is correct, of course, had anything to do with the farm. Quite a number, quite a number of people.

ADV CHASKALSON SC: Indeed. We will get to, there are
20 a whole series of unexpected connections that we see here and Mr Carrim is one of them. His joint venture with Ziggy Investments and Transnational Coaches is dealing with Mr Msibi. We will come to it later. But the next one is possibly another unexpected link, but albeit it through someone who we have already seen linked to Mr Msibi. It is a link

between Mr Msibi and Ekurhuleni, which certainly we were not expecting. But if we go to page 141, we see that Mr Msibi appears to have used Mr Nxumalo, who is someone who we previously have met in connection with Mr Msibi, to rig a tender for him at Ekurhuleni. And if we start at page 141, chat number 3, we see, and these are chats between Mr Msibi and Mr Nxumalo, we see at chat number 3, this is now the 26th of April 2023, that Mr Msibi sends to Mr Nxumalo a chat where he says the following:

- 10 “1. Kamprock (Pty) Ltd
2. Project Management Unit for BRT Project.
3. The Project Management Unit contract is funded by the National Department of Transport through the City of Ekurhuleni.
4. The Project Management contract is under the Department of Transport and Fleet Management in the City.”

 That is the 26th of June. On the 30th of June, Mr

20 Nxumalo sends anniversary greetings ...[intervenes].

ADV BALOYI SC: Sorry, this is ...[indistinct] [intervenes].

ADV CHASKALSON SC: The 30th of April, sorry. Sends anniversary greetings to Mr Msibi. Mr Msibi thanks him and says:

 “Have you spoken to Jose, please, and

the Ekurhuleni issue? Please let me know.”

So Mr Msibi is very interested in the Ekurhuleni issue. Mr Nxumalo responds the next day:

“Hi Ndlondlo, please give me until Tuesday. All will be well. Please send Kamprock's number.”

In other words, I need a number for Kamprock, which is the company that you described. Then on the 5th of April, Mr, sorry, the 4th of May, the 4th of May, Mr Msibi sends a number and unfortunately, I do not think that we have in the bundle that contact card. We will get it put into the bundle. That contact card, the number is for Nokuthula Nxumalo, who we remember was the one dealing with Stephen in Germany in relation to the trip, presumably to look for grabbers for Themis Style.

Underneath, having sent Ms Nxumalo's number to Mr Nxumalo, Mr Msibi says:

“Hi Ze, I have sent you the number. Please follow up. Can I send Galito to pick up as agreed Son.”

And Galito we know from earlier on is Mr Sibanda, who worked as a cook for Mr Msibi. 29th of May, Mr Msibi wants to be called back. And the next development is the 13th of June, and that is on page 143, and there, Mr

Nxumalo sends to Mr Msibi a WhatsApp in chat number 3 at 8:43 in the morning, which forwards the tender advertisement for this project management unit that Mr Msibi wanted for Kamprock. And if we go to page 149, we see what was forwarded. And I must immediately just emphasize that what was actually forwarded was the entire bid invitation that ran to probably over 100 pages. So just to simplify the bundle, I just included the cover page.

But there you see Transport and Fleet Management
10 Department, contract number PS-T 17-2023.

“The provision of project management unit and technical services for the Department of the City of Ekurhuleni integrated rapid public transport network from date of award until 30 June 2026.”

So if we go back to that opening chat in April, we see that what Mr Msibi had said to Mr Nxumalo is:

20 “Kamprock (Pty) Ltd, Project Management Unit for BRT project. PMU contract funded by the National Department of Transport through the City of Ekurhuleni. PMU contract is under the Department of Transport and Fleet Management in the City.”

So as early as April, Mr Msibi had identified that

this contract should be put out to tender by Ekurhuleni for the benefit of Kamprock. If we go back to the chat from Mr Nxumalo of the 13th of June, we see that he forwarded to Mr Msibi with a message that he appears to have sent to someone, although we will see that he denies it, and the message says:

“This one is not a panel. Is it spoken for? I have two people asking.”

So this is a bid invitation and someone, either Mr
10 Nxumalo or someone communicated with Mr Nxumalo is saying, is this one spoken for? We asked Mr Nxumalo who he, we assumed he had written those words and if one goes to page 170, paragraph 2.4, you will see that the question that we asked Mr Nxumalo in this regard and the question was:

“Full details of the person to whom you originally wrote, this one is not a panel. Is it spoken for? I have two people asking.”

20 Appearing in the WhatsApp message that you forwarded to Mr Msibi on 13 June 2023 at 8:43 and we attached the message. The response that we got is at page 175 and is with respect rather evasive. It says the following, paragraph 14:

“The message referred to in paragraph

2.4 of the notice reads, this one is not a panel. Is it spoken for? I have two people asking. It appears that item number three of the extract attached to the notice as Annexure B, dated 13 June 2023 at 8:43 and is accompanied by an image of the document. The document appears to be the bid document for contract PS-PT 17-23 issued by the
10 Transport and Fleet Management Department of the City of Ekurhuleni for the provision of a project management unit and technical services for the development of the City of Ekurhuleni integrated rapid public transport network. A copy is attached hereto. Thus far, Mr Nxumalo has told us nothing other than what we told him. I identified the contract by conducting an internet search
20 of the contract number for the purpose of preparing the statement. I had no independent knowledge of it. He emailed that bid invitation to Mr Msibi on that day. I have no recollection of the circumstances in which it came to be

sent and I am accordingly unable to identify the person to whom the words were originally addressed or from whom I may have received them.”

If this statement is true, it is truly staggering that Mr Nxumalo is dealing with people who send messages purporting to rig tenders on such a frequent basis that he cannot remember this one. 17:

10 “I record for the Commission's assistance that item 3 of the extract is marked incoming, whereas the notice proceeds on the basis that I wrote those words and forwarded the message to the late Mr Msibi. It was incoming for Mr Msibi. I do not believe that this proposition is correct. If the message illustrates that it had been forwarded to the late Mr Msibi, then it would be on the basis that I had received the message with the aforesaid
20 question and thereafter forwarded the same to the late Mr Msibi.”

So he says, well, maybe somebody else wrote those words, but I forwarded them to Mr Msibi.

“Additionally, I dispute I was the author of the aforesaid message as it is not my

manner of typing. I do not use abbreviations such as PPL in the normal course. As indicated, I cannot determine with certainty who would have sent me the aforesaid message and the context in which this would have been shared with me or the late Mr Msibi. However, given the prominent role of the late Mr Msibi in the public transport industry, together
10 with my involvement in brokering transactions within and for the taxi industry, I would have shared the document with him so as to enquire as whether he would be interested in the bid. For the sake of completeness, I record I had no involvement in the bidding or award process of the aforesaid contract by the City of Ekurhuleni.”

So he is claiming ignorance. He cannot really
20 explain why he would have forwarded a document to Mr Msibi that on its face assumes that tenders in Ekurhuleni are spoken for before they are awarded. Still less, why he would have done so in circumstances where two months previously Mr Msibi had identified that specific contract as something he wanted him to deal with.

ADV KHUMALO SC: In communication to him.

ADV CHASKALSON SC: In communications to him, absolutely. He also cannot really explain something that happens a little later, which is page 144, chat number 2. In fairness to him, he has not seen these chats, so he had only his own chats to consult in his memory. But at 24 minutes past, sorry, at 24 October, chat number 2, Mr Nxumalo notifies Mr Msibi that:

“PMU ...”

10 That is the project management unit tender.

“... has been submitted for this week's
BEC. Department has confirmed.”

So he is following that tender and knows that it has gone to the BEC. And lo and behold, if we find out where the tender was awarded, we go to the Ekurhuleni web page of bids awarded in November 2023. That starts on page 150. And if we go down to the top of page 163, we see that the successful bidder in relation to the provision of a project management unit and technical services for the
20 development of the City of Ekurhuleni integrated rapid public transport network from date of award until 30 June 2026 was none other than Kamprock (Pty) Ltd, who had been nominated by Mr Msibi in April of that year.

There is one further issue to address in relation, one, possibly two, in relation to this tender. It is a chat on

page 143.

ADV KHUMALO SC: Mr Chaskalson, who owns Kamprock?

ADV CHASKALSON SC: And here I must actually fess up and say that in my rush to get this stuff together, I have not actually, we can do a WinDeed search. We will have that after tea.

ADV KHUMALO SC: But those would be public documents ...[intervenes].

ADV CHASKALSON SC: They are public documents.

10 **ADV KHUMALO SC:** It might help just adding them to the bundle.

ADV CHASKALSON SC: Sorry?

ADV KHUMALO SC: It might help just adding them to the bundle.

ADV CHASKALSON SC: Indeed, we will do so.

ADV BALOYI SC: Do we also know from the earlier chat that Nokuthula Nxumalo is associated with Kamprock?

ADV CHASKALSON SC: Indeed. And if needs to be, I can also get that contact card printed out over the tea break.

20 **ADV BALOYI SC:** Yes.

ADV CHASKALSON SC: Can I ask that we, in that respect, that we actually take an extended tea break just for me to attend to these logistical issues? We are scrambling a little bit and we are not, we are certainly not going to run beyond lunch today, so it is not like we will lose time by

that.

CHAIRPERSON: So we adjourn now or ...[intervenes].

ADV CHASKALSON SC: We could adjourn now because I am going on to a slightly related but ...[intervenes].

CHAIRPERSON: Okay. So when you say extended, would half past 11 be fine or do you want later than half past 11?

ADV CHASKALSON SC: I think half past 11 would be fine.

CHAIRPERSON: Half past 11. All right, let us adjourn and resume at 11:30.

10 **INQUIRY ADJOURNS**

CHAIRPERSON: Yes, Mr Chaskalson.

ADV CHASKALSON SC: Chair, first of all, apologies for the delay, but we have found some supplementary documents and the first of those is at page 365. That is the contact card. That is the contact card of Ms Nxumalo and it was attached to the, it is what was sent in chat number two on page 142.

CHAIRPERSON: Are those still to be shared? Because what we have runs up to 364.

20 **ADV CHASKALSON SC:** Sorry, Chair. Have you been given extra documents yet?

CHAIRPERSON: Not yet, no.

ADV CHASKALSON SC: Oh. This exercise has been... Then let us... I will come back to this once someone arrives with the documents. I apologise for that.

CHAIRPERSON: No problem.

ADV CHASKALSON SC: Apparently they are being copied. There are a range of follow-up messages that are streaming in in relation to grabbers. But we will, I do not think I will try and deal with them on the fly. We will get an expert to put a statement in. But everybody is telling me emphatically that no one may possess, use, sell anything in relation to a, no private person may do anything of that nature with a grabber. We will pick up in due course in
10 relation to the documents relating to Ms Nxumalo and also to Mr Adams, Mr Jacobs.

CHAIRPERSON: Sorry, do you want to find out if those are the documents?

ADV CHASKALSON SC: They are indeed. Quickly distribute them. Have they been punched?

CHAIRPERSON: We now have 365 to 377.

ADV CHASKALSON SC: That is correct. So if I can start with 365, that is the contact card that was sent on 4 May 2023 from Mr Msibi to Ms Nxumalo. Page 142.

20 **CHAIRPERSON:** And is it practical to flight these? Do you already have them in electronic format? In an electronic format?

ADV CHASKALSON SC: We may be able to flight them. I just want to be careful that we do not flight anybody's phone number.

ADV KHUMALO SC: IDs, please, Mr Chaskalson.

ADV CHASKALSON SC: And IDs. The WinDeed in the next document is a public document, but we can... Let us just see if it can be done.

CHAIRPERSON: Or you could move on to something else whilst this...

ADV CHASKALSON SC: Yes, I am not sure we have redacted copies.

CHAIRPERSON: Okay. So maybe let us move on to something else.

ADV CHASKALSON SC: I will do that.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Still on the Ekurhuleni connection, which we had got to, while the Kamprock bid is pending, if we go to page 92, we see that on, at chat number 4, on 23 September 2023, and remember the bid was awarded in November and Mr Msibi had identified it in April. On the 23rd of September, chat number 4, Mr Motsumi sends a contact card to Mr Msibi and that contact card is at page 93. And again, just check that it is redacted.

It is the contact card for Ms Mashazi, who was then the city manager of the Ekurhuleni, and who has appeared before this Commission, and whose connection with Mr Msibi was previously unknown. Having received the contact

card for Ms Mashazi, Mr Msibi then, on the 25th of September, called her. That is at page 26. And these are the chats between Mr Msibi and Ms Mashazi. And, at the top of page 26, you will see there was a call on the 25th of September at 12.53, to which Ms Mashazi responded:

“Thanks Baba”

At 12.59, and Mr Msibi said:

“Cool Sesy”

At 1 o'clock. Obviously we do not know what that call was
10 about.

There is another issue, where we were hoping to get some clarity from Ms Nxumalo, which happened while this bid was pending. That is to be found at page 143. And you will recall that at the top of page 143, well near the top of chat number 3, there was the message from Ms Nxumalo to Mr Msibi:

“This one is in the panel, is it spoken for?”

I have two people asking.”

And then the front page of the tender. At chat number 6,
20 there was another message that caught our eye, because Ms Nxumalo writes to Mr Msibi:

“Euro banks closed at 4.00 p.m.. We
have locked the trade, so she will receive
€46,256.98.”

I am not sure whether it is cents or are cents for the Euro.

Now that is just under a million rands. We did do the exchange rate there, and it was roughly 18 rands to the Euro, so this came in at just under a million rands. And Mr Msibi responded:

“You are the best my boy.”

We were curious as to who was getting this payment in Euros, so we asked Ms Nxumalo, and that question is at page 170.

CHAIRPERSON: 170.

10 **ADV CHASKALSON SC:** 170. Where we asked for:

“The full details of the person whom you referred to as ‘she’ in your WhatsApp message to the late Mr Msibi on 19 August 2023 at 10.26 when you stated: Euro banks closed at 4pm, we have locked the trade, so she will receive 46,256.98 first thing on Monday, which message also appears in the extract of WhatsApp chats between yourself and the
20 late Mr Msibi, which was attached to our notice.”

Unfortunately, if not unsurprisingly, Ms Nxumalo could not help us. His answer was at page 177. Paragraph 21.

“The message referred to in paragraph 2.5 reads: Euro banks closed at 4pm, we

have locked the trade, so she will receive 46,256.98 first thing on Monday.

It appears that item 6 of the extract dated 16 August 2023, and is likewise marked incoming, I have no recollection of this message, of the trade to which it refers, or of the person referred to as she, and therefore I am accordingly unable to furnish the details sought in paragraph 2.5 or 2.6.

10

At best, I simply recall that the late Mr Msibi had dealings in foreign countries, the intricate details of which, however, I have no personal knowledge. Should the Commission be in possession of further material relating to this message, including any further portion of the chat extract, I request it be furnished to me, and I undertake to supplement this statement promptly upon receiving it."

20

Well, we have not written back to Ms Nxumalo yet, but he has now seen what we know in relation to this trade, and maybe it might jog his memory. That is the end of the Ekurhuleni connection. That takes us to the connection with Mr Karim, who we heard from Mr Matlala yesterday,

who was a visitor to the farm.

ADV KHUMALO SC: Mr Chaskalson, before you leave the Ekurhuleni, I think to be fair, we do know that there is conversations between Mr Msibi and Ms Mashazi, and then there is this chat that refers to a 'she' receiving money. We have not established that the she is her.

ADV CHASKALSON SC: Not at all, no.

ADV KHUMALO SC: As an Ekurhuleni connection, it may create the impression that it refers to her.

10 **ADV CHASKALSON SC:** No, no, we were hoping Ms Nxumalo would clarify that for us, but he cannot. As things stand, we have no evidence. We will try to clarify that. In particular, we will go to the Reserve Bank and see if they can trace details in relation to that trade. Moving then to Mr Karim, we learned yesterday that he was a visitor to Mr Msibi's farm. We did not know about that previously.

But what we do see is some connection between his joint venture through his company Ziggy Investments and a company Transnational Coaches, on the one hand, and Mr
20 Msibi and that joint venture linked to Mr Msibi comes or is addressed in a series of chats that run from page 272 onwards. We have not been able to identify who the counterparty is, but the counterparty appears to be linked or to have contact with the Paruk family, P-A-R-U-K, who is the family that apparently controls Transnational Coaches,

that was in a joint venture with Mr Karim.

And those chats evidence a number of things. The first is communications in relation to the status of the subsidised bus transportation contracts that were many years ago the sole preserve of Putco and if we start on these chats, we see the beginning of the chat is preoccupied with communications relating to what appears to be a bid involving Mr Msibi for one of these subsidised contracts. So on page 273, starting at chat number 6, we

10 see:

“Good morning in Ndondlo, confirmed tomorrow morning at 10 o'clock Sandton City.”

And underneath that, the sender sends to Mr Msibi a copy of the bid for, the new bid for one of these subsidised transport contracts, and the document itself that is attached is there at page 285.

And what it is, is a series of tenders which are invited for the supply of quality road-based subsidised
20 public transport services for Gauteng province, and there are eight of these routes that are put up to tender, one in Soweto, one in Hammanskraal, Tembisa, Tsakane, Vosloorus is the third, Soshanguwe is the fourth, Mabopane, Ga Rankuwa, Sebokeng, Orange Farm, Lenasia, Atteridgeville and Mamelodi, and two, maybe three of those

traverse areas which were previously under the control of, well originally the Bophuthatswana, then the North West, and in respect of which the North West Transport Parastatal, who we will come to at a later stage, had been running these contracts on buses that were rented to it by the Ziggy Transnational Coaches Joint Venture.

Then we see on the next page, 274, at the top of the page Mr Msibi sends a screenshot, sorry that is not at the top of the page, let us take it one step at a time, there
10 is a screenshot on, sorry before we get to the screenshot, I am sorry I am losing my notes here, at 274 the sender sends to Mr Msibi requirements of what the subcontractor is going to need, CSD, BEE level, operating licence, routes that are given to the subcontractor with financial amounts, and percentage of the networks I am contracted.

Then in chat number 4 ...[intervenes]

CHAIRPERSON: Sorry, sorry, should we not be flighting this?

ADV CHASKALSON SC: It is chat 2 page 274. We may
20 have again redaction problems but they will not affect the next issue. So chat 2, these are the requirements that the sender forwards to Mr Msibi, CSD, BEE level, operating licence, routes that will be given to the subcontractor with financial amounts, percentage of network subcontracted. Mr Msibi then in chat number 4 sends back details of

presumably the entity, his entity that is going to be the subcontractor, and that is Themistyle again, the company that we have seen previously.

It is, that particular image that he sends back appears at page 287. We then get a series of further exchanges, but the one that is of significance is that we get, the sender sends a message, well first we get details, there is a letter at the foot of page 275 that is sent, sorry, apologies, Chair, my notes are out completely, it is actually
10 at the top of 275 that the letter is sent, it is chat number 1, and that is a message from the state attorney saying that the Minister is going to abide a dispute that is before Court in relation to the existing contract.

Because Putco has taken the Minister to Court over the decision to put the tender out afresh and the Minister has decided to abide that, that letter we see at page 287... sorry, 288, and if we scroll further down, we see that:

“The Minister of Transport has indicated
in a written communique hereto attached
20 for ease of reference, that he has withdrawn his concurrence to advertise the new tender. Our instructions are therefore that the tender and the evaluating of bids must be placed on hold. The Minister is also party to the

proceedings, this is Putco's interdict, in the light of the above instruction we will not file our counter application.”

Going back to page 275, the counterparty says:

“Good day Ndlondlo, the decision of the Minister has now been officially implemented and has been made known to the public.”

We go over to the next page and the name, we are
10 redacted. On the 19th of February the name of a member of the Paruk family with his ID number and his Mauritian phone number are forwarded to Mr Msibi, and on the 21st of February the judgment in the interdict is handed down and Putco, that judgment is in the bundle at page 289, from 289, and Putco is successful, sorry, 290... sorry, 294, 294, and Putco is successful.

So Putco, if we go down to the order, we see that the state respondents are interdicted from taking any further action in the advancement of the impugned tender.
20 So Putco manages to prevent new contracts being processed and it remains the incumbent. We then see the emergence of the link to Mr Karim and Ziggy Investments because at the top of, and again we do not fully understand the arrangements that are in place, but at the top of page 277 there is a payment.

A proof of payment is sent to Mr Msibi in chat 1, and that proof of payment at 313 is a payment of R700,000 from Transnational Coach Lines to SANTACO, the South African National Taxi Association. And if we go back to page 277, we see in chapter 3 that the sender is saying:

“Now I am waiting for the 300,000.”

So the payment should have been a million, but it was 300,000 short. And the explanation that comes is furnished in chat number 5, where what is forwarded to Mr Msibi is
10 the document at page 314, which is that North West Transport Investments and North West Star, who are the North West bus companies who are using buses rented to it by the joint venture between Transnational and Mr Karim and Ziggy Investments, are in arrears.

They are not paying the joint venture, and so the joint venture is short on paying Mr Msibi. And if we read this ...[intervenes]

ADV BALOYI SC: Mr Chaskalson, when you say paying Mr Msibi, you mean SANTACO?

20 **ADV CHASKALSON SC:** SANTACO. Although at a later stage it may be Mr Msibi. We will get to the later payments. At a later stage... Sorry. What we see is quite extraordinary. The joint venture claims in paragraph 3 that the North West companies are indebted to it in an amount of 335 million. So this is a huge amount that Mr Karim's joint

venture is owed, or allegedly owed, by the North West.

This issue in relation to payments drags on and so at 279 we see a screenshot at the top, and the screenshot is a chat between the sender, who we have not yet identified, and Mr Suleman Paruk, who is saved as Sol Paruk. And there, the account that is given, what the screenshot says is:

“Sol, Msibi accountant is asking whether we paid his money.”

10 And now the accountant of Mr Msibi is asking whether we, who is the sender and Mr Paruk, have paid Mr Msibi's money. And the address that is given is Tucofin (Pty) Ltd.

CHAIRPERSON: Sorry, Mr Chaskalson, maybe I missed it. You referred us to the screen grab, but you did not refer us to the pages.

ADV CHASKALSON SC: Oh, sorry, 316, 316.

CHAIRPERSON: Oh, thank you, thank you. Please continue.

ADV CHASKALSON SC: So that is, an account is given for
20 Tucofin (Pty) Ltd, who must be paid. If we go to page 352, we see the WinDeed for Tucofin, and there we see that Tucofin was a company in respect of which Mr Msibi himself was a director, but he is listed as deceased, and so he is no longer a director. But if we go down to page 353, we see that he was a director until 2024. So at the time of this

correspondence, he was a director of Tucofin.

We then see at page 279 that there is another payment notification shortly after that screenshot. So the screenshot was on the 1st of August, and on the 3rd of August, there is a screenshot of a payment notification. That payment is at page 317, and it reflects a payment of a million rands to Tucofin, which is Mr Msibi's company. There is then an intersection of these chats with other chats that appear to be with Advocate Makhosini Msibi, who was
10 then the CEO of the then or he was then the CEO of the Road Traffic Management Corporation.

And if we start at the 16th of August, at page 279, there is a video that is sent from the sender linked to the Transnational/Ziggy joint venture. That sender sends to Mr Msibi at 9.14 p.m. a video of a crowd protesting. And if we can just play that video.

ADV BALOYI SC: Mr Chaskalson, you are saying this is with Mr Makhosini?

ADV CHASKALSON SC: Not yet. That video will be
20 forwarded to Mr Makhosini Msibi. This is a video that is sent to Mr Jotham Msibi from the sender involved in Transnational and Ziggy. [VIDEO PLAYED BACK] Underneath the video, there is a chat number 5 on the 16th of August:

“Msobho said I must phone you and send

these videos.”

Now, if we go over to the chats with Advocate Makhosini Nkosi ...[intervenes]

CHAIRPERSON: Sorry, do we have any idea what this video is about? Or is that going to be clear?

ADV CHASKALSON SC: It is not entirely clear.

CHAIRPERSON: All right.

ADV CHASKALSON SC: But we think that when we get to those chats, we will get more clarity on it.

10 **CHAIRPERSON:** Okay, all right.

ADV BALOYI SC: And you said Makhosini Nkosi? You mean Msibi.

ADV CHASKALSON SC: Msibi, Msibi.

ADV BALOYI SC: Yes.

ADV CHASKALSON SC: Sorry, sorry, sorry.

CHAIRPERSON: You took us to which page, I am sorry?

ADV CHASKALSON SC: 324.

CHAIRPERSON: 324. Thank you.

20 **ADV CHASKALSON SC:** And we see that on that same day, the 16th of August 2022, from chat number 4 or chat number 5, there is a meeting between the two Msibis. Mr Jotham Msibi and Advocate Makhosini Msibi at a restaurant in Sandton. And four days later, there is a message from Advocate Makhosini Nkosi to Mr Msibi saying:

“Morning Madiba, we will wait for

directives. Of concern is that our project indicates that she has the photo or visual that I sent to you was sent to her. That is why I want to avoid duplication. They picked up that everybody is there and threatened to charge for defeating the ends of justice. Can comrades retreat? This is under control and we may put the investigating officer and prosecutor under pressure if everybody is all over.

10

The issue of charging her has been taken care of. I have asked them to do so. They threatened one group with charging them with defeating the ends of justice. That will affect me adversely. That is why I want to identify the blockage clearly, which will be cleared by Monday afternoon.

20

One should be mindful that the uncle is a police officer and as many people are involved, leakages are unavoidable and we may compromise the public prosecutor who has to close the case without any suspicions and close the aspect of possible charge of defeating the ends of

justice and perjury as a way to intimidate the project.

That is why I say leave it for now. It seems to me it is not clear which prosecutor will deal with it. The matter is with the provincial office. We do not know their programme. They are the ones who got the withdrawal on Thursday despite the claim by a number of people.

10 They have their plan.”

Now, we have not worked out what this is about. But it does seem that there is an attempt to interfere with prosecutions in relation to defeating the ends of justice here. And the very next message that Mr Msibi sends to Advocate Msibi is Transnational Coachlines and Ziggy Joint Venture. Which is sent two weeks later on the 9th of September. But that is the message that his counterparty, that same message, has sent to him on the same day.

20 So we see on the 9th of September, if we go back to 280, we see at the top of the page, the counterparty who has been dealing with the transport contracts with Mr Msibi and who has been forwarding proofs of payment to Mr Msibi, sends that same one-line message with the misspelt Transnational Coachlines and Ziggy Joint Venture on the 9th of September at 4 p.m. And Mr Msibi forwards that to

Advocate Makhosini Msibi on page 326 almost immediately upon receiving it.

We were not ready to flight to all of these exchanges yet because our investigations have not actually got to the bottom of it. But there is definitely a connection to this joint venture with Mr Msibi that we were not aware of previously and that prior to Mr Matlala arriving yesterday and saying that he saw Mr Karim at Mr Msibi's farm, we would not have put the two together but for this connection.

10 **CHAIRPERSON:** Let us take a short, short adjournment. We will indicate when we are ready.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: We are ready when you are.

ADV CHASKALSON SC: Thank you, Chair. We now finally have our redacted annexures ready. We had already dealt with the contact card. Have they survived this well?

ADV BALOYI SC: Commissioner Baloyi is wet. Now they have taken mine to make copies using mine.

20 **ADV CHASKALSON SC:** Chair, maybe we can...

CHAIRPERSON: We are ready, thank you.

ADV CHASKALSON SC: Thank you, Chair. There is... So we dealt with the contact card. 366 is the WinDeed report. And we will see from 366 that Ms Nxumalo is one of the two directors of Kamprock. And then from 371, there is a Mail

and Guardian report, which may have identified the Shane Adams as opposed to Sean Adams, who, Jacobs, Shane and Sean, Shane Jacobs as opposed to Sean Jacobs. There was certainly a Shane Jacobs involved in a controversy relating to a security tender at Parliament. We can take it no further than there at the moment.

The last issue that we will address is a series of chats between Mr Msibi and a different Sean. And this is a Sean who was involved in what appears to be a dagga growing project of Mr Msibi. And those chats start at page 222. And just to contextualise, this dagga growing project took place in factory premises in Germiston and the company involved was called Jack Frost Pharmaceuticals. The chats which I would start with are at page 225. And there Sean writes to Mr Msibi saying the following:

“Afternoon Chief. I know you are dealing with a lot and this is minor rubbish, but if you could get a chance, please send two of your guys to Germiston for me. I will meet them and point out who needs to be spoken to. My grow team is still getting watched. I can use my Congo guys, but I know your guys will create more fear in these people. Thanks my brother.”

And so Sean seems to be saying he is worried that there

are people snooping around his premises where he is growing his dagga and he needs Mr Msibi to send some people around essentially to scare them. Mr Msibi says:

“We will deal with it, please do not worry.”

We then, through the chats, get a sort of blow by blow account of the growth of the project. And so if we start at foot of 276, we see the beginnings of the growth in that little screenshot at the foot of page 276. The picture itself is at page 257.

10 **ADV BALOYI SC:** 267 maybe? You said 276.

ADV CHASKALSON SC: Sorry. 226. 226. And the picture that he sent you will see in full at page 257. And then if we go back to 25 and just scroll down, what is happening is that each week Sean is sending updated photos so that the growth can be seen by Mr Msibi. And it goes on and on, and the growth is quite spectacular. It reaches a point where Sean is able to send, I mean if we go down to 233 for instance, and maybe if we look at the video at the top of page 236, which is 13th of March. [VIDEO
20 PLAYED BACK] And if we just keep scrolling, we see the growth of the project.

My favourite is the next video that Sean sends, which is on the 22nd of April, can you play that, because it comes with musical accompaniment. [VIDEO PLAYED BACK] I am a little bit early. That is on page... Can we go

to the next one, not that one? [VIDEO PLAYED BACK WITH MUSIC] [Laughter] So we can see ...[intervenes]

CHAIRPERSON: We definitely see why it is your favourite.
[Laughter]

ADV CHASKALSON SC: But the one cause for concern here is the document at page 268. And that is the licence given to Jack Frost, and it is issued originally on 19th September 2022. So everything that we have looked at thus far is before this licence was in effect. Now it is possible
10 that there was some other permit in place. We do not see it and we are investigating whether that was the case.

But what it seems like is that what we are looking at is production that took place before licence was issued. Well, certainly before this licence was issued. We will be making enquiries to establish what the true state of affairs was. If it was not permitted, then this would be illegal cultivation of dagga, which would be a crime under the Drugs... I forget what the Drugs Act is now called.

Those are the points that we are able to make at
20 this point, flowing from these chats. There are a number of issues that we need to follow up and clarify, both from what I have ventilated today and in relation to some material that I have not ventilated today. We will do so as soon as we can. And if it is necessary to come back to any of these chats, we will do that. I apologise for the slightly

haphazard nature of this presentation.

CHAIRPERSON: It actually flowed well, Mr Chaskalson, and whatever misgivings you have are quite understandable under the circumstances, because this was last minute and not originally scheduled. It is understandable.

ADV BALOYI SC: Just one last thing, Mr Chaskalson. On this last instalment, these plants, the picture that you are presenting, or that it looks like, is that Mr Msibi with others, Jotham Msibi with others, it appears they were involved in
10 the production, unlawful novel production of dagga. I have been told it is not called dagga. We never have used that word. I have been told it is weed. [Laughter] That they were involved in the production of this, unlawfully. That is the picture.

ADV CHASKALSON SC: Well, I do not want to say that categorically now, because I have looked at the legislation, and it seems quite clear to me that one needs, this licence purports to have been granted under, or not purports, has on its face been granted under section 22(1)(c), sorry,
20 22(c)(1) of the Medicines and Related Substances Act.

Now, there is a provision under section 19(a) that I do not think applies to manufacturers, and I think scale of this size is manufacturing scale, where you can get a permit, which is not issued by the South African Health Products Regulatory Authority, but is issued by an official of

the Department of Health, I think it is the Director General, which may conceivably authorise the growing of dagga.

I mean, we need to clarify with Jack Frost whether they assert any legitimate rights before we say that this was unlawful production. But *prima facie*, this licence certainly did not authorise it.

ADV KHUMALO SC: Mr Chaskalson, certainly not in respect of Mr Ali and his crew, but other people who are mentioned in the chats, the same way we did with Ms
10 Nxumalo maybe, and I do not want to put you on the spot and force you to give an answer now, but consideration be given to them to explain what we see in the chats, either in the form of an affidavit or a short statement, just so that we do not just have your interpretation of the chats, but we have their version of what the chats are about, and we get the full picture.

ADV CHASKALSON SC: We will do that.

CHAIRPERSON: So we have come to the end of...

ADV CHASKALSON SC: We have, Chair.

20 **CHAIRPERSON:** Thank you, thank you, Mr Chaskalson. Let us adjourn and resume at 9.30 tomorrow morning. Let us adjourn.

INQUIRY POSTPONED TO 19 AUGUST 2026

INQUIRY ADJOURNS

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