

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

HELD AT

BRIGITTE MABANDLA JUSTICE COLLEGE

19 NOVEMBER 2025

DAY 36



PROCEEDINGS ON 19 NOVEMBER 2025

CHAIRPERSON: Yes, Mr Chaskalson.

ADV CHASKALSON SC: Thank you, Chair.

CHAIRPERSON: Good afternoon. And good afternoon, Mr Mogotsi.

MR MOGOTSI: Good afternoon, Commissioners.

CHAIRPERSON: Thank you.

MR MOGOTSI: Thank you so much.

EXAMINATION BY ADV CHASKALSON SC

10 **(CONTINUES):** Mr Mogotsi, there was a point in your testimony yesterday where you actually addressed topics beyond your statement. And you spoke, if I took it downright, about your theory of misdirection. Was it misdirection?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And because it is not in the statement, I just want to clarify that I understood what you were saying in this regard. So I am going to set out my understanding of your evidence, and I just want you to call
20 me up if I have not got it right. Your basic thesis, as I see it, is that the July speech of General Mkhwanazi was a misdirection tactic. It was designed to divert attention from other things. I see you nodding. Can you just say yes for the record?

MR MOGOTSI: Yes, that is correct. That is correct.

ADV CHASKALSON SC: And if I understood you correctly, the two main things that General Mkhwanazi wanted to divert attention away from were both linked to his friend and colleague, General Khumalo. The first was the problems with the PKTT allegedly being used to fight political battles in KwaZulu-Natal, and the second was to do with corruption in Crime Intelligence.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: So I want to take each of these
10 topics separately and just see if I understand your proposition correctly. In relation to what you say about the PKTT being used to fight political battles in KZN, you gave some evidence about the PKTT allegedly victimising Prince Simakade in the Royal Family dispute.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And here I just need some clarity, because I did understand you to suggest that the PKTT was being used to fight former Minister Cele's battles in KZN ANC politics, and that the Crime Intelligence Division was
20 being mobilised for this purpose. At least that is what I understood you to have in mind when you referred to the WhatsApp message about the Sindiso Magaqa case in your chats with Mr Matlala.

MR MOGOTSI: Yes, but it should be properly contextualised in the sense that about Bheki Cele, it should

not be noted, as I said, it is him using it for political scores in the KZN. Not necessarily former Minister Cele using the PKTT for political battles in the KZN. That I did not say.

ADV CHASKALSON SC: So are you suggesting that the PKTT is being used for political scores?

MR MOGOTSI: Yes, but mostly by General Mkhwanazi it is actually used to achieve a different objective from that it is actually intended for.

10 **ADV CHASKALSON SC:** And what objective would this be?

MR MOGOTSI: Let me give an example. In the case of Cat being arrested or when the PKTT went to his house, one would imagine, Commissioners, how, because during General Mkhwanazi's statement, he said – not a statement, when he had a press conference, he said the PKTT was in Gauteng to assist in some of the cases. And out of the blue then, I do not know how they ended up going to Cat Matlala's house, which you will ask, was Cat Matlala a target?

20 Meaning was he one of the suspects or Cat Matlala, did he fall within their scope of operation? Meaning was he also one of the suspects in the sense that it is meant for Political Killings Task Team for political killings, or including councillors and so forth, but was Cat a target because of any wrongdoing? His crime, was it falling under

the category of what the PKTT is meant for?

Not only that, let me bring another case of the PKTT. You should just see when they should execute just a search and seizure warrant. It was on TVs. They would come with four or five cars, just to come to Brown Mogotsi to fetch two phones. Even when they went to General Sibiya, they went at night with so many vehicles from KZN. Those cars are KZN vehicles.

10 But if it is a search and seizure, is it not appropriate to be notified, look, here is a search and seizure warrant, we want these following items, because they have got IMEI numbers of cell phones and all the things they want, and then they collect them. But you can see the system that they use, they will bring the massive way of threatening people and so forth. That is how I believe they are using them.

ADV CHASKALSON SC: You did yesterday refer to a post about the murder of Sindiso Magaqa.

MR MOGOTSI: Yes.

20 **ADV CHASKALSON SC:** And that is the post on pages 77 to 78 of your witness statement. Can you just go there?

ADV BALOYI SC: Which bundle?

ADV CHASKALSON SC: The witness – it is part of the chats. Sorry, it is the annexure bundle, not the witness statement bundle.

MR MOGOTSI: That is correct, Commissioner.

ADV CHASKALSON SC: Now, the theory of this post which you referred to yesterday, was that Mr Magaqa, as I understand it, was murdered for blowing the whistle on corruption in ...[indistinct] and that he was actually killed by Crime Intelligence operatives who had been allegedly used to target a number of ANC councillors in KZN. That is certainly the theory of that post.

MR MOGOTSI: Yes, that is the theory.

10 **ADV CHASKALSON SC:** And the post also alleges that Minister Cele and General Khumalo have allegedly been covering this up together with Brigadier Lushaba, who is mentioned at the end of the post.

MR MOGOTSI: According to those message, yes.

ADV CHASKALSON SC: Is that something you associate yourself with or not?

MR MOGOTSI: Yes. You see, this message was sent by Cat Matlala. Now, the message as is, if we look at the message, it also talks about the vehicle that was used that
20 was a vehicle owned by the Crime Intelligence, including a recovered firearm or a rifle, which is recorded and booked in the SAP13, then imagine how does it get released from SAP13. And you find that it has been used to murder another person. Now, this came from Cat, and now you can see that how the whole thing is narrated with names,

amount of money paid, and everything. This is the story I was associating myself to.

ADV CHASKALSON SC: So that is what we have heard in relation to your testimony on the first of those topics, the PKTT. If we go to the second one, which you say General Mkhwanazi's speech was designed to divert attention away from, that topic you have said is corruption in Crime Intelligence.

MR MOGOTSI: That is correct.

10 **ADV CHASKALSON SC:** And that is what you say you have been investigating.

MR MOGOTSI: Corruption in Crime Intelligence, that is correct.

ADV CHASKALSON SC: So, I am just trying to identify the topics that you have canvassed there. You mentioned the case of Brigadier Lushaba yesterday.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: You talked also about the plot to frame General Khan.

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

ADV CHASKALSON SC: I think you mentioned in your evidence yesterday vehicles being bought with secret funds that are not properly accounted for.

MR MOGOTSI: That was one of the tasks given in the first place. That is correct.

ADV CHASKALSON SC: Certainly in your chats with Mr Matlala, we also see references to a property that is allegedly bought with secret funds that are not properly accounted for.

MR MOGOTSI: Yes. Now, that is where the interest starts. I believe even over the weekend there was a publication from News24. It talks about the IGI report. I do not know how they got it, where the secret fund was being abused to buy these properties. And if you check, that is one part of
10 the work that I did. There is a property that was bought for R22-million. There is a proof of transaction from the Deed Office. And what will surprise you most, it is bought under the name of an individual company. Then you ask yourself a question. What will happen if this individual passes on? How will the State ever recover this property ...[intervenes].

ADV CHASKALSON SC: Sorry, it is bought under the name of an individual person, not an individual. Bear in mind that I would ask you not to mention names or details because we are talking about classified information.

20 **MR MOGOTSI:** Yes, yes. That is correct.

ADV CHASKALSON SC: So the material in your chats should not be made public.

MR MOGOTSI: Okay.

ADV CHASKALSON SC: But can you just clarify for me, it was bought in the name of an individual as opposed to the

name of a company?

MR MOGOTSI: That is why I used the name individual company. A company, at the end of the day, it is registered under a human being. So there is a person in these messages on BM7.30, and the ID number, who owns that company. Page 70 and 71. There is somebody's name. And then when you check, this is the address of the property. And whoever who got so lucky to have this property on her name, she even advertised that her spa has
10 moved to this new property. It is a beauty spa. And there is also proof of the title deed from the Deed Office and the name of the company is also there. When you go to deed search of the company, she is the only director. She is not a member of SAPS. She is not even employed in South African Police Service.

ADV CHASKALSON SC: Yes, but obviously every company will have a director, a person who is a director. But I do not want to get into the details of that at the moment. I understand what your concern is. For present
20 purposes, I just want to try to itemise what you see as the issues that have been the subject of your investigation. We see in your chats also a reference to the allegedly improper appointment of Brigadier Mokwele.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And we know that that is the

subject matter of charges against General Khumalo that were brought by Mr Fadiel Adams.

MR MOGOTSI: That is correct. And just to add, the same case which could not be opened in Gauteng, that is how Mr Fadiel Adams opened the case in Cape Town. It could not be investigated. He came to Soweto. It could not be investigated. That is when the section 27 referral to IDAC came to being. And after that investigation, Maj-Gen Khumalo was arrested alone for the first time. He was
10 granted bail.

When he got arrested for the second time together with General Khumalo and the others, that is when, during the press conference of General Mkhwanazi, he was very furious and did not even tell the public that this man was arrested for another matter. He could not be granted bail. Then he attacked the magistrate to say, what kind of a presiding officer who will deny a person who is working in the employment of the State bail, and why would he impose
20 bail conditions that prohibit them from entering Crime Intelligence offices. Like I said yesterday, that Magistrate recused himself from the case.

ADV CHASKALSON SC: These charges that were laid by Mr Adams, did they have anything to do with your investigation?

MR MOGOTSI: No. I knew about the matters. That is not

my investigation.

ADV CHASKALSON SC: And did your handler play any role in them, to your knowledge?

MR MOGOTSI: No. Only the one of the lady, they call it docket 38. The docket 38, it was that one of housebreaking, which the Crime Intelligence officer, through his gathering, realised that it was not the housebreaking, actually. It was basically defeating the ends of justice.

ADV CHASKALSON SC: And that is what you spoke about
10 yesterday in relation to Brigadier Lushaba?

MR MOGOTSI: That is correct, which led to his first arrest, that when he got arrested for the second time, he was the only one who could not be granted bail.

ADV CHASKALSON SC: Is there anything in relation to those two topics, the alleged misuse of the PKTT and the alleged corruption in Crime Intelligence, that we have not addressed here?

MR MOGOTSI: Yes. There is also the purchase of a forklift that was purchased by the slush fund. A forklift is
20 usually around, the most expensive, which works in the mine, will be R350 000. That one, we do not even know where it is working. It was purchased for almost R900 000.

ADV CHASKALSON SC: Sorry, for?

MR MOGOTSI: R900 000.

ADV CHASKALSON SC: And is that what your

investigation revealed? Y

MR MOGOTSI: es, and that one, there are proofs, just that it was not in the statement. But I believe I am in a position to get the proofs. And there is another, in relation to the Crime Intelligence, the corruption we are talking about. There are three things that usually happen. One of them, it is the reason, Commissioners, I, after receiving the notice to appear before here, to appear before the Commission, when I approached my counsel the advice was there is no
10 need to come here. I am not obliged to say anything here. Commissioners, my intention, I wanted to help this Commission, that is why I am here.

And I am raising this because I am going to touch on very, very critical matters, which will also affect me. And I also need the Commission to note, I am coming here at my own cost. I am paying my protection. I believe Mr Chaskalson and the rest, I have pushed my legal team to engage them, saying after this Commission, I may need protection.

20 And I even said, you know, I was very much disturbed when my life was attempted, you know, in Vosloorus before I could even give a statement, because people thought I am a superman, I am trying to lie that I was moving like this inside, you know, in the middle of bullets.

Whereas, by luck, I do not know what happened. It was only one shot, because those people followed me for so long. I thought they could not find me. When they saw my car, they fired the shot. I managed to drive because they were driving on the speed, 10 left on that particular street. Fortunately, they passed to go and make a U-turn. That is when I ran for my life. But before I could even give the statement, they were saying, hey, this may be a staged assassination, and that is what made me very worried. It was presented as if after that incident I would say, I do not want to come here. I wanted to come here.

Now, here are the things in the Crime Intelligence that I wish the Commission took. It is about this informant. The handler is alive. I will provide the name of the handler at any given time. It was about the cash-in-transit which happened in Limpopo. There was a success. 17 people died in that. That informant was one of the 18 persons, but did not die.

Because of the nature of the operation, we knew he was alive, and he came to Gauteng. The only problem started with the claim. It was R1-million that was requested, could not be approved. It is one of, Commissioners, if you can remember, it is one of the things I gave example about. The source said one million came out. It still cannot give the proof. But the R50 000 which

was prepared to be given to this informant finally came out. General Khumalo, Lt-Gen Khumalo, insisted and instructed that Brigadier Sebula must accompany the handler to meet with the informant, something which was very strange.

But with the pressure, because there is always this feeling that when the handler is given money, they share the money with the informant or whatever, but there is always a challenge, but this is what happened. They went to meet the informant. Brigadier Sebula wanted the contact
10 numbers of this informant. The handler could not agree. But because when you meet someone, you never know other arrangements which were made, this informant spoke to me. This informant spoke to the handler that I am being followed. I am being followed ever since we met. Commissioner's state informant was shot 16 bullets and was buried.

Another incident, and these are only happening in the cash-in-transit. And one will wonder, what is the reason? Why there is a problem with CIT informant? This
20 one happened in Gauteng.

CHAIRPERSON: Mr Chaskalson, is there still an answer to your question?

ADV CHASKALSON SC: I think, Mr Mogotsi, we should possibly canvass these issues separately on the basis of a separate statement because if there is detail that requires

investigation, I think that we should do that before we canvass it in open commission.

MR MOGOTSI: Ja. Commissioner, the question was, is there anything that I want to raise that is not in the statement around corruption in the Crime Intelligence? That was the question. And I said, yes, I do have.

ADV CHASKALSON SC: I did ask that question, but I think it would be better for us to canvass it. If you are going to give specific allegations, then I think we need to canvass
10 them, investigate them, and we can do that. But I want to ...[intervenes].

ADV BALOYI SC: Sorry, Mr Chaskalson, may I just? I accept the way you are going to proceed, and I think that is a correct way to do it, but I would like to raise this. You are mentioning names. You have mentioned Sebula.

MR MOGOTSI: That is correct.

ADV BALOYI SC: Are you accusing him of anything? And I think in fairness to him, on this very public platform, you should say what it is you are accusing him of, and you have
20 the facts to back it up. Because if you do not have the facts, and if you are not accusing him of anything, you need to say it.

MR MOGOTSI: I am not accusing him of anything. I am saying it is very strange for anyone to accompany the handler to meet the informant ...[intervenes].

ADV BALOYI SC: No, I have to stop you. I have to stop you. I have the answer. You are not accusing him of anything.

MR MOGOTSI: Okay.

ADV BALOYI SC: Thank you. Thank you, Mr Chaskalson.

ADV CHASKALSON SC: So yesterday when you were speaking about General Mkhwanazi's speech and the misdirection tactic, you said that the speech was typed in Pretoria, and you described it as being akin to a coup. Do
10 you recall that?

MR MOGOTSI: That is correct, Commissioners.

ADV CHASKALSON SC: Now, who do you say were the plotters in that process, in this process that you say was again to occur?

MR MOGOTSI: Thank you, Commissioner. At first, as we know that it is not a protocol for a Provincial Commissioner to call that kind of a press conference where a National Commissioner, I am saying, is in a better place to have called that press conference. And by the fact that the
20 National Commissioners, like, he saw nothing wrong after the press conference was called. And the National Commissioner, still today, never even condoned the doings of General Mkhwanazi. I can say they were together in this.

ADV CHASKALSON SC: Is there anybody else you would accuse of that?

MR MOGOTSI: Obviously, General Mkhwanazi, during the press conference, was very angry about the arrest of Lt-Gen Khumalo. And this time that I feel of this police mafia cartel, I may not be able to know everyone who was involved, but I can assure you General Khumalo, General Mkhwanazi, and General Masemola crafted, orchestrated that press conference.

ADV CHASKALSON SC: If we look at the people on the other side, the people against whom these alleged coup
10 plotters were plotting, let us take those two topics that you say the press conference was designed to divert attention away from. Who has been concerned about the allegedly unlawful use of the PKTT? Who are the people who are concerned about it?

MR MOGOTSI: One of them was, I even saw Ms Mary De Haas. I know of one socialist, very vocal, Patricia Mashale. But as we speak now, I believe in terms of the law, the letter which Minister Senzo Mchunu issued, it was never contested in any court of law, it was never set aside, but
20 the PKTT still exists. I am not saying they do not have to exist, but I am saying in terms of the law, if an executive has issued a directive of that nature, it is either it gets rescinded or it is set aside by the court of law.

ADV CHASKALSON SC: Sir, are you saying that the Minister was one of the people concerned about the PKTT,

that you infer that from his letter of 31 December?

MR MOGOTSI: Repeat the question, Commissioner.

ADV CHASKALSON SC: Are you saying that the Minister was one of the people obviously concerned about the PKTT, as you infer from the letter 31 December?

MR MOGOTSI: I cannot speak on behalf of the Minister, but during his appearance before the Ad Hoc Committee, he did give reasons relating to budgets and one of the Maj-Gen was here also. She spoke about the existence of some
10 units called violence, crime and so forth, saying there is an organisational structure in the South African Police that has been approved, which allows for the PKTT to be absorbed into those things. I think it was just a procedural and a policy matter, which does not cause for one to like or dislike it.

ADV CHASKALSON SC: Are you aware that the Minister has taken a particular interest in the murder of Sindiso Magaqa?

MR MOGOTSI: I am not aware.

20 **ADV CHASKALSON SC**: He in fact told Parliament that he was considering appointing a Ministerial inquiry into it. Are you aware of that?

MR MOGOTSI: No, I am not aware.

ADV CHASKALSON SC: Do you know what the Chief of Staff's position is in relation to these issues and the PKTT's

alleged abuses?

MR MOGOTSI: As I said yesterday, Commissioner, on my statement, the Chief of Staff, I would only talk to him during the ANC Day and only if I did not reach the Minister, so I do not know his position on anything.

ADV CHASKALSON SC: And if we go to the topic of alleged corruption in Crime Intelligence, we know that General Sibiyi was kept apprised of your investigation in this regard.

10 **MR MOGOTSI**: Ja, not that much. Remember, I report to my handler. It is only here and there if I could speak to him, but it is my handler that I am informing about an investigation.

ADV CHASKALSON SC: So who else inside SAPS do you think is concerned about corruption in Crime Intelligence that you are investigating?

MR MOGOTSI: I will not know who else has a problem. I know of, when you check the Portfolio Committee on Police, how members of Parliament will speak about corruption and
20 those that I mentioned, Ms Mary De Haas, Patricia Mashale, and the challenge I know where the police or Crime Intelligence officers will really raise in many occasions will be the flat rate fee of R3 000 across the board for informing, irrespective of the success and whatever.

ADV CHASKALSON SC: Now, if your thesis is true that

the July speech was a misdirection tactic, it is possible that it may have been a misdirection tactic, but what General Mkhwanazi said about crime syndicates controlling senior police officers remains true. Do you accept that?

MR MOGOTSI: You know, I still believe General Mkhwanazi is a Provincial Commissioner. He did not have to go to the media.

ADV CHASKALSON SC: That was not my question. My question was, do you accept that whether it was a
10 misdirection tactic or not, it is still quite possible that what he said about syndicates controlling senior police officers is true?

MR MOGOTSI: Yes, it is possible.

ADV CHASKALSON SC: And, of course, misdirection can be played in any direction. So, if there are senior police officers who are connected to criminal syndicates and they want to divert attention away from what General Mkhwanazi said in his press conference, they would want to use their agents to make sensational allegations against him. Do you
20 accept that?

MR MOGOTSI: Yes, I accept that. However, Commissioners, the possibility that you refer to, that it may be possible that there may be those connections between the senior police officers, the possibility may apply vice versa. It may be that, like what I was about to tell you

about the CIT, that that thing exists on the same people who are misleading the country.

ADV CHASKALSON SC: I hear you, and if you give us details, we will look into them. But what I want to put to you today is that your allegations about General Mkhwanazi and Prince Simakade being CIA agents strike me as a misdirection tactic. What is your response to that?

MR MOGOTSI: Investigation is investigation. You may have that belief now, but ultimately the outcome of
10 investigation will show whether we are correct or not, will show the result. But it is not intended to misdirect.

ADV CHASKALSON SC: Well, let me give you a couple of facts. You mentioned yesterday coal mine in Richards Bay. There is no coal mine in Richards Bay.

MR MOGOTSI: It is correct.

ADV CHASKALSON SC: But you mentioned a coal mine.

MR MOGOTSI: Ja, I can rephrase and put it in proper context. The coal mine is in Mpumalanga. I wanted to say the end route, the route that is utilised is the Richards Bay
20 one. Thank you so much.

ADV CHASKALSON SC: Well, then let me tell you that the Richards Bay coal terminal is owned by a consortium of more than 10 different mining companies, each of whom have their own export quota. Did you know that?

MR MOGOTSI: I am not aware of that.

ADV CHASKALSON SC: And each of these, I think it is either 13 or 15 mining companies, control how that export quota is used. So they can decide who they want to export coal to from Richards Bay. Do you know that?

MR MOGOTSI: I was not aware of that.

ADV CHASKALSON SC: You see, what I want to put to you is the notion that you advance in your statement and you refer to the off-take portion of this coal route. You say the off-take portion of this coal route is owned by Israeli
10 interests. That is what triggered this investigation. That notion is completely fanciful, because short of buying up all the export capacity of between 13 and 15 different mining companies, it is not possible to own the off-take portion of the Richards Bay coal terminal. Do you know that?

MR MOGOTSI: I cannot give a specific answer, Commissioner. Remember, if you are given information, and that information also involves, like I said, that the Chinese were interested there, and also involve the Prince saying he has been harassed because of that, saying Lt-
20 Gen Mkhwanazi is actually opposing him at all costs because of that, you end up believing that. That is why I have given that statement.

ADV CHASKALSON SC: Let me give you another fact. You say in your statement that there was a fear that the coal terminal and the export route was going to be shut

down. That is in your statement. That is apparently why the so-called Western interests got interested in ...[intervenes].

MR MOGOTSI: According to information, according to the source, that is what I heard.

ADV CHASKALSON SC: What I want to put to you is that there has never been any suggestion from Government that the Richards Bay coal terminal is going to be shut down, and that, on the contrary, in the period you speak of,
10 Government has been investing hundreds of millions of rands in improving the rail link to Richards Bay.

MR MOGOTSI: Ja. Commissioner, the information was there was a feeling from the Western that since South Africa took Israel to court, to the International Criminal Court, that may be halted. That is how I have phrased it.

ADV CHASKALSON SC: Let me take it further. Do you know that since 2023, when you say this investigation started, the output of the Richards Bay coal terminal has been increasing steadily?

20 **MR MOGOTSI**: That may be. Ja, it is possible. I am not conversant with that. I was speaking to my investigation, Commissioners.

ADV CHASKALSON SC: You see, what I want to put to you is that if you or your handler were genuinely investigating a CIA plot through General Mkhwanazi to

protect Israeli interests in the whole of the export, the offtake from the Richards Bay coal terminal, you would have been able to discover the facts that I have just given you in five minutes on the internet. So you really would not have come up with a story which is self-evidently absurd.

MR MOGOTSI: Commissioners, if whatever Senior Counsel has been saying comes from the internet, then, you know, investigation does not work like that. And I am disappointed, Senior Counsel, that with those powerful facts
10 that may be written by someone who has interest, then they are presented before the Commission, and I do not know. In fact, whatever that you have been saying, it means – remember what I said, in my world, I can put up a website, take my people in five days, and give you the opposite of what is written.

ADV CHASKALSON SC: I want to put to you that if you actually investigated the notion that, one, the Richards Bay coal terminal was under threat of being shut down, that, two, it was controlled by Israeli interests, it would take you
20 less than five minutes to realise it was absurd. And I want to put to you that the fact that you did not take those five minutes, you or your handler, to do it, suggests that you were not actually investigating these allegations.

MR MOGOTSI: Commissioners, investigation of that kind, we do not go to the internet. We have five, six people here

with a bot, those that have knowledge showing you what they think, showing you what is happening on the ground, showing you. There is kind of a system which is used when you are dealing with that. And I am saying in my statement, if you check my statement correctly, I am basing, just like the Chairperson said yesterday, he was using a different language about hearsay.

A hearsay is tested through investigation until you get the result. It is not that the result will always say, yes,
10 General Mkhwanazi is a CIA. No, you investigate, you get the outcome, then you rely on what you have. But since we have not got anything, it means what you say will stand. It will not stop us from investigating.

ADV CHASKALSON SC: So, you want to put in issue that the Richards Bay coal terminal is controlled by, between more than 10 different mining companies. You are not satisfied that that is the truth?

MR MOGOTSI: The interest, that is the truth, according to what you say. I am not sure, I do not know. But when you
20 talk of Western interest, Commissioners, there is a term called this white monopoly capital. It is a different thing. It is not what you see having 10 companies, having five, six, they will say black people, CEOs. That is not the case. When you talk of a particular business interest in the size of that business, it is not what you see on the internet. It is

not what you see.

ADV CHASKALSON SC: What I do want to put to you is that the suggestion that General Mkhwanazi and Prince Simakade are CIA operatives working to protect Israeli interests in Richard Bay coal ...[intervenes].

CHAIRPERSON: Is it not King, Misuzulu?

ADV CHASKALSON SC: King Misuzulu, I beg your pardon, is one, false, and is two, a misdirection tactic. It is designed to take attention away from the allegations that
10 General Mkhwanazi is making.

MR MOGOTSI: No, that is not the intention. It is not the intention. The allegations General Mkhwanazi is making, I will give an example. Today the whole country knows that Minister Senzo Mchunu is corrupt, he is aligned to the drug cartels. Till today, they have not brought one evidence that links Minister Mchunu to those things.

Even they will say the same applies. Remember I told you about this Boko Haram and Cat Matlala. Cat Matlala is portrayed as one of the big fives now. Let me tell
20 you, Commissioner, South African Police Service, it is expected that it is the only institution, whether Eskom, Telkom, when you have an employee or a company to appoint, you will take the profile or the details of that company to SARS, to South African Police Service for vetting.

How did Cat Matlala go through the vetting process of South African Police Service to end up being appointed for 300 million and all these things? Two months, three months later, the same South African Police Service says Cat Matlala is a big five. That is misdirection. They say Cat Matlala, Minister Mchunu was safeguarding the interest of Cat Matlala and all these things, going to fund him. It is Senzo Mchunu, through the review, who cancelled Cat Matlala's contract. Is that not misdirection, Commissioners? I cannot cancel your contract now, tomorrow, 300 million, and you say you are funding me.

CHAIRPERSON: Before you continue, Mr Chaskalson, something very important. I have always been correcting people on the pronunciation of people's names. I mispronounced the King's name. It is Misuzulu. Thank you.

ADV CHASKALSON SC: Thank you, Chair. I also want to put to you that your allegations of Mr Matlala paying bribes to General Masemola and General Mkwanazi are also another misdirection tactic. Let me say why. We have been through Mr Matlala's cell phone, and he is hardly discreet about his improper relationships with senior SAPS members in his WhatsApp communications. Can I give you an example?

You want to go to page 107 of the annexure. We will come back to this exchange a little bit later, but I am

sure you remember it. It is relating to the witness who said he was being pressurised to change his story to falsely implicate General Khan. Do you remember that?

MR MOGOTSI: Yes.

ADV CHASKALSON SC: So Mr Matlala says to you, in relation to this witness:

“Arrange with Khan to give him cash if the information he has is worth it.”

So Mr Matlala is indicating to you that General Khan, in his
10 view, would be willing to pay a witness to give evidence that suits General Khan.

MR MOGOTSI: Yes, I see the message.

ADV CHASKALSON SC: Do you accept that what he's saying to you is that General Khan will pay a witness to give evidence that suits him?

MR MOGOTSI: This is what Cat said, Commissioner, not what General Khan said or myself.

ADV CHASKALSON SC: I am saying that Cat is not
20 discreet about his communications in relation to senior police officers.

MR MOGOTSI: We can say that.

ADV CHASKALSON SC: We have seen plenty of evidence in the chats of Mr Matlala paying SAPS members to assist him.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: We have seen plenty of evidence of Mr Matlala communicating directly with SAPS generals and brigadiers in improper circumstances.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: Now, if Mr Matlala was paying massive bribes to General Masemola or General Mkhwanazi, I would expect to see some sign of this relationship with these generals in his chats. I see signs of relationships with a whole lot of other generals in his chats.

10 **MR MOGOTSI:** Okay. Commissioners, you know, there is something that is missing here that needs to be understood. There is a machine called Cellebrite. This Cellebrite machine is owned by different and private companies. It is the only machine like this, you know, these messages and all these things that are presented before the Commission. This machine is the only machine that is able to selectively download.

That is why I believe that at the later stage, perhaps this process, one will say section 205 should have
20 been obtained. I believe there is no way, even if I could not come to the Commission and say this was my infiltration, this was whatever, there was no way anyone could prove messages of my cell phone or Senzo Mchunu before he could have either the section 205 or the two phones.

And Advocate Johnson testified that the phone of

Cat Matlala was tampered with and some of the messages were deleted. Now, to base, Commissioners, to base the process on the cell phone that was tampered with, on the cell phone that – it means these messages will only suit the narrative of those who had the cell phone first before any other party could get the cell phone.

So to say there is a message and then Cat is this particular person who will say this and who will say that, Commissioners, I was with Cat. And I said I came here to
10 help the Commission. I may not be able to answer all questions, but I am not lying. I will not just come here. Imagine a National Commissioner say I did not say I saw Cat giving him money, but Cat told me I lost a lot of money. And it is possible. This is 360 million. It is not a 30 million, 20-million tender ...[intervenes].

ADV CHASKALSON SC: I accept that Cat has been paying vast amounts of money to SAPS officers, just not the ones who you are trying to implicate.

MR MOGOTSI: Ja, but those messages may be deleted
20 that implicates those transactions.

ADV CHASKALSON SC: We will address the issue of the authenticity of the cell phone at a later stage. But do you accept that if the cell phone is proven to be authentic and not tampered with, your version seems incredibly implausible?

MR MOGOTSI: Ja, but there must be a section 205. You cannot say you did not – you know, if I did not want to help the Commission, Commissioners, I would come here and say these are not my messages. Full stop. Even if you can say you have, you must be authorised by the law, unless if the outcome of this Commission will not be somehow binding or be taken to the next level, but ...[intervenes].

ADV CHASKALSON SC: Mr Mogotsi, we will do that exercise, but I do not want you to speculate as to what the
10 outcome of it may be now. Can we move to a different topic, which is your relationship with the Minister?

ADV BALOYI SC: Before you do that, Mr Chaskalson. Yes.

CHAIRPERSON: For the record, Mr Chaskalson, please indicate when you are moving on to a ...[intervenes].

ADV CHASKALSON SC: Yes, I am going to move to a different topic now.

CHAIRPERSON: If we have questions on that segment, we may put them.

20 **ADV BALOYI SC:** Mr Mogotsi, the last part of what you have said, you say you are here and you are presenting your evidence to help the Commission. Now, you told us yesterday, and you are repeating now, that Mr Matala told you that he gave General Mkhwanazi a bag, I think that is what you said, in Durban. You remember that?

MR MOGOTSI: Yes, something, ja.

ADV BALOYI SC: Something like that. You remember that?

MR MOGOTSI: Yes.

ADV BALOYI SC: Now, you have not investigated that. You have not put to us evidence of the truthfulness, one, of your conversation with Mr Matala that you allege, and two, that what he told you is in fact true. We do not have facts. We are a fact-finding body as a Commission. You have
10 made that allegation. How do you figure that helps the Commission in executing its mandate?

MR MOGOTSI: All I am saying is I came here to give my side of the story. Now, for one to say I am misdirecting or this is a misdirection when I say this is what I know, if Cat was lying to me, he lied to me, but this is what I know. He told me.

ADV BALOYI SC: I am not discussing misdirection. In fact, I come from a position of concern that you are making statements, even in this short exercise of cross-
20 examination, none of which is backed up by any investigation on your part that you can produce the facts to us and say here is proof. We know that you are close to Cat. You have told us you were with him. You do not have an affidavit from him that confirms that conversation and that you spoke to him and he told you what you say. We

have only your say-so.

And I am concerned that we may well be grossly irresponsible and reckless as a commission, that we have given you a platform where you are making all these statements and you present them as facts and you keep saying I am here to help the Commission when in fact they are not backed up by any facts or even basic investigation on your part.

For me, as a Commissioner, that is a matter of
10 concern. Do you accept that you are making statements that you are, for whatever reason, you are not backing them up with facts, even just this little bit about payments to Mkhwanazi and to Masemola, to General Cele. It is not backed up by facts. Do you accept that?

MR MOGOTSI: I accept that, Commissioner.

ADV BALOYI SC: And you accept that is not helpful to the Commission if we do not have facts from you?

MR MOGOTSI: If the Commission is a fact-finding body and I give you information, I am giving it that the
20 Commission can investigate. I gave example about the Boko Haram and the Crime Intelligence presentation ...[intervenes].

ADV BALOYI SC: No, allow me to stop you because I know you have got many topics that you are discussing. I am worried that we do not end up discussing something that

I was not raising. I am raising with you a very specific thing. You said yesterday Matlala told you that he went to Umhlanga Ridge and that was General Mkwanazi's home. Now, if you have been following the work of the Commission, you would know that General Mkwanazi testified that his home is in Hillcrest. So you would have done a basic enquiry with Matlala. Are you sure that is his house? Because in the Commission, this is what he said. You did not do that.

10 And then you come here. You do not interrogate him, but you come here and then you put it out there that payments were made at his house or something was given to him at his house and these allegations were made at his house in Umhlanga Ridge. And there is simply no evidence from you to back up those allegations, and these are serious. They have serious implications for people. And I think we should be concerned that you may be using this platform at least to some extent, such as this. You are using this platform to make allegations like that which you
20 are not backing up.

 If you have a comment, you can, but I raise it as a matter of concern listening to you on the back of this exchange with Mr Chaskalson, that you are being challenged, that you have said things that are not backed up by facts, and you have to accept there are no facts you

have presented to us.

MR MOGOTSI: Commissioners, I was talking about the presentation that is in the Crime Intelligence. I was trying to say that. With that, I was backing up my story that former Minister Bheki Cele knew Cat before. Even his picture was there. He came and he said he did not know Cat Matlala. Was that not sufficient to show that he knew him before 2024?

10 **ADV BALOYI SC**: Okay, thank you. I think you have answered me, thank you.

ADV CHASKALSON SC: Can we move quickly to deal with your relationship with the Minister? You are on record publicly as saying that you ran the branding campaign for the Minister when he was running for Secretary General for the ANC in 2017. Is that correct?

MR MOGOTSI: Yes, in the province, that is correct.

ADV CHASKALSON SC: In your province?

MR MOGOTSI: Yes.

20 **ADV CHASKALSON SC**: So you have known the Minister since at least 2017?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And you have a direct line to the Minister. Your evidence yesterday was that you only call the Chief of Staff when you cannot get to the Minister directly.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And we saw multiple signal chats that you had with the Minister over the period December, January 2024, 2025.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And the Minister was calling you on several occasions, not you calling the Minister.

MR MOGOTSI: As people knowing each other, it is possible. That is correct.

10 **ADV CHASKALSON SC:** Can you say why the Minister would have no knowledge of you, or why the Minister, when he was first asked about whether he knew you, said that he did not?

MR MOGOTSI: I do not know why he said that. In fact, except the answer that I will give you, what he said to me. I asked him, he said the time when he was talking, there was a picture of somebody, which was – the impression was the picture was portrayed as if it was Brown Mogotsi. And he said I do not know this person, because it was a Zoom
20 meeting, from what he told me. But when he heard it correctly, and then he said I do not know Brown Mogotsi as an associate, I know him as a comrade from North West. That is what he said.

ADV CHASKALSON SC: I see. Let us talk about your relationship with Mr Matlala. Do you recall the interdict that

you spoke about yesterday, when your foundation interdicted the North West Health Department around a tender?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: Can we go to the exhibit bundle and the judgment in that interdict? If we can go to page 14 in the exhibits bundle. And I just want to get a chronology of this interdict out. So, the judgment starts on page 13 of the bundle and the applicant is the Brown Mogotsi
10 Foundation.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And did you depose to all of the affidavits in this case as the named member of the foundation?

MR MOGOTSI: Yes, I did, after being given the authority by the Board. I am not a member or a director of the Brown Mogotsi Foundation. It is named after me. It is the Board that would make, take a decision to say who can depose an affidavit. In this case, it was myself.

20 **ADV CHASKALSON SC**: Both founding and replying?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: So we see that the matter was heard for the first time on the 15th of September in paragraph 2 on page 14 and then postponed to 22 September for the respondents to file their answering

affidavits. And in paragraph 4 on page 14 we see that the order was delivered on the 26th of September. So the hearing would presumably have been on the 26th of September. Is that correct?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And if we go down to the bottom on page 29 we see that the attorneys for the foundation were Tau Matsimela Attorneys.

MR MOGOTSI: That is correct.

10 **ADV CHASKALSON SC:** Sorry, page 28. Who funded this application for the foundation?

MR MOGOTSI: Different people, but I will not necessarily know all the funders. The owners, the directors of Brown Mogotsi Foundation will be in a position to know. I know of a few, one of the companies that funded, but I do not know the entire name.

ADV CHASKALSON SC: Which company do you know?

MR MOGOTSI: It was Mr – I know his name, Mr Suleiman Kareem.

20 **ADV CHASKALSON SC:** Suleiman Kareem.

MR MOGOTSI: That is correct. I do not know which company used to fund this.

ADV CHASKALSON SC: You have stated publicly that Cat Matlala funded this application.

MR MOGOTSI: Not funded, he helped that time.

ADV CHASKALSON SC: Can we just play the video of what you said publicly? It is the video of 19th of October. And, Chair, we should give this an exhibit number because it is not in the paper bundle. Can we call it EXHIBIT BMC1?

CHAIRPERSON: I am just trying to think, should we not keep a running list because we had an exhibit number with Ms Sello the other day. Was it Ms Hassim? Apparently our exhibits are numbered CJ and we have got to CJC50, it is recorded in the file.

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

ADV CHASKALSON SC: CJC50.

CHAIRPERSON: Thank you, thank you.

[VIDEO FOOTAGE PLAYED BACK]

20 “In July, he proudly disclosed his 2023 legal battle with the Health Department was funded by Vusimuzi Cat Matlala. He never told me in advance be careful, I am the kingpin, I am this, I am that. We are meeting him as a business person. It does not necessarily say you are endorsing the person. I know Vusi Matlala. When my foundation took the North West Provincial Government, where we are, he assisted. There was a tender for

R72-million a month. My foundation, Brown Mogotsi Foundation ...[indistinct] interdicted that process, and the tender was re-advertised. He assisted my foundation. So that is how – that is the level I know Vusi Matlala. The matter even went to the SCA. You should imagine the legal fees attached to that.”

10 **ADV CHASKALSON SC**: So you say he assisted you. How did he assist you?

MR MOGOTSI: Ideas and other things, how to do it. It is Suleiman Kareem only who assisted. Cat Matlala never paid for that legal thing.

ADV CHASKALSON SC: But you said there that he did assist you.

MR MOGOTSI: Yes, not with money, not financially.

ADV CHASKALSON SC: Well how did he assist you?

20 **MR MOGOTSI**: Technical ideas. Remember this was not a – that tender in the North West Department of Health, it was tendered for by different companies in the North West. And all the time it has been this thing of being worn by the outside people. And this time around, they felt that we should, because there was some other processes which were not done correctly, it was to help the local businesses.

And to contextualise that, because we never had an opportunity before to interdict a tender or a bidding process within the Government Department. It was the first. That is the only way. He assisted with ideas technically, how that can be done.

And we made sure, I remember that we were saying we must make sure that whoever helps this process must not be any company which has tendered. If any company that was part of the bidding process has intention to go to
10 ...[indistinct], it must go unilaterally. It must not be through the foundation. And those are some of the ideas we got from Cat, not financially.

ADV CHASKALSON SC: Cat gave you the idea that no losing bidder should help with the funding.

MR MOGOTSI: May you repeat the question?

ADV CHASKALSON SC: The idea that Cat gave you was that no losing bidder should help with the funding of the application.

MR MOGOTSI: He was coming very clear that, look, if you
20 are a section 21, if you are acting in the public interest, you cannot have whoever tendered being part of the application. If companies or whoever has bided[sic] wants to go to ...[indistinct] must go without the foundation. So he only gave us, he helped us with ideas, not financially.

ADV CHASKALSON SC: Not financially?

MR MOGOTSI: No.

ADV CHASKALSON SC: And other ideas that he gave you?

MR MOGOTSI: That is all.

ADV CHASKALSON SC: That is the only idea?

MR MOGOTSI: Yes.

ADV CHASKALSON SC: But you saw fit to mention that as assistance when you were interviewed in October this year.

MR MOGOTSI: That is correct. That is my work. There
10 was no way I could just go there and say, forget it. We are talking about Cat, and Cat is my project. I cannot just go there and pretend as if I now forget my work. I never said he gave me money because I know who funded the thing. It is not Cat Matlala.

ADV CHASKALSON SC: But according to your statement, Cat became your project, I think you said, March/April 2024.

MR MOGOTSI: Yes, that is correct, on the tender.

ADV CHASKALSON SC: Yes, but you knew Cat already from the year before.

20 **MR MOGOTSI:** You even asked me, the question was asked yesterday, Commissioner, that did you have Cat's number? I said yes. It should be noted, Commissioner, I spoke about Boko Haram of 2018. So that is a different thing. It shows there was that stage way back that this Cat has been in the limelight.

ADV CHASKALSON SC: So you knew Cat was John Wick?

MR MOGOTSI: That is the presentation that was given to show who John Wick was. And from that, to establish, you know, the part of investigation, to establish whatever that goes, whatever that is said about Cat, it was important. One will have his number. One will want to know where does Cat stay.

ADV CHASKALSON SC: Ja, but you knew that he was alleged to be a major time drug dealer and gang leader
10 going by the name of John Wick.

MR MOGOTSI: I cannot confirm that. I was confirming that John Wick, in terms of the Intelligence report, is Vusimuzi Cat Matlala. That is the picture that was put there. And let us say, this is very, very important, Commissioners. Let us say Cat comes, whether to any court of law or any platform, he is able to dispute that he was not John Wick. Let us say Cat was not John Wick. The point that I was trying to make is the picture that was placed on the Intelligence report, it was that of Cat, and his
20 name was written Cat underneath and John Wick. So I was trying to say, the former Minister Bheki Cele must have remembered this face when he met him for the first time in 2024.

ADV CHASKALSON SC: But surely by the same reasoning, you must have remembered this face and this

name when someone comes to offer you assistance in how your foundation should bring a public interest application.

MR MOGOTSI: Ja, even if Commissioners, even if that time Cat could have wanted to help us financially, if he was not one of the bidders, we will accept. I cannot say I did not know him or I did not, there was no way we could work with him. All I am saying is, he was able to help, to give us ideas, to help us to take this thing forward. You realise in the same application, Commissioners, it was re-advertised,
10 it went to the SCA, and the foundation did not proceed. Then it was re-advertised. You realise that the same thing happened, the foundation did not participate on the second leg of this court application. Private companies were involved.

ADV CHASKALSON SC: Who introduced you to Cat to give you assistance in this foundation application?

MR MOGOTSI: In 2023.

ADV CHASKALSON SC: That one.

MR MOGOTSI: It was not a direct thing that someone is
20 bringing Cat to come and advise. It is a matter that you know someone who says, you know there is this guy, he is a businessman, he is based where, and this person can help us. And initially, we thought he would give us lawyers or something when we spoke to Cat, only to find out he gave us the technical know-how of going there. So I had his

numbers, I could call him that time, but that time specifically I called him to assist us with the tender.

ADV CHASKALSON SC: So you were the one who made the contact with Cat?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And you had his numbers, this was before you met General Sibiya?

MR MOGOTSI: Yes, not the one that came from Sibiya.

ADV CHASKALSON SC: Sorry, not the one that came from
10 General Sibiya?

MR MOGOTSI: Yes.

ADV CHASKALSON SC: A separate number for Cat that you had?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: Do you know that one of the losing bidders, in fact the losing bidder that subsequently took the interdict on, was called Alu Construction?

MR MOGOTSI: Alu Construction, yes. I do not know the company, I remember the name Alu Construction. I knew it
20 through the legal firm, Tau Matsimela Attorneys. When they went to court, he told me that there were people, they said they saw me representing your foundation, and they also want to pursue a similar exercise, their name is Alu. That is what happened.

ADV CHASKALSON SC: So they went to the same

attorneys, Tau Matsimela?

MR MOGOTSI: That is correct, Commissioner. I asked them, now why did they come to you? He said maybe they felt that he knew the process and the case better because he was involved in the case before.

ADV CHASKALSON SC: And do you know that Alu Construction are one of the entities in the consortium of Morgan Maumela and Cat Matlala that was awarded a lucrative contract at Tembisa Hospital?

10 **MR MOGOTSI**: I do not know the owner of this Alu, this Morgan Maumela. I saw him on news. I saw him on news.

ADV CHASKALSON SC: Do you accept, if I put it to you, that Alu Construction was one of the entities in the consortium of Maumela and Matlala that won the contract at Tembisa Hospital?

MR MOGOTSI: Yes, I saw that on the news, that is correct.

ADV CHASKALSON SC: And do you know that it was the award of that contract that Babita Deokaran was
20 investigating when she was murdered?

MR MOGOTSI: Yes, the whistleblower, that is correct.

ADV CHASKALSON SC: And we know that Mr Suleiman Kareem has an interest in the Medicare 24 contract of Mr Matlala. You have described him as an investor in that contract.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And we know that Mr Kareem, on your version, funded this litigation of the foundation.

MR MOGOTSI: Yes, that is correct. In the first instance, he did not come to me, he did not go to the foundation. There was a meeting of small businesses which bided for the contract, and we had somebody from outside Mafikeng on that contract, the Health tender, and I went to ask him, and it was not the first time. I went to ask him that,
10 Suleiman, there is this thing we want to interdict this, because the business community is being undermined, the business community is now crying that they will never have an opportunity in this tender.

ADV CHASKALSON SC: Do you know if Mr Maumela has any interest in the Medicare 24 contract that you have been investigating?

MR MOGOTSI: I do not know.

ADV CHASKALSON SC: If I were to put it to you that the chats between Mr Maumela and Mr Matlala suggest very
20 strongly that he has that interest, what would you say to that?

MR MOGOTSI: It is what you saw. I cannot say anything about it. I cannot say anything between the chats.

ADV CHASKALSON SC: So you, in your investigations into this contract, which was apparently your tasking at

Crime Intelligence, were not able to establish who Mr Matlala's partners in the contract were?

MR MOGOTSI: I have not yet reached that stage, and even where we are, it is not because of investigation. Whoever was lucky to see that message happened to come across that they are working together. I did not know that they were working together.

ADV CHASKALSON SC: Can we look at the money flows in relation to this interdict? If you go to the exhibit bundle
10 at page 2, do you have it?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: Now, you will see there are a series of Gotlhe Foundation statements, bank statements that are included in the exhibit bundle. These figures have been extracted from the actual bank statements of Gotlhe Foundation. Can you remind the Commission who Gotlhe Foundation are?

MR MOGOTSI: There is no Gotlhe Foundation. There is Brown Mogotsi Foundation.

20 **ADV CHASKALSON SC**: Gotlhe Specialist.

MR MOGOTSI: Gotlhe Specialist is the company owned by my fiancé. She is the sole director in this company.

ADV CHASKALSON SC: So it is her company, not yours?

MR MOGOTSI: No, it is not mine. I do not have shares. I am not a director. I do not have any direct beneficiation

from that company.

ADV CHASKALSON SC: If we look at these money flows, we see that on the 10th of August 2023 there was an FNB payment from S, and the contract account holder is Tasmika Construction. We go over to the right. And the amount was R100 000. In fact, there were two amounts of R100 000 on the same day, the 10th of August 2023. We can just keep scrolling so that we see Tasmika Construction. Can we scroll further to the right? So the payer is Tasmika
10 Construction. Do you know whose company Tasmika Construction is?

MR MOGOTSI: Yes, I know. I know.

ADV CHASKALSON SC: Who is the owner?

MR MOGOTSI: Suleiman Kareem.

ADV CHASKALSON SC: Suleiman Kareem?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: So we see on the 10th of August there were two payments of R100 000 each from Tasmika Construction, Suleiman Kareem's company, into Gotlhe
20 Specialists, your fiancé's company.

MR MOGOTSI: That is correct. That is correct.

ADV CHASKALSON SC: And then if we go down to one row, we see that on the same day there was a payment of R150 000 from Gotlhe Specialists.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: To Tau Matsimela.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: Is this the funding for that interdict application?

MR MOGOTSI: I believe that is the one. That is correct.

ADV CHASKALSON SC: So a couple of questions. Why was it channelled through Gotlhe Specialists?

MR MOGOTSI: I believe that at that time Brown Mogotsi Foundation did not have a – the bank account had some
10 problem. But in addition, my fiancé, she is also a director of Brown Mogotsi Foundation. So there was nothing wrong that they could pay a certain amount and it is very much important that it be noted that my fiancé and Suleiman Kareem, I thought you would have obtained statement from 20000 and, maybe 2015/2016. They have had a relationship of business subcontracting, all those things. I am not part of that. I am not even in the position to answer for that. And there was nothing wrong that the money could go through Gotlhe since one of the directors of Brown
20 Mogotsi Foundation is the owner of Gotlhe.

ADV CHASKALSON SC: So Tasmika Construction funded this litigation with those two payments of R100 000 into Gotlhe Specialists, which is your fiancé's company.

MR MOGOTSI: No. I cannot say R200 000. We requested funding. And then, like I said, they have history. He may –

there are other transactions which were not related to that. The amount paid to the lawyers, this is reflecting, that is the amount that has been paid. I cannot say he funded for R200 000 or R200 000, separate R100 000.

ADV CHASKALSON SC: So you are saying R150 000 was funded from Tasmika Construction?

MR MOGOTSI: It was paid. I am taking on what I see. It was paid to the lawyers. That is correct.

ADV CHASKALSON SC: For this case?

10 **MR MOGOTSI:** For this case.

ADV CHASKALSON SC: And then if we go down, we see that there were two further payments of R50 000 each on the 19th of September. That is just before the hearing.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And they come with the reference from S. Is that from Suleiman Kareem as well?

MR MOGOTSI: That is correct. That is correct.

ADV CHASKALSON SC: And those two payments seem to fund a R70 000 payment to Tau Matsimela from Gotlhe on
20 the same day.

MR MOGOTSI: You see, on the part of funding and how much was paid to the lawyers and stuff, I believe it will be very much fair and appropriate for the Commission to direct either its communication to the director of Gotlhe because I cannot speak on their behalf. And I see, I went through

this, I saw a lot of bank statements. I can honestly confirm now to the Commission that I will not be in a position to talk on behalf of these finances. Perhaps the Commission, if it finds it more important, could inform Gotlhe and get their auditors to bring their books and stuff like that.

ADV CHASKALSON SC: Are you suggesting that you have no control over Gotlhe at all?

MR MOGOTSI: I am not suggesting. It is a fact. I do not have any beneficiation from Gotlhe.

10 **ADV CHASKALSON SC:** Do you get paid money by Gotlhe?

MR MOGOTSI: I do not get paid money by Gotlhe. This is my fiancé. You can go through, if you check the statement, you always see some references, Brown, Brown. It may be an error on a, what do you call it, a bank app. But the bank accounts where the money goes. It does not come to me. It is not my bank account. Yes, except for maybe R2 000 petrol when I do our personal things with her. But I do not control Gotlhe. I am not the director of Gotlhe. I do not
20 benefit from Gotlhe and the Brown Mogotsi Foundation. I do not benefit from it. I am not a director.

ADV CHASKALSON SC: Mr Mogotsi, we have extracted the payments to Brown coming out of Gotlhe.

MR MOGOTSI: Correct.

ADV CHASKALSON SC: There is an amount in excess of

R3-million in transactions that say payments to Brown.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: How do you account for that?

MR MOGOTSI: I cannot account for that, Commissioners. The moment – you see, you can check even on Tasmika, what is this, Tasmika Plant. You will see they are having references. There is page 5, Tasmika, and page 6. You see, from the 25, it is long, loan, loan, loan, loan, loan. You know, I do not know these references. But factually,
10 there is no way this man can or whoever can borrow, borrow, borrow without any way that person is paying back. It is because on the app, cell phone app, banking app, you will always have a reference. And when you pay, it always say Brown, Brown, Brown. But those monies do not come. There is no, except for maybe e-Wallet or something, 1 000. There is not any amount more than R3 000 that ever came. And I can even challenge and request the Commission to do any investigation. Go to Gotlhe, get 205, get the statement, and their financials. There is no bank ...[intervenes].

20 **ADV CHASKALSON SC**: We will get the contracts. And for present purposes, I want to put to you that there are cumulative amounts in excess of R3-million that go out of Gotlhe with a transaction reference payment to Brown.

MR MOGOTSI: That can be checked. Check their books. And on their books, we will see the bank account. I

guarantee you, there is no bank account where this money came that is mine. And even if probably they are third-party payments, let us say it is third-party payments for me, the financials from those auditors and them, or if she is subpoenaed, you will get the truth. I am not having any power over that. And then being called a businessman, I have a business separately from Gotlhe. And this came as a result of after I lost my wife. I kept what is mine separately from this.

10 And it is, I can assure you, it is an error. It is an error on the app where a person was sending money every time. In that reference, it is still written Brown, Brown, Brown. Just I was checking. After you gave first, you can thank you, Commissioner, for giving us opportunity to go this. Even this, I even called her. Did you make so many loans from this guy? He said, no. I have got invoices. I have been working with this guy. But look at the references. Loan, loan, loan, loan. It is not – there are no bank accounts ...[indistinct].

20 **ADV CHASKALSON SC**: The references that say loan may well be incorrectly described, but they are not loans, loans that you give. There are monies advanced from Ziggy Investments, which is another one of Mr Kareem's companies.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: So you would not know whether Ziggy is lending that money or not.

MR MOGOTSI: I would not know. But logically, how can – like you can check on page five. There is S, S, S, S, S, S. Then there is PMT. Then it is loan, loan. You can see this person kept – it is an error on the app. He just kept that reference S, S, S, S, S, S.

ADV CHASKALSON SC: Yes, but the reference stays with the account, with the account number. So the reference is
10 linked to the account number to which the money is paid.

MR MOGOTSI: Probably, I am not sure.

ADV CHASKALSON SC: So the reference that says payment to Brown is linked to the account number to which the payment to Brown is made.

MR MOGOTSI: Thank you. Then, Commissioners, let me request that the investigation should be done. We get the books from Gotlhe's auditors and those bank accounts. And I am exceeding. You see, I said except for maybe R1 000, 2 000 for the e-Wallet or petrol, because I do live there.

20 **ADV CHASKALSON SC:** You have done this exercise. Which payments from Gotlhe that say payment to Brown do you say are payments to Brown?

MR MOGOTSI: I did not. Yes, there is the one. Page 81, September 21, sent 072 984 9779, R1 000, 1.1, those transactions of e-Wallet, because even my bank account is

not linked.

ADV CHASKALSON SC: Yes, but that does not say payment to Brown.

MR MOGOTSI: As I am saying, those that are mine, they will be in that fashion.

ADV CHASKALSON SC: So when I look on the 18th and it says payment to Brown, and it says payment to Brown, and it says payment to Brown, and it says payment to Brown, you are disputing that those are payments to you?

10 **MR MOGOTSI**: I can assure you those payments do not come to me.

ADV CHASKALSON SC: We will get the kontras and we will put them before the Commission.

MR MOGOTSI: Thank you. Thank you, Commissioners.

ADV CHASKALSON SC: Just recapping in relation to the 2023 contract, we have a losing bidder that is the same entity that is part of Mr Matlala and Mr Maumela's consortium.

MR MOGOTSI: On which one?

20 **ADV CHASKALSON SC**: The 2023 contract that the Brown ...[intervenes].

MR MOGOTSI: One of the bidders.

ADV CHASKALSON SC: The Brown Mogotsi ...[intervenes].

MR MOGOTSI: Foundation.

ADV CHASKALSON SC: Foundation interdicted.

MR MOGOTSI: One of the bidders?

ADV CHASKALSON SC: One of the bidders, indeed.

MR MOGOTSI: All right.

MR MOGOTSI: We have payment from Suleiman Kareem for the application.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: We have Suleiman Kareem being an investor in Mr Matlala's Medicare 24 contract.

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

ADV CHASKALSON SC: We have Mr Maumela being interested in Mr Matlala's Medicare 24 contract.

MR MOGOTSI: According to what is presented to the Commission, that is why I say, yes.

ADV CHASKALSON SC: We have a succession of chats between Mr Matlala and Mr Maumela accounting for every, well, keeping Mr Maumela posted on payments from SAPS.

MR MOGOTSI: But, Commissioners, between Maumela and Matlala, we need to agree they are not at my disposal. So I
20 do not know if I must say correct, correct. I must agree to that. I believe that you have cell phone chats which were not presented to me. And even if they were presented, I have nothing to do with Matlala and...

ADV CHASKALSON SC: Coming back to the sequence, we have Matlala assisting with the 2023 application.

MR MOGOTSI: Yes, the idea. That is correct.

ADV CHASKALSON SC: You say it is not financial, it is just strategic advice.

MR MOGOTSI: Ja.

ADV CHASKALSON SC: Can I take you to a point, and we have these R200 000 from Tasmika Construction on the 10th of August, from which R150 000 goes to the Brown Mogotsi Foundation.

MR MOGOTSI: That is correct.

10 **ADV CHASKALSON SC:** And would that money have come in after you had been at your meeting in the community to raise funds for this interdict?

MR MOGOTSI: May you please take me to the page? Which page? 29, from the judgment?

ADV CHASKALSON SC: No, no, you do not ...[intervenes].

MR MOGOTSI: Okay.

ADV CHASKALSON SC: I am not talking about the judgment. I am talking about, you said there was this meeting in the community about ...[intervenes].

20 **MR MOGOTSI:** A community forum, a business forum ...[intervenes].

ADV CHASKALSON SC: A community forum that then said we must interdict this because local businesses are not being helped.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: So it was only after that that the – you had only have raised funds after that. I am trying to get a chronology ...[intervenes].

MR MOGOTSI: I also, myself, I do not understand, Commissioner, what is it implied right now. I thought I have agreed, I said yes. When we went to court, I asked Suleiman Kareem to help us when we went to court.

ADV CHASKALSON SC: Yes.

MR MOGOTSI: Now I do not know if you are referring to
10 the same ...[intervenes].

ADV CHASKALSON SC: I am referring to that 2023 matter.

MR MOGOTSI: The same request that I made to him, that he should help us when he send the money. That is correct.

ADV CHASKALSON SC: Yes. And that was after you had had your community meeting to start this case?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And that is how the R200 000
20 came to Gotlhe?

MR MOGOTSI: That is correct. After I spoke to Kareem.

ADV CHASKALSON SC: So what I do want to raise with you is, if you go to page E16.

MR MOGOTSI: 6-0?

ADV CHASKALSON SC: 1-6. Paragraph 9. Do you have

it?

MR MOGOTSI: Underneath?

ADV CHASKALSON SC: At the bottom of that page.

MR MOGOTSI: Yes. Both the first and second respondents ...[intervenes].

ADV CHASKALSON SC:

10 “Both the first and second respondents argued that the application lacked urgency, saying that the applicant did nothing after it received the tender letter on 11 August 2023 and only approached this Court on urgency on 15 September 2023. The applicant contended it made a mistake in its founding papers regarding the dates and the month of September and not August is when the applicant was notified by the whistleblower about the tender. It received the tender letter

20 during September. It approached the legal representatives during September. Court papers were drafted during September. And the urgent application was instituted during September.”

So if I can explain what is happening there. You launched this application on the 15th of September, your foundation. That is correct?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: In a founding affidavit that you signed.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: The respondent said in your founding affidavit you mentioned that you received the
10 tender letter on 11 August, which means you have delayed for over a month. And it is not urgent. It is self-created urgency. That is what we were. That is what was confronting you.

MR MOGOTSI: Got it. Correct, Commissioner.

ADV CHASKALSON SC: Then in paragraph 10:

“In correcting the error regarding the month, the applicant in its answering affidavit should be the replying affidavit says...”

20 And this again was an affidavit that you deposed to:

“I apologise to the Honourable Court for the heading before paragraph 22, which reads events of 13 August 2023 in the affidavit I deposed to on 15 September. This was a typing error

and was intended to read events of 13 September 2023. I further apologise to the Honourable Court for the referral to the date of 13 August 2023 as appears in paragraph 22 of the affidavit. This was a typing error. It was intended to read 13 September 2023. And then all of the August dates are apologised for when it is said September.”

10 Then the judge concludes at paragraph 11:

“Based on the following observations regarding the dates leading up to the adjudication of the application on 15 September, it is in my view highly improbable that the applicant received such an important piece of information in the form of a tender letter consulted with legal representatives, did everything that it takes to cause the matter to be ripe for hearing by the 14th of August, and thereafter decided to bury his intentions of approaching this court until a month later. Given the chronology of events as they occurred, it is in my view highly probable that the

20

events under 22 to 25 occurred in the month of September and not August.”

So what you were telling the court is that you only got the tender letter and you only went to lawyers in September, not in August. That is what you said in your replying affidavit.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: But if we look at the money flows, you had already had your community meeting, taken a
10 decision to go to lawyers, advanced R150 000 to lawyers by the 10th of August.

MR MOGOTSI: That is correct. Commissioners, I am trying to establish what the relevance of this ...[intervenes].

CHAIRPERSON: Do not worry about relevance. Just respond to the questions. We will deal with questions of relevance.

MR MOGOTSI: Now, to me, SC is adjudicating on a matter that has been decided by the judge. Now he is asking a question about something that has ...[intervenes].

20 **ADV CHASKALSON SC**: Let me put it to you. What I am saying to you is you actually lied on oath in your replying affidavit. That these events in relation to the contract that took you to lawyers happened in August. And when you were called upon to explain why you only brought this application on the 15th of September, you lied and you said,

well, these events only happened in September.

MR MOGOTSI: Ja. You see, there is the thing, Commissioners, that I may not – I will not be understanding what initially what the SC was trying to say. And this happened in 2023. I am trying to pick up the pieces, that you said – the SC said let me tell you what happened here and then I have been trying to understand you. But this is an affidavit that was prepared by the lawyers, who at that time were advancing reasons for the late urgency
10 application. And according to how it is – how the SC is leading evidence, Commissioners, he is saying I do not think the events or the money issue here, the repayment of money was the reason we went to court late or something, because I do not understand how do we how do you say I lied in court when on the basis that I say we had a meeting with the community.

Having a meeting with the community, those community members did not sign the matter. It was to hear their frustrations, telling us that, look, it is time that the
20 tender must be won by someone from here, and this did not happen. That is the point. So how the money issue got involved, I will need to be explained thoroughly so that I can be able to respond. However ...[intervenes].

ADV CHASKALSON SC: How the money issue was involved was R150 000 was paid to the attorneys on the

10th of August.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And on the version that you gave on oath to the Court, you only learned that the tender had been awarded to someone who you did not want it to be awarded on sometime late in September, which I am putting to you as a lie.

MR MOGOTSI: Because of the whistleblower, now I get the point. The whistleblower came out that there is a tender
10 that is being awarded. Only the appointment letter became available to be able to attach when you go to court that time. Now I remember. Because of the whistleblower, we heard that there was this tender. Similarly, if you check this Cat Matlala tender where I say the source, it was in April. But if you check the appointment letter, I think it was signed either on July or August. But because of information that you received, you received it prior.

ADV CHASKALSON SC: So you had received the whistleblower's report and that is what triggered you to
20 raise the money at the community meeting and then to arrange for the transfer to lawyers on the 10th of August, but you only got the tender award letter much later. Is that what your version is?

MR MOGOTSI: That is the version. I remember the events now. That the information came out earlier and that

information came in a form of proof that, look, adjudication has been done, evaluation has been done. I think that even the appointment letter, it is awaiting signature and this and this was not followed. That is now information that you get. And you could not approach court on an urgent basis without having anything that talks to that award of the tender.

ADV CHASKALSON SC: So you had heard from the whistleblower, but you have not got your evidence?

10 **MR MOGOTSI:** We did not have evidence.

ADV CHASKALSON SC: Because you see, in your paragraph 22, which is quoted on page 18, you say you heard from the whistleblower on the 13th of September, which could not be true because this all happened before the 10th of August.

MR MOGOTSI: Commissioners. I am still repeating this. How the lawyer put this thing, he was making sense to the court that time. Because I remember now the appointment letter for that tender was not out, but information was valid
20 that so-and-so has been appointed.

ADV CHASKALSON SC: I stand by my submission that you are lying in relation to what happened then. You lied under oath then. But I want to put a broader proposition to you, which is your role as an agent essentially makes you a professional liar. Your lie as your job. What is your answer

to that?

MR MOGOTSI: That is not correct, Your Worship. That is not correct, Commissioners. Even when I spoke about the legend building, there is rules. You cannot just stand up and lie. This was a pure community project, and I did not lie. That is why they say they came aware of the tender. There was no way the lawyer could say in an affidavit we had a whistleblower, and therefore the appointment came late. That is how the lawyer would put his thing to court.

10 So I am not – I would not just lie because, and I did not lie under oath. It was based on the circumstances that the appointment letter was not present, was not available at the time.

ADV CHASKALSON SC: Are you suggesting that you did not lie to Mr Matlala?

MR MOGOTSI: That was now a different case.

ADV CHASKALSON SC: But I go back to what I put to you earlier, that your job as an agent requires you to lie for a profession, as a profession.

20 **MR MOGOTSI**: I may not have a comprehension about lying as a profession. As an agent, as an agent, you cannot. There are rules. You cannot just lie if you are not in any mission.

ADV CHASKALSON SC: And is it a rule of being an agent that you cannot lie under oath?

MR MOGOTSI: And any matter that is conducted under oath, no one is allowed to lie.

ADV CHASKALSON SC: Can I take you to exhibit bundle page 43? Do you recognise that document?

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: This is the affidavit that you gave to Colonel Schnell in support of the 252A application.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: And it is an affidavit, if we go
10 down to page 46, you will see you signed it in front of a
Commissioner of Oaths.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: Can we see what you are saying?
Paragraph 1 of that affidavit.

MR MOGOTSI: I can see 100% what it is.

ADV CHASKALSON SC: Do you want to read it?

MR MOGOTSI: That I am an adult male employed in
Government with the Office of Minister of Police.

ADV CHASKALSON SC: Sorry, I just did not get the...

20 **MR MOGOTSI:** That I am an adult male employed in
Government within the Office of the Minister of Police.

ADV CHASKALSON SC: Is that true?

MR MOGOTSI: It is not true. I have, indeed, even
yesterday, immediately, I did raise this with the lawyers that
when I introduced myself to Lieutenant Schnell, I never told

him I am an agent. And indeed, if you check what I was doing there, he was going to ask me and he asked me that, how can this man ask promotion from you? Who are you? How is that possible? Now, that is how this thing that is – the sentence that says I am a male employed in the Office of the Minister, or else I did not carry the authority to conduct the 252A.

ADV CHASKALSON SC: So, Mr Mogotsi, are you saying that if you need to lie for a purpose relating to your job as
10 an agent, it is okay to lie under oath?

MR MOGOTSI: It is not okay to lie under oath. You inform immediately. Even if you, if Commission can draw attention to this, to the content of this affidavit where I have requested a verbal – there are other transcripts where I requested a verbal authority to conduct this operation and being granted. And the content says this person is – the extract, no, the transcript record says this person wants you to talk to the Minister that at least he become a Colonel. It is there, it is recorded. There was no way this can be
20 practical to Lieutenant Schnell to say that man asked me to give him a promotion without putting this. This is part of the work.

ADV CHASKALSON SC: So, you are now saying you did lie under oath by saying that you were employed in Government within the Office of the Minister of Police. That

was false. And you knew it was false, but you thought I needed to do it to enable Lt-Col Schnell to give me authority under section 252A.

MR MOGOTSI: Because I could not tell him that I am an agent, yes. This was for the purpose of work.

ADV CHASKALSON SC: So, when it is for the purposes of work, you are saying you can lie under oath?

MR MOGOTSI: The circumstances, Commissioners, should allow. Like I am saying, there is not any other example I
10 can give. I am conducting a 252A here. A man
...[intervenes].

ADV CHASKALSON SC: Let me give you another example. Assume your handler said to you it is very important for the purposes of this Commission that you tell the Commission that General Mkhwanazi is a CIA agent, and assume you knew that to be false, would you then be able to come to the Commission and say General Mkhwanazi is a CIA agent because your handler said for the operation it is important for that to happen?

20 **MR MOGOTSI:** No, those are two different things, Commissioners ...[intervenes].

ADV CHASKALSON SC: Why are they different?

MR MOGOTSI: Coming to the Commission, you are here to provide Commission with information that can help. The moment you lie, the Commission will not be able to arrive at

any level of assistance. Cannot be assisted. There is no way you can be given instruction to come to a Commission to lie. It is impossible.

ADV CHASKALSON SC: Why? If the intelligence operation demands it, why is it any different from lying under oath in a section 252A application?

MR MOGOTSI: Commissioners, if instruction is to come here and lie, I could rather come here and remain silent. I do not think there is any reasonable agent of the law, agent
10 of the state, who will come and testify in a Commission or the court or any court of law and lie. Lying under oath is a crime and if charged with perjury, you will be – whether you are an agent or you are whatever, you are ...[intervenes].

ADV CHASKALSON SC: I agree with you, it is a crime.

MR MOGOTSI: Ja.

ADV CHASKALSON SC: But you have lied under oath in this affidavit that you gave to Lt-Col Schnell, which is perjury, is it not?

MR MOGOTSI: Yes, and Lt-Gen, Lieutenant Schnell is not
20 the Commission. We are executing – I am saying if there is no, if there is no, if this sentence is not part of this, because the content of this affidavit is now – this is what happens. It is reinforced by the recording, the transcripts are attached, where a man says I want to be promoted to become a colonel. He is saying that.

Obviously, a police officer who comes to you, who you come to and say I need an authorisation, this thing must happen now. And remember, when you go to him, you go with a police officer, you go with a police officer who explains to him that this person is going to do a certain process and this requires an authority. And that is why you will see in the annexures, the authority was granted. But this police, the same Colonel Schnell, will not write this affidavit if I say I am Brown Mokhozi, I am just a comrade.

10 This man, I promised him a colonel position. The affidavit will not work.

ADV CHASKALSON SC: So the affidavit had to be granted, including a lie under oath, so that you could proceed with this operation to run the trap involving the officer who was going to implicate General Mkhwanazi and General Khumalo. Is that what you are saying?

MR MOGOTSI: No, it was not intended to implicate General Mkhwanazi or General Khumalo. It was implicating whoever was plotting the dismissal. Whoever, even if it was
20 Jabu, it should not be mentioned that I went there because I knew this recording is going to implicate General Mkhwanazi. No, that was not the case.

ADV CHASKALSON SC: But that is not what you said in your original witness statement. In your witness statement, you made absolutely clear that you conducted this operation

with a view to essentially ultimately prosecuting General Mkhwanazi and General Khumalo for defeating the ends of justice. That was the whole purpose of this operation.

MR MOGOTSI: I am still saying you are correct. Even if it was not General Mkhwanazi, even if it was General Jabu or General Mkhwanazi, whoever was involved in the particular intention, that was the purpose of this operation.

ADV CHASKALSON SC: No, but we are not talking abstract in the air here. At paragraph 36 of your witness
10 statement on page 10, you say the intention was to employ this person as a section-204 witness against both Lt-Col Khumalo and I think that should be Maj-Gen Khumalo because you – sorry, Lt-Gen Khumalo because you referred to Lt-Gen in paragraph 37 and it was Lt-Gen, not Lt-Col – and Lt-Gen Mkhwanazi who plotted against Maj-Gen Khan with reference to the disciplinary hearing.

MR MOGOTSI: That is correct, Commissioner.

ADV CHASKALSON SC: So that was the purpose of it. It was ...[intervenes].

20 **MR MOGOTSI**: Of the operation, yes.

ADV CHASKALSON SC: The operation was to end up with a conviction against Lt-Col Khumalo, sorry, Lt-Gen Khumalo and Lt-Gen Mkhwanazi.

MR MOGOTSI: I am not disputing that. It should not be that I woke up from my house with intention that General

Khumalo and whoever must be implicated or somehow. The decision, the intention comes from the information as it comes, that here is myself, I have information that General Khumalo and General Mkhwanazi are intending to do one, two, three. Then you request what you call an authority to conduct a 252A and it is granted.

Now you meet this person, the request is done through some channel. Now you meet this person. I am saying as an agent, I had to mention this or else because I
10 was in work, I was during my time of duty, or else it could not be signed.

ADV CHASKALSON SC: Sir, when you lied under oath in this affidavit, you are saying it was necessary for the operation to continue.

MR MOGOTSI: That is correct.

ADV CHASKALSON SC: You see that too is false because I want to take you to the date of this affidavit. Can you go to page 46? The date of the affidavit is 15 February 2025.

MR MOGOTSI: That is correct.

20 **ADV CHASKALSON SC:** By that stage, the operation had been abandoned. And you do not have to take my word for it. You can take your own word for it.

MR MOGOTSI: The answer is, Commissioners, you can go to page 52.

ADV CHASKALSON SC: Before you go to page 52, go to

page 45, the bottom of paragraph 8. Bottom of page 45, paragraph 8.

MR MOGOTSI: In the main statement?

ADV CHASKALSON SC: In your affidavit, the one where you say you are employed in the Minister's office.

MR MOGOTSI: Okay.

ADV CHASKALSON SC: You say after our meeting, let us start at 7:

10 “Due to a family bereavement, I could
not meet with...”

We will not mention the name:

“...until after 13 February.”

This is the officer who you are going to use against General Khumalo and General Mkhwanazi:

“I am prepared to assist the DPCI in becoming an agent for that officer to be held accountable for his actions.”

So now you are going to hold the officer accountable. It is no longer General Mkhwanazi and General Khumalo:

20 “I am also willing to testify at any formal trial that may take place. After our meeting, I had been communicating with the officer via WhatsApp and at one point I indicated to him that we should rather drop this arrangement he

wants as there were media releases that have indicated that Mkhwanazi and Khumalo had placed undue pressure on certain witnesses in the DRC to testify in a certain way against Khan.”

So you had already decided to drop the operation when you signed this affidavit.

MR MOGOTSI: Ja. That is correct, Commissioners.

ADV CHASKALSON SC: And so, lying as to your position
10 inside the Minister's office had nothing to do with an operation that had to be authorised?

MR MOGOTSI: That is not correct, Commissioners. So I was saying if you check this thing, the date of the – where is the extract? The date of the recording after it was done and been granted the verbal authority. This is it. It is page 53.

ADV CHASKALSON SC: So page 53 is now not an affidavit. It is a transcript of your meeting with the SAPS officer who was going to implicate General Mkhwanazi and
20 General Khumalo and a DPCI, I think it is a colonel who is going to assist you with the trap.

MR MOGOTSI: Commissioners, you see, I think these are the challenges that are there, and that is why it is so difficult in this country. Page 53 shows on the 6th of January 2025. The recording has been done ...[intervenes].

ADV CHASKALSON SC: Sorry. I am not sure that that is a date. Maybe it may not be. It is extremely unlikely that it is going to be a date ...[intervenes].

MR MOGOTSI: It was written that ...[intervenes].

MR MOGOTSI: Because this conversation took place on the 29th of January. But according to the affidavits, that may just be a reference number.

MR MOGOTSI: But it is written DPCI inquiry 0601/2025. And if SC believes perhaps it is not a date, but still I am
10 trying to say, when we approached Lt-Gen, Colonel Schnell, the recording, the evidence was in my hand, was at our disposal. It is him who was not available. That is why I wanted to take you to page 45, where the Lieutenant Schnell was not available, and I again had a funeral. But it does not take the fact that the recording has been done. And probably we should deal with these matters separately, Commissioners. To deal one with the part of the affidavit where it is written that this is what I said is true, I said that. And according to SC, I do not know if the evidence that he
20 is leading now, is it meant to say we did not record? There is no recording? Because the delay, the fact is, there was a recording.

ADV CHASKALSON SC: No, I am not disputing there was a recording. My proposition to you is that the existence of the recording is irrelevant to the fact that at the time that

you lied under oath, the operation had already been abandoned.

MR MOGOTSI: It was not abandoned. Commissioners, it was not abandoned. The person who had to execute in the DPCI, if he was not available, if you could not find him, it does not mean the operation has been abandoned. The moment when he becomes available, it is a similar thing. When there was a search and seizure, if the police cannot find you, the day they find you, they are going to execute
10 the search and seizure. We had the recording. What was important was to get this Lieutenant Schnell to do this thing for us. And we did it. And I am saying there was no way this would carry weight if I did not attach this portion, that I say I had to do it, and without it, it would not be valid. It would not really mean anything, because you would even ask me how are you going to grant or give this person any position if you are not near the Minister?

ADV CHASKALSON SC: I am not going to take this part further because I have made my point about the perjury in
20 the affidavit, but I do want to talk about this trap and this attempt to charge Generals Mkhwanazi and Khumalo further because I think it is important to understand the full context of that operation. So, the ...[intervenes].

CHAIRPERSON: Mr Chaskalson, before you start with that point, are we not adjourning at this stage?

ADV CHASKALSON SC: Sorry, Chair. It may well be time for adjournment unless we are going to sit late.

CHAIRPERSON: Thank you.

ADV CHASKALSON SC: That is enough.

COURT: Let us adjourn and resume at 09:30 tomorrow.

ADV CHASKALSON SC: Thank you, Chair.

CHAIRPERSON: Thank you.

INQUIRY ADJOURNS TO 20 NOVEMBER 2025
