

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

HELD AT

BRIGITTE MABANDLA JUSTICE COLLEGE

20 APRIL 2026

DAY 93



PROCEEDINGS ON 20 APRIL 2026

CHAIRPERSON: Good morning, Mr Chaskalson. Good morning, Ms Van den Hever.

ADV VAN DEN HEEVER SC: Good morning, Chairperson, good morning, Commissioners.

CHAIRPERSON: And good morning to you too, Mr Mnisi.

MR MNISI: Chairperson, greetings ...[indistinct] Commissioners.

CHAIRPERSON: Thank you.

10 **ADV CHASKALSON SC:** Morning, Chair, morning, Commissioners. Morning Mr Mnisi.

MR MNISI: Good morning, SC.

ADV CHASKALSON SC: When we left things on Friday we were talking about the TMPD 1-24/25 tender and I wanted to carry on and maybe the best place to pick up or to start this morning is the question that you were asked at 2.12.1 of the notice, and that is in that, in file 1 in supplementary bundle, pages, at the footer, page 6. And there you were asked:

20 “What was the purpose of Sergeant Nkosi providing you with the names of bidders, including Elshadai Security Services, Two Cops in Security, Tau Tau Security, Vision Acuity Security, Shumile Security and Vimsire Security and Protection Services.”

And your answer at page, at the footer page 14 of file 1 was:

“I believe his request was premised at the time on the mistaken belief that I would be able to check if the bids were compliant. He was of course wrong.”

You recall that?

MR MNISI: Yes Chair, I recall, it is in my sworn statement.

ADV CHASKALSON SC: Sorry?

10 **MR MNISI**: I do recall, it is in my sworn statement Chair.

ADV CHASKALSON SC: Yes. And you stand by that answer?

MR MNISI: Yes Chair, I stand by it.

ADV CHASKALSON SC: Did you ever explain to Sergeant Nkosi that there was a strict segregation of duties and that you had no access to the documents of the BEC?

MR MNISI: Chair, I just explained that there is nothing I can do to check compliance.

20 **ADV CHASKALSON SC**: You just explained that there was nothing you could do?

MR MNISI: Yes.

ADV CHASKALSON SC: And when did you explain that?

MR MNISI: Chair, I think if you go into our discussions and I particularly refer you to bundle 3 of the pack that we have, and in this pack Chair, I want to refer you to four instances.

These four instances have been captured, Chair, on page 148 of bundle number 3. This is on the 11th of March in 2025. Secondly ...[intervenes].

ADV KHUMALO SC: Mr Mnisi, just wait for Chair to get to the page you are referring to.

MR MNISI: Okay. Okay.

ADV KHUMALO SC: Yes. Can you give the page number again?

MR MNISI: It is page 148 of the third bundle.

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

MR MNISI: So, Chair, if you look at page 148, there seems to be, well there is a message from Sergeant Nkosi. In this message he sends me a notice saying:

“Two vehicles for land, Ngaphesheya
and Elshadai.”

That is what he says. We then go on a phone call and I clearly explained, I first get clarity, what is this all about? He then explains to me ...[intervenes].

20 **CHAIRPERSON:** Sorry, sorry, can you please, please identify the chat you are referring to ...[intervenes].

MR MNISI: Okay.

CHAIRPERSON: When you mention Ngaphesheya.

MR MNISI: Okay. So, on page ...[intervenes].

CHAIRPERSON: Maybe date and time perhaps?

MR MNISI: Okay. So, on page 148, Chairperson, it is on

the 11th of March 2025. It is at 3:21 if you add the two hours as indicated by Senior Counsel. So it is chat number 1, 2, 3, 4, chat number 4. On chat number 4, Sergeant Nkosi says to me:

10 “Good afternoon, my brother. I trust you are well and your family. My sincere apologies for the delay in sending this message. The two vehicles for land are Ngaphesheya Security Services, Elshadai Security Services. Have a blessed Sunday and lots of love.”

20 He then sends further messages with seven companies. He then refers to a message where he is talking about the red berets and please check with Mfowethu, put the same from CIC. Nonetheless, at this stage, I want to focus on the fourth from the top where he is sending me details of Ngaphesheya, Security Services and Elshadai. If you go over to the next page on 149, you can clearly see that he attempts to call me on two occasions, and I was busy. I could not answer. He even sends a message before the second call, Mfowethu, saying:

 “Are you able to pick up your call?”

 We then have a discussion. I call him back because I then had an opportunity. He then explains to me

the request on why he is sending me this message. And he is, over the telephonic discussion, Chair, can you please assist me with checking compliance for these two bids. I then clearly explained to him unequivocally, Chair, that I cannot check compliance, this bid has closed, there is nothing I can do. You can only explain bid clarification matters subject to tenders closing. So there is nothing I can do.

Chairperson, it does not stop there. I am going to
10 take us now to 152. On 152, same bundle, it is the second instance now where Sergeant Nkosi is referring to the very same entities after I had told him that there is nothing I can do to help you with compliance at this stage. Clearly, this is like a reminder now, and the date now, Chair, is the 18th of March 2025. Two instances I am referring to, 11th of March, seven days later, 18th of March, is clearly a reminder because he is seeing that I am not doing anything about the request that he had sent.

Of course, before he sends this message, we do go
20 on a call and in that call, he does request me, did you remember to check compliance? I say, I do not remember what, I do not even remember the entities you have sent to me. The call ends. He immediately sends me those two entities. I respond. I say:

“Thanks, my bro.”

Because he has now sent me those two entities. I can further confirm once more, Chair, that he is of the mistaken belief still at this point, from my point of view, that I can check compliance. I do not do anything about this because I cannot check compliance in this matter. These tenders have closed, as referred to in our previous discussion, and they are currently under lock and key. This is the second instance.

Chairperson, the third instance where he makes a
10 similar inference ...[intervenes].

ADV BALOYI SC: Sorry, before you go to the third instance, what were you thanking him for at 1:53?

MR MNISI: I was thanking ...[intervenes].

ADV BALOYI SC: He sent you ...[intervenes].

MR MNISI: Yes.

ADV BALOYI SC: At 1:52, he sends you Ngaphesheya, Elshadai, and you have explained it, so you say it is a reminder. But then your response is, “thank you, my bro”.

MR MNISI: Thanks for the reminder.

20 **ADV BALOYI SC:** What were you thanking him for?

MR MNISI: I was thanking him for the reminder. He sent me the entities, I told him I do not remember, he then sends it to me, I say thanks.

ADV BALOYI SC: Okay.

ADV KHUMALO SC: But if you said you cannot assist with

that, why is he sending you a reminder and you are thanking him? Why do you not say, I told you not to send me these things because there is nothing I can do?

MR MNISI: Chairperson, I think what is clear here is that he is clearly of the mistaken view that I can check compliance first.

ADV KHUMALO SC: Ja, but he cannot make the same mistake repeatedly. The first time you tell him this cannot be done, then if he understood you, he would stop. The
10 fact that he keeps repeating it and you keep thanking him suggests that you did not make it clear to him that you are in the middle of a tender process, you cannot interfere, he must stop asking you to check compliance. Clearly you did not do that.

MR MNISI: Chair, firstly, it is the second time he sends me this and it is the first time I actually respond. It is the first time I say thank you for your reminder. But as we go along, Chair, you will understand why I am mentioning this on purpose and I am bringing the number of events that came
20 about with this particular tender. So, 157, with your permission, if I can continue, it will take you to where you want to go, Chair. 157, the 25th of March ...[intervenes].

CHAIRPERSON: Before we go on, I do not understand your response.

MR MNISI: Yes.

CHAIRPERSON: Earlier, you said you told him that you could not assist because of the stage at which the process was. Then there are the calls between the two of you and then he, bottom of 152, he sends you the two, the names of the two entities again and you thank him. I do not understand your response to the questions by my co-Commissioners. Can you please make me understand?

MR MNISI: So, the purpose of my response was to thank him for the reminder, Chair. I did mention ...[intervenes].

10 **CHAIRPERSON**: The reminder, he was reminding you, what exactly was the reminder about?

MR MNISI: So, we go on a call as previously said.

CHAIRPERSON: Sorry? Sorry?

MR MNISI: On 152, Chair, we call on a phone call.

CHAIRPERSON: Yes.

MR MNISI: He calls me, he reminds me, did you check compliance for the entities that I had sent you before?

CHAIRPERSON: That is exactly, that is exactly the issue about which you had said you could not assist, not so?

20 **MR MNISI**: Exactly, Chair.

CHAIRPERSON: So, what is the reminder about if you could not assist? What is the reminder about?

MR MNISI: Chair, this is clearly someone who is either persistent or does not understand or keeps on triggering the event. This is clear. So, from my perspective, I need to

deal with these matters in a strategic manner. I need to ensure that, firstly, I make myself clear on what I can do, what I cannot do within the ambit of the law.

CHAIRPERSON: So, so, the strategy is to thank him?

MR MNISI: Chair, I am going there because this thing persists, it does not stop here. So, now I am just thanking him for the reminder. That is all I am doing. He sends me the names of the entities, he asks me to check for compliance. I tell him I do not recall during the phone call,
10 I do not recall receiving these entities. He had sent them to me on the 11th of March. I do not recall. He said, I will remind you. He then sends it. Then, Chairperson and Co-Commissioners ...[intervenes].

CHAIRPERSON: Okay, maybe, maybe ...[intervenes].

MR MNISI: I say, I thank you for the reminder.

CHAIRPERSON: Maybe let me, at this point, I do not understand. I do not understand the thank you, but maybe you will take us where you will make us understand. But right now, I just do not understand.

20 **MR MNISI:** Okay, Chair.

CHAIRPERSON: Yes.

MR MNISI: I will move forward, Chair, on page 152, 157. This is now the 25th of March. There has been an instance on the 11th of March, a second instance on the 18th of March, a third instance on the 25th of March now. On 157,

again, you will see, he sends me a list of those two entities again at 8:12. I do nothing about it. I do not respond to him. The response that you see later is at 12:44. It is not, it does not have any relation in terms of the previous message. Again, Chairperson, this is someone who is persisting and the reason for persistence would be in two fashions.

Firstly, he does not understand what I said to him in terms of there is nothing I can do, I cannot check
10 compliance for you. Secondly, he is persisting, he is really trying his luck now. That is from my point of view, and I need to express that to the Commission on how I view the situation and how I understood the context of this repetitiveness at this period in time.

CHAIRPERSON: But you had told him what you say you told him only once, and when there was what you call a second approach on the same subject, you thanked him. So you cannot complain about him being persistent when you had thanked him on the second occasion.

20 **MR MNISI:** No, Chair, I think thanking is on the reminder. I am not thanking him for sending me names. I am thanking him for reminding me. I told him I do not remember. So we cannot put a link between me thanking him and me saying I will make magic for you and I will miraculously check compliance on those documents. I would not feel that is a

fair linkage that we can do at this stage, because I am trying to explain the sequence of events and the context of what was transpiring within these events and now I was ...[intervenes].

CHAIRPERSON: You see ...[intervenes].

MR MNISI: You see, Chair, it will get, it gets worse at 177.

CHAIRPERSON: Ja. You see, my difficulty is when you speak to the texts, not reading them, you appear, in terms of tone, to have been annoyed by what he was doing. Am I
10 getting the correct sense?

MR MNISI: I completely ignore him at this stage, Chair. I do not even say anything, which means from my perspective ...[intervenes].

CHAIRPERSON: But were you or were you not annoyed?

MR MNISI: Ja, I am at a stage where I am rolling my eyes now, Chair.

CHAIRPERSON: Sorry?

MR MNISI: I am at a stage where I am literally rolling my eyes now and I am getting a bit annoyed at this stage, at
20 157. This is the third instance where he is sending me these names.

CHAIRPERSON: And you are not telling him so? At no point are you telling him so, or are you still to take us there?

MR MNISI: I told him, remember, Chair. I explained to the

Commission that I told him.

CHAIRPERSON: No, no, no, I am not asking about you telling him ...[intervenes].

MR MNISI: Yes.

CHAIRPERSON: That the process is at this stage now and I cannot assist. That is not what I am asking about.

MR MNISI: Yes.

CHAIRPERSON: I am asking about the stage when you are now annoyed. So, I am saying, and you do not tell him that
10 you are annoyed, this is what I told you, Sergeant Nkosi, and you are persisting. I am annoyed with you now.

MR MNISI: So, Chairperson, an expression of annoying or, could be expressed in different ways. Firstly ...[intervenes].

CHAIRPERSON: Show me where you expressed it in a different way.

MR MNISI: Chairperson, if you can just allow me to explain how you would normally, in a normal instance, firstly, you write a message and you say, look, stop doing this, I am annoyed. Secondly, you completely ignore an
20 issue. This is from my perspective now and this is how I deal with matters on a day-to-day basis. I would ignore a complete topic whatsoever.

Firstly, if I could express it to you and explain it to you clearly via a telephonic call, I would do that. So there are three mechanisms which I used to express that. I

telephonically had a discussion with Sergeant Nkosi. I clearly made it, I expressly made it clear to him there is nothing I can do to check compliance for you, this bid has closed. An individual who persists, once I have said, Chair, I am not going to waste my time and entertain that any further.

CHAIRPERSON: If I were him, I would probably have persisted as well when you thank me. When I make a second approach, you thank me. I would probably have
10 persisted as well.

MR MNISI: So, Chair, this is the third instance and I ignore that now. It is my second day ...[intervenes].

CHAIRPERSON: You have not ignored it. You are saying “Mfowethu”. You have not ignored it, you are saying “Mfowethu”.

MR MNISI: If you look at the times, Chair, you cannot link those two. The one is at 8:12, the second is at 10:44 and it is for a completely different discussion, so we cannot link those two together. Had it been immediately after, I will
20 say, three to five minutes, I would agree with you that, ja, I am saying “Mfowethu”. I ignored this, Chair. Clear distinction in time that ...[intervenes].

ADV KHUMALO SC: Can I assure you that you did not ignore him?

MR MNISI: Yes, Commissioner.

ADV KHUMALO SC: Your response to Chair, can I show you that you did not ignore him?

MR MNISI: On 157?

ADV KHUMALO SC: No, go to 177.

MR MNISI: Oh, I am getting there, Chair, I am getting there. Remember I am saying there are four instances.

ADV KHUMALO SC: No, but it is the same day, within an hour.

MR MNISI: Okay, so let me get there with your permission,
10 Chair. Let me get to 177 in the fourth instance. I want to get there now.

ADV KHUMALO SC: So, Mr Mnisi, let us do this. All I was doing for now was to counter your response to the Chair that you did not respond to him for four hours because you said to Chair, if you look at the time, it is 6 o'clock, and then you respond to him at 10 o'clock, therefore, you ignored him for four hours on the 25th of March 2025. That is your response to Chair. And I am saying to you, that is incorrect because within an hour, you actually respond and
20 you respond directly to the issue of the companies. So it is not a different incident. It is the same day, within an hour.

MR MNISI: Commissioner Baloyi, if you allow me to proceed, you will see ...[intervenes].

ADV KHUMALO SC: It is Khumalo, it is not Baloyi.

MR MNISI: Sorry, Commissioner Khumalo.

ADV KHUMALO SC: It is Khumalo. Yes.

MR MNISI: If you allow me to proceed.

ADV KHUMALO SC: Yes.

MR MNISI: I respond to another text from him. There is another text that I respond to. It is a different incident. Yes, it is on the same day. The times are different ...[intervenes].

ADV KHUMALO SC: Within an hour. Can we just agree that it is within an hour?

10 **MR MNISI:** Let me check that, Chair, I am not sure.

ADV KHUMALO SC: It is in 177.

MR MNISI: So on 177, at 7:08 ...[intervenes].

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

MR MNISI: He sends me another email. Is that not a trigger, Commissioner Khumalo? Is that not another trigger? With all fairness and with all due respect, do I initiate this again or does Sergeant Nkosi trigger this discussion again? With all fairness, it is a trigger from Sergeant Nkosi, Commissioner Khumalo. It is not me,
20 hence, I am saying this is the fourth instance that this matter comes upon. So I want to respectfully disagree with your notion that I am the one who is entertaining this now. That is not correct, Commissioner Khumalo. It is the fourth instance and I want to stick to that, because what is in front of us and the evidence presented, it is clear, I ignore him

on the third instance and I am getting to the fourth instance, which we are here now. He then sends me a list of companies again.

ADV BALOYI SC: Before you discuss the fourth instance, at page 157, you did not ignore him. You acknowledged him. There is no intervening telephone call or communication between you. In fact, what you do is he sends you those names and you acknowledge him by saying “Mfowethu”. That is not to ignore him. You have
10 acknowledged him. And in fact, you follow it up with a message that says:

“Let us meet.”

So there is nothing, there is no, I expressed my irritation with him, one of the two options that you said would be your possible responses. At 157, there is no record of you indicating any annoyance with him sending these messages. This message, in fact, which you say is a reminder. And two, you have not ignored him. You, in fact, acknowledge his message. And then you go on to arrange a
20 meeting with him. By any description or definition, you did not ignore him.

MR MNISI: So, Chairperson ...[intervenes].

ADV BALOYI SC: And this is apart from that it does not make sense that the first time he sends you these things, you then sit, as you tell us, you have these telephone calls,

you actually say thank you. And you say, I had telephone calls where I told him he must not send me these things because there is nothing I can do. Well, he sends you a reminder, and you say thank you to the reminder. That is what you say. And then the next thing you do, he sends you another reminder. You tell us it is another reminder. You say “Mfowethu”. At no point have you, is there a record before us of you having ignored him or in any way expressed an annoyance. In fact, your WhatsApp messages
10 are encouraging.

MR MNISI: Commissioner, firstly, I respectfully disagree with you. I am not encouraging him at all. I am expressing myself in the manner that I have explained to the Commission. There are three ways that I do express myself in various circumstances, through official telephonic phone call, one; secondly, I will just ignore something that is persistently annoying me; and the third would have been easier and maybe I should have done that but I did not at this point in time because I saw it irrelevant from my
20 perspective.

So, Chair, I also want to disagree with you, Commissioner Baloyi, when you want to link something that happened so later on. I mean, it cannot be linked to the two. I am not responding to that, four hours down the line. I am on 157 now. I am not entertaining this. We meet on a

regular basis. This was a meeting to discuss whatever else that we would normally have. It was not me entertaining in whatever form or shape the message that was sent at 8:12, four hours down the line. It would not have been practical for me to reopen a discussion at that stage on 157.

On 177, after the three instances that have just now occurred and that we have all just seen, 11th, 18th, 25th, it happens again now on the 25th, as Commissioner Kumalo rightly says. He sees that I am ignoring him
10 because I do not respond to what he says. He then sends it again. And it is a fourth trigger from my side.

At this point in time, Chair, I must admit to you, on 177, chat number three, from the top and from the bottom, he send me a list of companies:

“Please give to Mfowethu in order of
priority.”

This is a persistence again from my side. And I am clear now that this is no longer an element of misunderstanding. It could be someone really, really trying
20 his luck. What I would normally do in instances of this nature, which I face almost on a daily basis, Chair, I need to apply a strategy and a strategy is two ways, cause outright conflict and be crystal clear and have a situation where I would not know what the outcome is. Secondly, try and come up with a strategy that will entertain, play along,

and try and huff and puff. That is what we normally say, to huff and puff at a situation, but I know there is nothing I can do. This tender process is independent. There are segregation of duties.

If you now go further, on to 177, I respond to him, and this is where I think Commissioner Khumalo was going to. I say to him:

“Thanks, Mfowethu. I am on top of this.”

I then respond again.

10 “Is this ...”

I meant to say, is this our list? Is this the list? Is this the final list, when I repeated that. So this is me entertaining him and playing along, Chair. At this point in time, I was annoyed. There had been significant persistence. In my assessment, this was no longer a case of misunderstanding.

ADV KHUMALO SC: Can you please read the rest of the WhatsApp. It says:

“This is ours, Mfowethu.”

20 **MR MNISI**: Yes.

ADV KHUMALO SC: This is, not is this.

“This is our final list, right?”

MR MNISI: And there is a question mark, yes.

ADV KHUMALO SC: Yes.

MR MNISI: True.

ADV KHUMALO SC: Our final list.

MR MNISI: Yes. So it says here, this is ours, Mfowethu, this is the final list.

ADV KHUMALO SC: What is ours?

MR MNISI: I meant to say, is this the final list?

ADV KHUMALO SC: No, no, the first part of that chat. There are two questions there and two different things. You say, this is ours in Mfowethu.

MR MNISI: Yes.

10 **ADV KHUMALO SC:** This is our list, right, our final list, right?

MR MNISI: True.

ADV KHUMALO SC: So I am asking about the first one, this is ours. What do you mean? I meant the same thing, Chair. This is the final list. That is what I meant.

ADV KHUMALO SC: By ours?

MR MNISI: Chair, this is the contents of a text. In a text, you do not really formalize discussions. Some instances, it could come across as informal when you mean something.

20 In this case, I clearly meant, this is the final list.

ADV KHUMALO SC: Ours. I am asking about ours. What does it mean when you say ours? It meant, this is the final list, Chair.

ADV KHUMALO SC: But ours refers to me and you.

MR MNISI: True.

ADV KHUMALO SC: Yes, so that is what I am asking. When you say ours, what do you mean here? A list is a separate issue, but you and me, ours, what do you mean when you say ...[intervenes].

MR MNISI: So in the context of this discussion, which I would honestly like to stick to, my understanding at the point when I was sending this message to Sergeant Nkosi was, this is the final list. That is what I meant, Chair.

ADV BALOYI SC: What final list?

10 **MR MNISI:** The final list where we ...[intervenes].

ADV BALOYI SC: What list were you discussing?

MR MNISI: Yes.

ADV BALOYI SC: With him as being a final list of what?

MR MNISI: So, on 177.

ADV BALOYI SC: Yes.

MR MNISI: Chat number three from the top.

ADV BALOYI SC: Yes.

MR MNISI: He send me a list of companies. These are the list of companies that he is persistently asking me to check
20 for compliance.

ADV BALOYI SC: Okay.

MR MNISI: As per my sworn affidavit. So I am saying, this is the final list that you want me to assist in checking compliance. That is my understanding of this context of the discussion, firstly, and the message that he sends me,

Commissioner Baloyi.

Secondly, in the response that I give. It might not have been in a formally structured sentence that would make sense in a context of this nature, but my understanding at the point in time, and my understanding now, was that he wanted me to check compliance for the list of seven companies that are stated on page 177. The context of this discussion is in the repetitive nature when I was persisting on this from 148, 152, 157 on the 11th, 18th,
10 and 25th of March. It was persistent from my perspective.

ADV BALOYI SC: You see, the list at page 177, that text, rather ...[intervenes].

MR MNISI: Yes.

ADV BALOYI SC: At 177, he says, our vehicles,
“Captain, find below our vehicles for
land to be given, Mfowethu, in order of
priority.”

MR MNISI: Yes.

ADV BALOYI SC: Are you asking us to ignore “in order of
20 priority” as having any meaning?

MR MNISI: No, no, not at all. Not at all, Commissioner.

ADV BALOYI SC: You want us to understand that he was saying to you, check for compliance in order of priority?

MR MNISI: Remember, Commissioner, it is what I understood from reading this text.

ADV BALOYI SC: Ja, no, I am asking you a question. Are you asking us, are you saying to us, we should understand the end of that message where it says “in order of priority”, we must understand it to mean he was saying, check this in order of priority for compliance.

MR MNISI: Commissioner, for me to make you understand, I need to make you understand what I understood. That is what I can do. What I understood at this point in time ...[intervenes].

10 **ADV BALOYI SC:** Yes.

MR MNISI: As per the context of the discussion, was that give these vehicles in order of this priority to check compliance. That is what I understood at the time.

ADV BALOYI SC: That does not make sense. It does not make sense at all that he gives you a list and says check compliance in order of priority. It does not make sense because if all you are doing is checking compliance, it really does not matter what order you are checking them against. You could start at the bottom and end, which is
20 Shumile Security Services. You could have started there and ended at number one, Elshadai. It would not have made a difference if all you were doing was checking compliance.

MR MNISI: You see, Commissioner, I need to explain to you what I understood. How he said it, I cannot comment

on what he understood when he said that.

ADV BALOYI SC: I am asking ...[intervenes].

MR MNISI: But within the discussion that we had, please, please, Commissioner, the discussion that we had starting on 148 was purely for me to check compliance, which I could not do, and I am clear to that. I could not do, and I did not do that because it was outside my domain. But the context of these discussions continue, they say check compliance.

10 So when I am understanding this, for me, being a recipient of this message is check this compliance in order of this priority.

ADV BALOYI SC: Yes.

MR MNISI: That is what I understood.

ADV BALOYI SC: Okay. Lastly, from me on this page, at least, on this WhatsApp message, what I am challenging is not how he said it. I am challenging what you say was your understanding of it and what you want us to accept is what it means, that it does not make sense that you would have
20 understood it that way.

MR MNISI: Commissioner, it is a bit difficult if you were to challenge an understanding of a person who received a message. It could be coming across in a different setting. We are in a Commission, but, of course, my understanding stands. That is what I understood at the time,

Commissioner, and that is what I still understand now.

ADV BALOYI SC: You have answered me, Mr Mnisi. I do not think it gets better.

MR MNISI: But let me just ...[intervenes].

ADV BALOYI SC: I have heard what you say, and if what you are doing is repeating what you have said, you know my position about it is what you put to us as your understanding of this message does not make sense.

MR MNISI: Commissioner, I think ...[intervenes].

10 **CHAIRPERSON:** And, oh, sorry, sorry, please respond.

MR MNISI: Thanks, Chair. Chairperson, I am here to give evidence in terms of the understanding of these discussions. These discussions took place more than a year ago at this stage. I need to come here and testify and give my version of events in the form of what I understood at the time. So this is my understanding. I have got no reason, I have got no reason absolutely, Commissioner, to lie about this.

20 This is my understanding on this message. There are two things that I understood from this message in particular before we move on to the rest of my messages because that is where I think I really need to explain on what I said and what was the reason behind me saying that. What he said and what he meant, it is a different story. What I understand from what he says to me, two things,

Commissioner. The first one, please check compliance, which has been repeating all along. The second one, in order of this priority. That is what I understood.

But I also need to state on that, that I did not check compliance, I could not check compliance, there was nothing I could do. The problematic areas for me, Chair, is my responses, because as Commissioner Khumalo was stating, I should have been expressly clear. This is a point in time where this is coming up for the fourth time from the
10 same individual. From my perspective, firstly I would have thought he understood that there is nothing I could do. He clearly did not understand.

Moving on, the persistence also shows me that over and above not understanding the context of what I am saying, there is now a trigger of me being triggered to try and assist with these matters. So what do I do now, because I realise that okay, this is more than just checking compliance now. He does not say it. There is nowhere where he says it, Commissioner. He does not say that I
20 need you to make sure that these companies are appointed. But as a seasoned professional, I realised that. There is no one that would persist so much after I am clearly telling him that there is nothing I can do on this.

I realised that between 157 and 177, that this is something that I must do further than just checking, and it

is completely out of my range and there is nothing I could do about this. I then respond. In my responses, at the bottom of 177 and at the top of 178, I say:

“Thanks Mfowethu, I am on top of this.”

I say:

“This is ours, Mfowethu, this is the final list.”

CHAIRPERSON: Just before you go and just before you go ahead, two things. It was you that he wanted to check
10 compliance.

MR MNISI: Yes.

CHAIRPERSON: Not anybody else. Not anybody else.

MR MNISI: He was asking me.

CHAIRPERSON: Yes, yes.

MR MNISI: Yes.

CHAIRPERSON: So he wanted you to check compliance.

MR MNISI: Yes.

CHAIRPERSON: That text, the second last text, the one with a list of names of entities, there is reference to this list
20 being given to Mfowethu. You see that?

MR MNISI: Yes.

CHAIRPERSON: Who was that Mfowethu?

MR MNISI: Chair, I cannot speak for what he was saying. I do not know what he was referring to when he was saying that. I read this message that I must check compliance for

these companies.

CHAIRPERSON: Where is checking, where is checking compliance here, Mr Mnisi?

MR MNISI: Okay ...[intervenes].

CHAIRPERSON: Where is checking compliance here?

MR MNISI: Yes.

CHAIRPERSON: -:

“Captain, find below ...”

And by Captain he was obviously referring to you,
10 correct? Or was it a forwarded message? Oh, okay, okay.
But who was this Mfowethu, do you know or do not you
know?

MR MNISI: Chair, I cannot see if this is a forwarded message. I read this as a message from him to me.

CHAIRPERSON: To you.

MR MNISI: That is how I read this message.

CHAIRPERSON: Okay. All right ...[intervenes].

MR MNISI: I am unable to see whether this is a forwarded message or whatsoever, hence, when I respond to this
20 ...[intervenes].

CHAIRPERSON: Okay, okay, let us forget about Captain then. Who is this Mfowethu? You say you do not know.

MR MNISI: Chair, like I am saying to you, this is a message he writes and sends to me. I read this message, I interpret it in my way. When I interpret these messages,

here are a list of companies. Chair, I skim read on a number of occasions. I cannot sit and read documents one by one. There is thousands of documents I read on a daily basis.

CHAIRPERSON: No, no, this is just one text and you have not suggested that you did not read it. So let us not complicate matters by referring to thousands of documents. This is one text ...[intervenes].

MR MNISI: Yes, Chair.

10 **CHAIRPERSON**: And you have not suggested that you did not read it. So you read it.

MR MNISI: Yes, Chair.

ADV CHASKALSON SC: And you have said a good few times that you understood it in the manner in which you have described it.

MR MNISI: It is quite right, Chair.

CHAIRPERSON: So I am just trying to understand within the way in which you saw the message what the Mfowethu referred to is. You say you do not know.

20 **MR MNISI**: Chair.

CHAIRPERSON: Here is my difficulty. Here is my difficulty. With that part of the message that you do not understand, that to me seems to cut across the idea that this was about compliance. And in any event, there is nothing in the text about compliance. This says here is the

list that is going to be given to Mfowethu in order of priority.

Do you want to comment?

MR MNISI: Yes, Chair, I do, with due respect.

CHAIRPERSON: Yes.

MR MNISI: And I must say, Chair, that was a very loaded statement that you gave, so I am going to try and break it down now. In me breaking it down, firstly, I must give the Commission my understanding of this message. It is a message that I received. When I received this message, I
10 see keywords. Seven companies I see. Priority I see. But with due respect, Chair, you cannot read this message on 177 in isolation of page 148, in isolation of page 15. It is a build-up.

This is a build-up, so it would be extremely unfair for us to take this as an isolated single event. It is a build-up starting on the 11th of March. We are now sitting on the 27th of March, hence, it is so important for me to bring the context so that we all understand. Not on each message would there be check compliance, check compliance, check
20 compliance.

It happened on the first encounter via telephonic discussion as I presented on page 148 on the 11th of March. From then, I understood and I knew what this matter was about.

CHAIRPERSON: Yes, let us zoom in on that. You said on

that build-up, you came to understand that he actually wanted to ensure that the Municipality, and because he was communicating with you, I can directly say that you would make sure that these entities get the award and get the award in the order listed. You said that is how you eventually came to understand he was seeking to convey. You said so when responding to one of Commissioner Baloyi's questions, correct?

MR MNISI: Correct, Chair.

10 **CHAIRPERSON**: Yes.

MR MNISI: I said that.

CHAIRPERSON: Yes.

MR MNISI: And that was my understanding due to the persistent nature of this.

CHAIRPERSON: Yes.

MR MNISI: It was no longer a case of someone not understanding. There was more to that. But I must also state, Chair, it does ...[intervenes].

20 **CHAIRPERSON**: Please, please, try to be short if questions do not require lengthy explanations, and this one did not. Thank you. Now, that is the understanding you had come to have, and let us look at your response. Now you have the understanding there, and bear in mind that when we go back, the request was about something you could not do, and you had told him so. He persists,

persists. Now it gets to a point where you realise that what he actually wants is that you should do an improper award. You have just said so. Now let us look at your response.

You say:

“Thanks, Mfowethu, I am on top of this.”

Is that the sort of response one could expect from someone who actually realises that this person wants you to commit corruption, wants you to effect an improper award? Is this the response, “Thanks, Mfowethu, I am on top of
10 this”?

MR MNISI: Okay, Chair. So like I was saying in the first place, I need to respond to this taking into account that he does not say that. I realise this on my own because of the persistent nature of this individual. At this point, Chair, I am annoyed because I was clear to that there is nothing I could do, and I must also reiterate for the record I did not do anything about that. My responses now is equally to try and demonstrate on his misunderstanding.

20 Firstly, he pretends as if, from my view, by the third message that he just wants me to check compliance, which I have been clear on. You cannot check compliance in these matters. So what do I need to do now, Chair? There is two things I could have done. First one I could have done, which would have been the most easiest way to get me out of this conundrum that I am finding myself in now, would

have said there is nothing I can do, please stop talking about this thing, easily. Second one, Chair, please, if I can just wrap this up, because ...[intervenes].

CHAIRPERSON: No, I am not talking, I just switched my mic on.

MR MNISI: You see, what is so important, Chair, is that the second thing is that I need to take a decision. This is an individual who is my friend now, and I need to manage that friendship in a delicate manner. So I play along
10 intentionally, and, Chair, that playing along and me entertaining him assists me, because this is the last time he ever raises this issue.

Mind you, this is the 25th of March 2025. The award is eventually made nine months down the line, on the 25th of September. Can you imagine, Chair, had I not treated this man in the manner that I did, I would have been constantly bombarded with this issue over and over. Ideally, I could have, and I should have, expressly clear, tell him that I have told you before to stop it, stop going on
20 about this matter. But in me taking into account that this is also a friend of mine now, I need to take this matter delicately and I chose an easier way out for me.

And an easier way out for me at this point in time was I am going to play along, I am going to entertain this individual, I am going to huff and puff so that he thinks I am

able to assist him. And Chair, that helped me, because there was no further discussion from then forth on this matter.

CHAIRPERSON: I will say this, Mr Mnisi, you do not come across as a weak person. And the second alternative, which is basically not to challenge him when he is suggesting that you should effect an improper award, shows weakness. And I do not understand why you would not have told your friend that, look here, my responses on this have
10 been A, B, C, D. I made myself clear on the first, first occasion on this, but you are not only persisting, but now you are suggesting that I should make an improper award. I will not do that.

I do not, subject to what happens down the line, but at this point, I do not believe what you are saying. I want to suggest to you that you were actually cooperating with Sergeant Nkosi and when the names were given a second time, probably during the telephone calls, you had asked for the names again. And now he is giving you names so that
20 there may be an award, and that that award should be in accordance with the, or rather should be in the sort of priority that is listed on here, on that second last text.

And you say, and you say, thanks, Mfowethu, I am on top of this. So I suggest to you that you were cooperating with Sergeant Nkosi.

MR MNISI: Okay.

CHAIRPERSON: Any comment?

MR MNISI: Yes, Chairperson, indeed, I do have a comment. Firstly, I did not want to jump the gun, because me jumping the gun and expressly saying to this guy, you are making me do something wrong, where there is no objective evidence that he is doing that. It is me reading the situation on my own at this stage.

So, Chair, it would have been, I think, not smart for
10 me to start conflict where there is no conflict. The onus is on him, on this point. The onus is on him to make it clear to me that this is over and above compliance. He does not do that. He sticks to his guns as per 148 that I want you to check compliance for me. I also stick to my guns that I cannot check for you, but I see the persistent nature.

I then realize, because I have been in this field for
some time, I realize that this is, I am suspecting, maybe let me be very careful in the words that I use, I am suspecting in my own assessment due to the persistence of the nature
20 of these messages that this is now him wanting me to go over and above compliance. He wanted me to go over and above compliance in terms of this matter, whether it is checking whether they have made it to the next stage or whatever, I do not know, Chair. I do not want to speculate on the fact that I did realize that it was over and above

compliance.

But in all fairness as well, he does not expressly say that, so I cannot jump the gun and start conflict where there should not be. So what I decide to do is stick to the initial narrative as per our discussion 148, and the initial discussion was please check compliance. He pretends like he does not know that I said he does not. I will also pretend like I will check for you. This is leading me to 177. Was it the smartest approach in dealing with the matter and
10 taking the easier route at this stage in this forum? No, it was not. But that was my understanding at this stage, Chair.

Secondly, I was not cooperating with him, Commissioner. I was not cooperating with him. I could not cooperate with him. There was nothing I could do to check any compliance or to interfere in the process. I also did not do anything to suggest with the objective evidence that we are looking at, Chair, that I interfered in this process. I am explaining the context of that, taking into account the
20 sequence of events from that point in time.

So I respectfully, Chair, do not agree with the notion that I was intentionally cooperating. He was playing like a fool. I also played like a fool. Was it the smartest strategy to use to get out this conundrum? It was not. Did it assist me in the long run? It did, Chair. Not a single time

from here moving forward does he ever ask me about this. So me sitting here, he either understands on his side when he reads this that, yes, this guy is really going to help me, or he says, this guy is playing me for a fool and he leaves the matter. I do not know. But that is my version of events.

CHAIRPERSON: Mr Chaskelson?

ADV KHUMALO SC: I just, there are two things. Sorry, Mr Chaskelson. Chair asked you a question, where in the text does Sergeant Nkosi ask you to check compliance and you
10 have not responded to that. So can you please show Chair where in the text does he ask you to check compliance?

And then my question was, you create the impression that it is Sergeant Nkosi who is initiating these discussions. But if you look at 157, it is you who is making multiple calls to him before he sends you that list. It is very early in the morning. It is almost like the first thing you do when you wake up. You make several phone calls to him. And after the third phone call, he then sends you the list, which goes to Chair's point that you requested this and he
20 sent it to you.

But now when you respond, you act as if he is the one who is harassing you and persistently sending you this text. But almost every single one of them is preceded by a phone call between you and him, during which phone call you could have easily clarified and said, stop sending me

this. There is nothing I can do about this. So please respond to Chair is question first, where in the text does Sergeant Nkosi ask you to check for compliance? And then secondly, deal with my issue that in every instance, he is not harassing you. You have actually called him and immediately after the phone call, he sends you the list. Thank you.

MR MNISI: Thank you, Commissioner Khumalo. I think firstly, I refer the Commission to 148 and 149 and this is the
10 start of these discussions. Terms of requesting or modes of communication that are in front of us is two ways. The first mode of communication would be via a telephonic phone call. A second mode of communication would be via an SMS.

In this instance, I did say to the Commissioner, to the Chair, as well as yourself, Commissioner Khumalo, that the phone call on 149 that took place at 126, well, 326, is when we had a discussion clarifying the above. We will go back to 148. On 148, he sends me the list of those entities
20 and two other messages from there. I do not respond to him. He calls me once. Clearly, I do not pick up because I see he says Mfowethu and he calls me a third time. That, for me, from my recollection or what would normally happen is I probably did not answer because I was busy with something. I then call him back.

ADV BALOYI SC: Sorry, Mr Mnisi, just before you go too far so that I understand you, you refer us to page 149 ...[intervenes].

MR MNISI: Yes.

ADV BALOYI SC: And 126. What do you say ...[intervenes].

MR MNISI: No.

ADV BALOYI SC: Is the relationship between 149 and what you are discussing at 148?

10 **MR MNISI:** Yes, so, on 148, he sends me the list of the companies.

ADV BALOYI SC: Yes.

MR MNISI: At 149, we have a discussion on that.

ADV BALOYI SC: Yes.

MR MNISI: This is where we have a discussion, and this is where he clarifies to me that he wants me to assist in checking compliance. So, the mode of communication might not have been in writing, but there was a telephonic phone call, from my recollection that where he explained why he is
20 sending me the list of these companies.

ADV KHUMALO SC: So, let us keep this short, then. There is no text or WhatsApp where he says to you in writing, please check compliance.

MR MNISI: Yes, and I did not say there was a text, Commissioner Khumalo.

ADV KHUMALO SC: No, no, that is why I wanted to clarify. I am asking the question so that we are on the same page. There is no text where he says to you, please check compliance, yes or no?

MR MNISI: Commissioner ...[intervenes].

ADV KHUMALO SC: Yes or no, Mr Mnisi? There is no text, yes, or there is.

MR MNISI: Commissioner, please allow me to express myself, because I need to explain to the Commission. I
10 need to explain what happened, and I am explaining to the Commission that there are two modes of communication.

ADV KHUMALO SC: We are going to get to the other mode. For now I am asking about the text. That is why, if you answer the question, we can move to another mode, and I will allow you, to be fair to you, I am going to give you a chance to talk about the phone calls. So, let us deal with the issue of the text first. There is no text where Sergeant Nkosi asks you to check compliance.

MR MNISI: Yes, Commissioner, I did say that.

20 **ADV KHUMALO SC:** Yes, now ...[intervenes].

MR MNISI: There is no text.

ADV KHUMALO SC: Yes, now deal with your other mode that you wanted to deal with.

MR MNISI: I have explained to the Commission that the second mode was a phone call, which happened on page

149, where he explains to me why he is sending me those companies, and this is where the issue of compliance comes on board.

ADV KHUMALO SC: Yes, now, the other issue was, even on 148, before he sends you a list of companies, there is a phone call from you to him, and it continues on 154, it is the same story, 177 is the same story. It is not as if out of the blue he sends you things. There is a phone call you initiate that precedes this text that he sends to you about the
10 companies. Just look at 148, for example. Immediately before the list of companies, there is a call from you to him. Do you see that?

MR MNISI: Chair, indeed. Me and this guy used to speak all the time, and it is evident from the chats. We have more than, I think, 390 chats. He was my friend.

ADV KHUMALO SC: Yes.

MR MNISI: It is the honest truth, but that phone call that you are referring to has no relation whatsoever to that message that is there. That message that is there is sent
20 about 30 minutes, if I am not mistaken, down the line. And I am trying to explain to you that what relates to this message, the preceding phone call on 149 where he explains to me what he is looking for. This is now answering the first part of your question because the first part of your question was, I did not respond to the

Chairperson when he asked me where is it in writing.

ADV KHUMALO SC: Yes.

MR MNISI: So, I want to now move on with your permission, Commissioner, on 157.

ADV KHUMALO SC: Please look at 148 and also 154, because my focus was really on 154, that what preceded those messages on the 25th. Sorry, where were we? 157. What preceded those messages on the 25th was three phone calls that you initiated on the 25th of March 2025.

10 **MR MNISI:** What page is that?

ADV KHUMALO SC: 157.

MR MNISI: Okay, so on 157.

ADV KHUMALO SC: Yes, and then immediately after those three phone calls, he sends you the list of the security companies.

MR MNISI: Yes, Chair.

ADV KHUMALO SC: Yes.

20 **MR MNISI:** But that, but, why, Chair, would you assume that I am the one requesting for entities by virtue of these phone calls? I mean, it is evident that Sergeant Nkosi and I would speak on a regular basis and I would not feel it is fair for us to assume by virtue of phone calls and create an alignment on certain situations. It is not objective, Chair, at this point in time.

ADV KHUMALO SC: Let me tell you why it is objective. If

I call you at 6:02 am.

MR MNISI: [Indistinct]...

ADV KHUMALO SC: If I call you at 6:02 am and you and I talk on the phone, and then ten minutes later you send me a list without any description, without any narrative, just a list of names, it seems to me that it flows that the discussion was about you sending me the list. That is why the next thing I would do is send you the list, because if it is a completely different discussion, I would introduce that
10 discussion and say, oh, by the way, there is this other issue.

But if all I do is send you a list of names following the discussion on the phone, then those two things are linked. It is human nature, Mr Mnisi. We are all human beings. We use telephones. That is how human beings communicate with each other. It is not rocket science.

MR MNISI: Commissioner, I want to disagree with you respectfully, and my reason for disagreeing is that Sergeant Nkosi and I engaged in a number of matters, a number of
20 matters, and some of those engagements was as a result of the friendship, relationship that we have developed over time, hence, we would have a number of discussions, and it was not linked to this. On this matter, Chair, I am trying to present the sequence of events and what really occurred from the best of my recollection. From the best of my

recollection, I would never and I would not induce him to send me a list of companies to break the law. I would never do that, Chair, and I did not do that.

CHAIRPERSON: Very briefly, Mr Chaskalson, on something quite smallish, can you go to page 158 at the top. He says:

“Sharp, Mfowethu.”

And you say:

“Mfowethu.”

10 Would I be correct to say that when you say Mfowethu like that, you basically mean thank you, or not really?

MR MNISI: Chair, I am on 158, the second chat ...[intervenes].

CHAIRPERSON: Yes, top, top of the page.

MR MNISI: From the top.

CHAIRPERSON: Yes, he says:

“Sharp, Mfowethu.”

And you say:

20 “Mfowethu.”

 Would that not either be a thank you or an acknowledgement?

MR MNISI: No, it would, this is, would mean me saying I have arrived. We were supposed to meet at a specific venue, as you will see beforehand. So when he says,

“Sharp, Mfowethu”, and when I say “Mfowethu”, I am saying I have arrived, because immediately after that, I explain that I have arrived. It was not a form of acknowledgement. It was me telling him I have arrived where we were supposed to meet.

CHAIRPERSON: Oh, okay. All right, let me take you to page 157 then. I just wanted to understand your use of Mfowethu. Let me take you to 157. Just below the middle of the page, you have another Mfowethu there, below the
10 two companies, or below the two entities. Do you see that Mfowethu there?

MR MNISI: Yes, Chair.

CHAIRPERSON: What does it mean in that context?

MR MNISI: So I was taking a discussion, I am saying:

“Mfowethu, can we meet at Jean
Avenue?”

This is sent almost at the same time. I was trying to ...[indistinct].

CHAIRPERSON: Splitting the texts is a bit confusing. You
20 said the same thing about Mfowethu at 158.

MR MNISI: Yes.

CHAIRPERSON: The Mfowethu stands all on its own, and it follows him saying, “Sharp, Mfowethu”. So I thought the Mfowethu was responding to the “Sharp, Mfowethu”, because the text about I have arrived is all on its own. It is

the same here as well. You are sent the two names, and you are saying Mfowethu only.

MR MNISI: Yes.

CHAIRPERSON: And then the text that says, can we meet at Jean Avenue at about 4 is all on its own again.

MR MNISI: Yes, Commissioner.

CHAIRPERSON: Can you explain why you split these? Let me tell you my understanding. My understanding is that the Mfowethu below the two names at 157 is an
10 acknowledgement of the fact that you have received the two names. That is why it stands all by itself. And then the other one at 158 is just a response to “Sharp, Mfowethu” and you say Mfowethu. It has nothing to do with what comes below that. So, the point I wanted to make is this is merely at 157 an acknowledgement, and I wanted to ask why would you either an acknowledgement or even a thank you. And my question would then have been why acknowledge the two names or why thank Sergeant Nkosi
20 that Mfowethu, which is standing all by itself, linking it with the following text. Comment?

MR MNISI: Yes, Chair. If you look at the times, Chair, 10:44, 10:44.

CHAIRPERSON: I have seen the times. I have seen the times, just like I have seen the times at 158 as well.

MR MNISI: Yes, so that is how I communicate, Chair. Unfortunately, it is my way of communication. I would have said Mfowethu, can we meet at Jean Avenue at about 4. Why not make it continuous in one text? What is ...[intervenes].

MR MNISI: It is my way of communication, Chair. That is how I communicate, and it is repetitive a number of times, as you can see in these discussions as well. And not only does that happen within this context and this discussion,
10 but if it is an informal discussion, there is no need for me to formalise it. With my friends, with my family members, this is exactly how I speak, Chair. If it was a need for me to formalise this, I would have struck it in a formal manner, had it been for business, work-related matters. But because this is an individual who is a friend, there is no reason for me to formalise, hence, this is how I speak.

And the alignment between these two is because it is sent at the exact same time. Me saying, Mfowethu, can we please meet at Jean Avenue at about 4pm, and so it
20 continues in the next chat as well, Chair.

ADV BALOYI SC: Mr Minsi, can I, I just want to go back to an answer that you gave to the Chairperson in a previous question that he asked you and I want to suggest that you are untruthful in your answer. At 177, that text where you are asked in order of priority, 157, sorry, 177, where you

are given that list of companies in order of priority, the Chairperson asked you who is Mfowethu referred to in that text, and you answered, I do not know. And I want to suggest or put to you that you are untruthful with that answer, because you acknowledge this message as being sent to you to check for compliance in order of priority.

You accept that, that this is communicating to you to check in order of priority. So that Mfowethu there is the person that is going on your version to check in order of
10 priority. So you are untruthful or you were untruthful in your answer to the Chair when you say, I do not know who is Mfowethu here.

A further reason I say you are untruthful about it is that your constant or repetitive way of communicating with Sergeant Nkosi is you refer to him and he refers to you as Mfowethu. That is what these texts that we have discussed so far, indicate. But more importantly for me, at 177, if you acknowledge, as you have done, that text to have been directed at you to check compliance in order of priority, you
20 are the Mfowethu that is going to be doing that, that checking, because that is what that text says. Do you want to comment?

MR MNISI: Yes, please, honourable Commissioner, I would love to comment. Yes, on a number of occasions, myself and Sergeant Nkosi, I refer to him as Mfowethu, he refers to

me as the same. So Chair, I was not untruthful when I say in the context of this, this message was sent to me, so I understood that it is directed at me, it is directed at me, it is sent to me. So what I understood with this question and I was answering for the Chairperson was that I needed to, he asked me, what was this message sent to you, what was the importance of that firstly? I said they wanted me to check compliance, he wanted me to check compliance in the order of this priority, the entities that have been listed here. He
 10 said to me, to be given to Mfowethu. You see, the context on how this has been crafted as well, I am not sure. What I can assure the committee is that this message is referred to me because it is sent to me, so when I read this message I was of the understanding that it is sent to me and it was for me to address.

ADV BALOYI SC: Yes.

MR MNISI: I was not truthful, maybe I did not understand what the Chairperson was saying.

ADV BALOYI SC: Okay, but you accept that the Mfowethu
 20 referred to in this text, it has to be you?

MR MNISI: Chair, what I want to accept is that myself and Sergeant Nkosi call each other Mfowethu.

ADV BALOYI SC: No, that is not my question, Mr ...[intervenes].

MR MNISI: So, when ...[intervenes].

ADV BALOYI SC: No, Mr Mnisi, do not formulate your question and then answer it. That is not what I have asked you. It is not helpful for our engagement. I have asked you a question, answer my question. My question is, do you accept, therefore, given your explanation, do you accept that the Mfowethu referred to in this text is in fact you, contrary to what you said to the Chair earlier. Earlier you said to the Chair, I do not know who this is, right? And I have demonstrated to you why this must be you and I have
10 concluded by saying you are being untruthful and you went on to say, well I did not understand the question and that is why I say, so you do accept that the Mfowethu referred to in this text is you? You either say I do not accept or I do accept and then we can move on.

MR MNISI: Chairperson, I did accept it.

ADV BALOYI SC: Okay, thank you. Mr Chaskalson.

ADV CHASKALSON SC: I have sort of lost track of where we have been going in the last hour. I think this is the longest period I have ever gone without asking a question,
20 but let me try and regain my bearings. Mr Mnisi, before we, I am going to have to retrace some of the steps you have covered with the Commission because, with respect, your answers are transparently false and although the Commissioners have already submit showing that, there is a lot more evidence that shows it too, so I need to go through

that.

But before I get there, I just want to clarify, yesterday, not yesterday, on Friday when I asked you to explain a certain text, you said, oh no, it is an autocorrect error, I am going to take him off actually meant I was going to take him on. You have looked at these texts quite closely now and the Commission has taken you through them quite closely. Have you picked up any other autocorrect errors that you would like me to be aware of
10 before we start down this road?

MR MNISI: Chairperson, I think firstly, the indication, SC, that my answers are false, I must try and firstly address that and respectfully disagree with that because these are the recollection of the events and I am trying to take the Commission through what transpired at that point in time. But I suspect as you did mention, that as and when we go further, we will have further discussions, maybe towards what is leading you to that inference, but respectfully, I would like to disagree with that inference, that my answers
20 are false. They are not false, Chair. These are the true events on the recollection of my knowledge as per the sequence of what was going on, on this topic at hand.

Your second question is a bit, I have got a pack of 669 pages, so I could not from the top of my head tell you now, Senior Counsel, what is autocorrect, what is not, so

can I respectfully request that as and when we go through this, we will have a discussion on that, but I would not know at this stage.

ADV CHASKALSON SC: No, no, I am confining myself to these four instances where Sergeant Nkosi sends you names of companies that to the rest of us seem to be the names of the companies he wants to get this tender, but to you seem to be the names of the companies in respect of which he is impermissibly asking you to check compliance.

10 We spent the last hour going through those, you and the Commission. Did you come across any autocorrect errors in those chats, looking at those four instances?

MR MNISI: I think when I was responding, I was focusing on responding to the questions that the Commissioners were posing. I might not have picked up anything whilst we were having those discussions, Evidence Leader.

ADV CHASKALSON SC: Right, but where you actually did respond to a specific text, I can be confident that that text means what it says and was not an autocorrect problem.

20 **MR MNISI:** There were instances where we looked at a chat that I tried to clarify because of the misunderstanding and the informal nature of the discussions, so I think while the Commissioners were asking questions, there were some points where I tried to explain further just to give a clear indication of what this actually meant as a result of the

highly informal nature of these SMS's. So there are instances of that nature, Evidence Leader, where I will have to try and explain context further as a result of the informal nature of some of these discussions.

ADV CHASKALSON SC: Ja, no, I am not interested in context. I appreciate that you may need to explain context, but I am asking a separate question, which is when the message says A, B, C, are there cases where actually you typed X, Y, Z but autocorrect, changed it to A, B, C? That
10 is what I am asking, because that is what you suggested on Friday in relation to I am going to take him off this one. You actually meant I am going to take him on that one, on this one.

MR MNISI: At this stage I have not picked up any.

ADV CHASKALSON SC: Okay. Well, if you come across any, please let me know as soon as possible. Thanks. As you correctly point out, there are four separate instances where Sergeant Nkosi sends you lists of his preferred candidates for this bid, and you have acknowledged at the
20 end of the process that you realise what he wants now is for these people to be appointed, even though at the beginning you were thinking just check for compliance.

So let us take the first one and that is at page 148 of file 3. And when you address this, because you pre-emptively addressed this with the Commissioners, you drew

attention to that first message of three that was sent on 11 March at 3:21 pm. Remember to add two hours to the time stamps in your chats. You focused on:

“Afternoon, my brother. I trust you are well and your family. My sincere apologies for the delay in sending this message. The two vehicles for land are Ngaphesheya and Elshadai. Have a blessed Sunday and lots of love.”

10 You did not mention the lists that came underneath exactly the same time stamp, GAP, TSS, SSG, AET, Eagle Eye, Premium Security, Ratio Holdings. And then lastly:

“Afternoon, Captain. I trust you are well and your family. The above is from the Red Berets. Please check with Mfowethu if it is the same with his from CIC (Juju) to verify the authenticity.”

Why did you not mention those last two?

20 **MR MNISI:** Chair, I think the focus was on Ngaphesheya, Elshadai. I think that is what I understood at the beginning.

ADV CHASKALSON SC: Look, I am going to deal with each of these three messages in turn, but to begin with, I want to address the fact that all three of these messages were actually messages which were forwarded by Sergeant

Nkosi to you from messages that he had received from Deputy Chief Dhlamini. Are you aware of that?

MR MNISI: Yes, Chair, I am aware of that now.

ADV CHASKALSON SC: You say you are aware of that now. Were you aware of it at the time?

MR MNISI: At the time, Chair, is to say I am aware of it now, Chair. I am aware of it now.

ADV CHASKALSON SC: No, that is not my question. My question is were you aware of it at the time?

10 **MR MNISI**: Chair, at the time, I cannot recall. It was the 11th of March. But I am aware of it now, Chair, and I am certain if I were to go back to our chats I would see them as forwarded. So let me say I am aware of that, Chair.

ADV CHASKALSON SC: Ja, I know you say you are aware of it now. I am asking you, were you aware of it at the time?

MR MNISI: Yes, Chair, I might, I must have been aware because messages are clear. They indicate something that says forwarded. So I must have been aware.

20 **ADV CHASKALSON SC**: And were you aware not only that they were forwarded, but they were forwarded from Deputy Chief Dhlamini?

MR MNISI: Yes, Chair. I know the way he addresses him. He would normally say, Captain. So I was aware.

ADV CHASKALSON SC: Yes. So right through your chats,

there are a whole series of situations where you communicate with Deputy Chief Dhlamini through Sergeant Nkosi, and we will come to the protocols and propriety of that later, but for now, I just want you to confirm that in those communications where Sergeant Nkosi is forwarding chats from Deputy Chief Dhlamini to you, and where he is forwarding chats or screenshots from you to Deputy Chief Dhlamini, Deputy Chief Dhlamini refers to you as Mfowethu, is that correct?

10 **MR MNISI**: Yes.

ADV CHASKALSON SC: And he refers to Sergeant Nkosi as Captain.

MR MNISI: True.

ADV CHASKALSON SC: And, sorry, is that correct?

MR MNISI: That is correct, SC.

ADV CHASKALSON SC: And you referred to him as General, as does Sergeant Nkosi.

MR MNISI: Yes.

20 **ADV CHASKALSON SC**: So the characters in those chats are General is Deputy Chief Dhlamini, Mfowethu is you, Captain is Sergeant Nkosi.

MR MNISI: Yes, Chair.

ADV CHASKALSON SC: Let us now take these messages, let us start with the first one. The two vehicles for land are Ngaphesheya Security Services and Elshadai Security

Services. Did these two bidders ultimately win the tender?

MR MNISI: They were part of the panel that won the tender, yes, Chair.

ADV CHASKALSON SC: How many people bid for the tender?

MR MNISI: There might have been between, I think, 57.

ADV CHASKALSON SC: 57 is in fact correct, yes. We will see that in the probity report at least. And how many successful bidders were there?

10 **MR MNISI:** About seven.

ADV CHASKALSON SC: Seven. So two of the seven out of 57 successful bidders just happened to be the two bidders who Sergeant Nkosi was asking you to privilege through this process, to give the process to, even though at the time you say you thought he was just asking you to check for compliance on these bidders. Is that correct?

MR MNISI: So, Chair, through the process, yes, it is correct, they were awarded.

ADV CHASKALSON SC: Yes. Let us look at the second
20 and third messages. There is a list of seven messages, seven companies on the second list, on the second message. On the third message it says:

“Afternoon, Captain.”

So this is Deputy Chief Dhlamini saying, afternoon, Sergeant Nkosi.

“I trust you are well and your family.

The above is from the Red Berets.

Please check with Mfowethu ...”

That would be you.

“... if it is the same with his, from CIC

(Juju) to verify the authenticity.”

So, Sergeant Nkosi is being asked by Deputy Chief Dhlamini to take that list of seven companies to you to check if it is the same as a list that he assumes Mr Malema
10 has given to you. CIC Juju you will accept as Mr Malema.

MR MNISI: I accept.

ADV CHASKALSON SC: So, Deputy Chief Dhlamini assumes that Mr Malema has given you a list of companies in relation to this tender. You accept that? I am not asking you at this stage if Mr Malema did, I am asking you if that is what this message shows the assumption to have been on the part of Deputy Chief Dhlamini.

MR MNISI: Yes, I accept that, SC.

ADV CHASKALSON SC: Now, did Mr Malema ever give
20 you a list of companies in relation to this tender?

MR MNISI: No.

ADV CHASKALSON SC: Can you offer any explanation as to why Deputy Chief Dhlamini would have thought that Mr Malema or somebody else from the EFF would have given you a list of companies for this tender?

MR MNISI: I do not know.

ADV CHASKALSON SC: Can I take you back to your chats and if we go to page 116, previous month, February of 2025, you, at the foot of page 116, you sent to Sergeant Nkosi a screenshot of an article with the heading:

“Tshwane proves governance can thrive without the DA, says EFF's Malema.”

Then there is a photograph of Mr Malema
10 underneath it, spilling over onto page 117, and you say to Sergeant Nkosi:

“I am okay my brother, we are managing this guy my brother, I just wanted to show you, Mbungulu will never win.”

Now, what did you mean when you said to Sergeant Nkosi, we are managing Mr Malema?

MR MNISI: Chair, I did not mean we are managing Mr Malema at all. I do not know Mr Malema, I have never met
20 him. I just know him to be the President of the EFF, firstly, Chair.

ADV CHASKALSON SC: Sorry, why did you send this picture, this article that says Tshwane proves governance can thrive without the DA, says EFF's Malema?

MR MNISI: As you have seen on many occasions,

sometimes we would share milestones that are there. As part of this, the City's finances were stabilising and the City was going in a positive direction. This was me sharing an article as I would in other instances as well, so that Sergeant Nkosi would see that the City is doing much better. It was some of the issues that we would normally talk about.

ADV CHASKALSON SC: And the article is about Mr Malema?

10 **MR MNISI:** No, it is about the City, that the City's governance is improving and the City is doing well.

ADV CHASKALSON SC: Yes, but the only person mentioned in the headline of the article is Mr Malema. Is that correct? Do you see anybody else mentioned there?

MR MNISI: I focused on Tshwane. Tshwane is ...[intervenes].

ADV CHASKALSON SC: No, no, no, sorry, I am asking you a question. Do you see anybody else mentioned in the headline of the article, yes or no?

20 **MR MNISI:** On the headline, there is only Malema mentioned.

ADV CHASKALSON SC: Do you see any photograph of anyone other than Mr Malema in this screenshot?

MR MNISI: On the article, no.

ADV CHASKALSON SC: Is there any reference to anybody

other than Mr Malema in the screenshot that you send to Mr Nkosi?

MR MNISI: I was sending an article. I just want to make that clear. I was not sending a picture, I was sending an article that Sergeant Nkosi should read.

ADV CHASKALSON SC: Yes, but I am asking you, did that article and that screenshot refer to anybody other than Mr Malema?

MR MNISI: Chair ...[incomplete].

10 **ADV CHASKALSON SC**: Yes or no? It is quite a simple question. The answer is incontrovertibly no.

MR MNISI: Senior Counsel ...[intervenes].

ADV VAN DEN HEEVER SC: I am going to object at this point in time. The witness clearly said he sent an article. If my learned friend wishes to deal with the content of the article, as he clearly wants to do right now, in fairness to the witness, then produce the article that the witness says he sent at that point in time. Do not ask him in *abstracto* and when he tries to explain, you just cut him off. That is
20 not the way I assume the Commission deals with witnesses that is trying to explain themselves.

Whilst I am on this topic, Chairperson, I have noticed that there seems to be an issue with the manner of the messages that we have received in the bundle. My learned friend refers to forwarded messages, but what we

received does not indicate whether a message was forwarded or not. And with the greatest of respect, when you confront the witness ...[intervenes].

CHAIRPERSON: Perhaps let us deal with the first issue.

ADV VAN DEN HEEVER SC: I am happy to stop there.

CHAIRPERSON: Yes, thank you Ms Van den Heever. Yes, Mr Chaskalson?

ADV CHASKALSON SC: I am not questioning this witness on the content of the article. I am questioning this witness
10 on what, on the screenshot that he sent Sergeant Nkosi, with a view to understanding the message that he sent less than two minutes after sending that screenshot. I have not got there yet, and I have, my line has been interrupted by this objection, but I submit I am perfectly entitled to ask, is there any face, or is there any photograph of anyone in the screenshot, and any name of anyone in the screenshot other than Mr Malema, because less than two minutes later, there is a message, we are managing this guy. And the question is, who is this guy?

20 **ADV VAN DEN HEEVER SC:** Chairperson, may I respond please? My learned friend very clearly, and the record will reflect it, when he asked him, does the content refer to anybody else than Mr Malema? And as I say, if there is an issue about that, then we can play the record back, because he clearly asked him about the content. The moment the

witness responded by saying, I sent him an article, he had said to him then, well does the content refer to anybody but Mr Malema. May it please.

CHAIRPERSON: Let us resolve this by allowing the question, but also allowing Mr Mnisi to give whatever explanation he may want to give Mr Chaskelson. But, of course, that does not apply across the board, in the sense that we will allow explanations all the time, even where we are of the view that explanations are not necessary. But
10 just so as to move forward, let us - yes.

ADV CHASKALSON SC: There was a second complaint about forwarded messages, Chair.

CHAIRPERSON: Yes, yes.

ADV CHASKALSON SC: We have included ...[intervenes].

CHAIRPERSON: I stopped Ms Van Den Heever midway on that one. Perhaps, please, please ...[intervenes].

ADV VAN DEN HEEVER SC: Chairperson.

CHAIRPERSON: Yes, go to the end of the point ...[intervenes].

20 **ADV VAN DEN HEEVER SC:** Thank you, very much.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVER SC: I think what I am going to do is, after the tea time, I will address you on that issue, because I have noticed throughout the manner in which the questioning or cross-examination was going, that it refers to

forwarded messages. We all know what a forwarded message looks like. It is got a little thing that shows that it has been forwarded. These messages are not. But I am going to address you in full on that issue and a further issue after tea time. May it, oh, sorry. Thank you, Chair.

ADV CHASKALSON SC: Chair, I do not want to waste time. So, if I can just put our position, which is the only forwarded messages that we refer to are messages forwarded between Sergeant Nkosi, messages between
10 Sergeant Nkosi and Deputy Chief Dhlamini that are forwarded to Mr Mnisi, or messages between Sergeant Nkosi and Mr Mnisi that are forwarded to Deputy Chief Dhlamini. The full set of texts of both of those sets of texts is in the bundle. In each case, I can show you the date stamp of, and time stamp of the message that I say is forwarded from one and then show that it is forwarded two minutes later.

CHAIRPERSON: We actually saw that during Mr Nkosi's, Sergeant Nkosi's testimony, Mr Chaskelson.

20 **ADV CHASKALSON SC:** Indeed. It ...[intervenes].

CHAIRPERSON: But, yes, but perhaps during the tea break, if you could explain how that works to Ms Van den Heever. And I understand what you say, for example, you have those two arrows that on your and my phone will show that a message has been forwarded. But I think Mr

Chaskelson will be able to ...[intervenes].

ADV VAN DEN HEEVER SC: No, Chairperson, because it goes a step further than that.

CHAIRPERSON: Yes, yes.

ADV VAN DEN HEEVER SC: We have not been given the courtesy of being shown whether the message that was forwarded was forwarded before. Now normally, in matters of this, where you deal with digital information or expert evidence ...[intervenes].

10 **CHAIRPERSON:** Yes, yes.

ADV VAN DEN HEEVER SC: You have an affidavit that sets out exactly what, we do not have anything like that. And maybe that is something my friend at this point can chew on, where you properly see for you to test the veracity of what you are dealing with.

CHAIRPERSON: May we leave it until after the tea break then. I hope that there will be that engagement between the two of you and let us see what comes out of the flash when we come back after tea.

20 **ADV VAN DEN HEEVER SC:** Thank you, Chairperson.

CHAIRPERSON: Thank you, thank you. Yes, Mr Chaskelson.

ADV CHASKALSON SC: Sir, underneath the screenshot, you say, we are managing this guy, my brother. Who was this guy?

MR MNISI: Chair, I think we must read the complete message. The message continues. The message says:

“I want to show you Mbungulu will never win.”

That is exactly who I am referring to, and stopping midway causes a distortion. And if we continue with the message, you can see clearly who I was referring to.

ADV CHASKALSON SC: Sir ...[intervenes].

CHAIRPERSON: Can you please answer then, who was
10 this guy?

MR MNISI: Mbungulu.

CHAIRPERSON: This guy, we are managing this guy, who is the guy you are referring to?

MR MNISI: I am referring to the guy I termed here as Mbungulu, Chair.

ADV CHASKALSON SC: And that is Mpho Lekukela, is it not?

MR MNISI: Yes, yes.

ADV CHASKALSON SC: Yes. And he is associated with
20 the ANC, is he not?

MR MNISI: He is a former official at the City of Tshwane. I know him as an official at the City of Tshwane

ADV CHASKALSON SC: Yes, Sergeant Nkosi confirmed that he is associated with the ANC.

MR MNISI: I cannot confirm that.

ADV CHASKALSON SC: I see. So, when you said you were managing this guy, you were managing Mr Lekukela, not managing Mr Malema?

MR MNISI: Yes.

ADV CHASKALSON SC: Did you have any other dealings with Mr Malema or the EFF in relation to TMPD 1-2024/25?

MR MNISI: No.

ADV BALOYI SC: Let me ask the question before you move from this text. What is it about Mr Lekukela that you
10 were managing? I mean, there is no, what you are telling us, there is no context in the text, so maybe explain to us what it, who is Mr Lekukela and what was it about him that you were discussing with Sergeant Nkosi and the managing? What about him were you managing?

MR MNISI: Chairperson, we addressed some of this matter in the sworn affidavit where we discussed at paragraph 2.6 about the relationship that I had with Mr Mpho Lekukela, and at this point in time I did indicate that it was a bit of a strenuous relationship. He was an employee within the City
20 of Tshwane. I also mentioned within the sworn statement that there were work-related disagreements which I said they were confidential and private, I did not want to air them for the Commission, but it was as a result of that.

ADV BALOYI SC: My recollection of your statement was you brought Sergeant Nkosi in to mediate between you and

Mr Lekukela. That is how I remember your statement and the mention of Mr Lekukela. Here you are speaking about managing him. If indeed Mbungulu is Lekukela, you say, that is who you were referring to, you are managing him and he will never win. I am trying to get you to make this make sense to us who are listening and have to evaluate your evidence.

MR MNISI: Thanks, Commissioner. I think, firstly, since I arrived at the City of Tshwane, of course, due to a variety
10 of reasons, my authority has always been undermined by a number of individuals, maybe firstly as a result of my age initially. Secondly, I am not originally from the City of Tshwane and amongst those individuals, from my perspective, was Mr Mpho Lekukela where I would have viewed it as a situation where he did not want me to thrive and any work-related instructions I would give they were not really followed accordingly.

Like I am saying, I do not want to go into the details of those confidential matters, if the Commission
20 allows. But in the context of that, and that no matter which individual at the onset had tried to set me up to fail, was not winning. The City was on a positive trajectory. The City was improving. The finances of the City were stabilising.

ADV BALOYI SC: Thank you.

ADV CHASKALSON SC: You say you had no dealings with the EFF in relation to this tender?

MR MNISI: None whatsoever, SC.

ADV CHASKALSON SC: Can we go to page 153? Do you have 153?

MR MNISI: Yes.

ADV CHASKALSON SC: At the foot of that page you will see that at 11:06, timestamp 9:06, you call Sergeant Nkosi on the 21st of March.

10 **MR MNISI:** Yes.

ADV CHASKALSON SC: We go over the page, and a minute after that call at 11:07, you send him a message.

“Good morning. I had a meeting with Action SA and EFF yesterday. Telling me to submit five is an insult and did not sit well with me.”

What were you referring to?

20 **MR MNISI:** Firstly, Chair, I can confirm that this is not a message that I sent, and if you have the data, this is forwarded. Firstly, I do not speak to Mr, Sergeant Nkosi in this manner. All our discussions are highly informal, as we have seen. This was a forwarded message. It was not from me. I did not meet anyone from EFF, nor did I meet anyone from Action SA.

ADV CHASKALSON SC: So you forwarded this message

to Sergeant Nkosi?

MR MNISI: Yes, exactly.

ADV CHASKALSON SC: From whom?

MR MNISI: I forwarded this message from the Deputy Executive Mayor of the City.

ADV CHASKALSON SC: Sorry, I did not hear? From?

MR MNISI: Mr Eugene Modise.

ADV CHASKALSON SC: Also called Mr Bonzo Modise, referred to in the papers as Bonzo.

10 **MR MNISI**: Yes.

ADV CHASKALSON SC: So you forwarded this message from Mr Modise to Sergeant Nkosi. Why?

MR MNISI: So, firstly, the context of this was that the Deputy Mayor was telling me that to be careful, there are people who are trying to influence the process. He sent me this message. He then did call me, and we had other discussions afterwards that the process is going to be compromised. I need to be careful. There will be people purporting to be from Action SA, EFF. I am saying
20 purporting because I do not know these people. I did not meet them. That I need to be careful and not, and frankly do not be vulnerable to this situation.

I shared with Sergeant Nkosi as an element of discussing that as well that this process ...[indistinct] look how brazen people are. People are so brazen they go to

the point of even trying to lure the Deputy Executive Mayor to interfere in procurement processes. That was the discussion around that. And this was me still in a subtle manner, explaining to Sergeant Nkosi that we cannot interfere in procurement processes, even the Deputy Mayor is experiencing issues of this nature, and this must be avoided at all costs.

ADV CHASKALSON SC: And the process that we are talking about now is the process in relation to the award of
10 tender one, interfering with this process.

MR MNISI: Yes, any interference that might have been there.

ADV CHASKALSON SC: But when you talked, you mentioned interfering in this process, and Mr Modise had mentioned that there was interference, there is possible interference in this process. That process was the award of the tender.

MR MNISI: Yes.

ADV CHASKALSON SC: Yes.

20 **MR MNISI:** We needed to guard against that.

ADV CHASKALSON SC: Yes. You forward that to Sergeant Nkosi.

MR MNISI: Yes.

ADV CHASKALSON SC: Yes. Now Sergeant Nkosi has no business being anywhere near this process, does he?

MR MNISI: Chair, he has already got business. Remember, I told you on 148 and 152, he is already asking me the same thing, so he has already got business, I will say, in terms of trying to get me to check compliance. 148, he wants me to check compliance. 152, he repeats that. I am in a subtle manner trying to tell him you cannot do that. That is the concept behind me forwarding him that, even say even the Deputy Mayor is facing such brazen circumstances, we cannot have that.

10 **ADV CHASKALSON SC:** Chair, I was hoping to end this line before tea, but it is going to be at least another 10 minutes, so I can continue or we, I am in your hands.

CHAIRPERSON: Let us take the adjournment and resume at 11:25. Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Ms Van Den Heever, I hear from our spokesperson that you need a little bit of time.

20 **ADV VAN DEN HEERVER:** Sorry, Chairperson, I wanted to zip my jacket up under it, otherwise I am not very well-dressed. I have got something on underneath.

CHAIRPERSON: All right, all right.

ADV VAN DEN HEERVER: Just also, Chairperson, we have had the opportunity to talk to each other. My learned friend has undertaken to provide us with certain documents.

I do not know if he needs us to go further about the conversation, but at this stage I will assume I can park that point and we can move on at this point.

CHAIRPERSON: Thank you, Ms Van Den Heever. Mr Chaskalson.

ADV CHASKALSON SC: Thank you, Chair. Mr Mnisi, before we broke, you were explaining that the message at the top of page 154 was a message sent to you by Mr Modise, referring to his discussions with ACTIONSA and
10 EFF, and you understood it to be a warning to you that there were people trying to interfere with the tender process in relation to TMPD1. Is that correct?

MR MNISI: Yes, Chair.

ADV CHASKALSON SC: And you forwarded that to Sergeant Nkosi, and if I understood - actually, I do not want to put words into your mouth. Can you just repeat why did you forward that to Sergeant Nkosi?

MR MNISI: Like I said earlier on, the brazen nature of individuals trying to interfere in the process had escalated
20 to levels where the MMCO Finance or the Deputy Chief Executive Mayor was also cornered for issues of this nature, where he himself had to issue a warning to me saying, be careful, let us ensure that the process is highly safeguarded in order to ensure that there are no loopholes in the process of awarding this tender. The context of me

sending this was also to make it further clear to Sergeant Nkosi that there is nothing I can do to assist in this process. This is something that we are highly safeguarding, in a subtle manner.

ADV CHASKALSON SC: So, am I understanding you correctly to say, essentially, that you were warning Sergeant Nkosi this is not something to interfere with? Or I am still - is that correct?

MR MNISI: Correct.

10 **ADV CHASKALSON SC**: Now, if we look at the timestamp of your message to Sergeant Nkosi, that is 09:07, which is 11:07 in the morning of the 21st of March. If we go to page 434, which would be in file 4, you see it?

MR MNISI: Yes.

ADV CHASKALSON SC: You will see that shortly after you sent that forwarded message to Sergeant Nkosi, he sent it, at 11:17, to Deputy Chief Dlamini.

MR MNISI: I can see that.

20 **ADV CHASKALSON SC**: Now, did this tender have anything – did Deputy Chief Dlamini have any legitimate role to play in this tender?

MR MNISI: Legitimate role, meaning part of the process?

ADV CHASKALSON SC: Yes, part of the process.

MR MNISI: As far as I am concerned, he was not part of the process.

ADV CHASKALSON SC: So, he had no legitimate role to play in the process?

MR MNISI: No, Chair. Maybe he could have assisted in terms of compiling specifications, I am not sure. But in terms of the process that was followed, he was not part of that.

ADV CHASKALSON SC: Once bids were in and before the BAC, he had no legitimate role to play?

MR MNISI: No.

10 **ADV CHASKALSON SC:** Now, that takes me back to the first instance that we were discussing on 11 March.

MR MNISI: Is that on page 148?

ADV CHASKALSON SC: That is on page 148. And when I asked you about these messages, you accepted that they were forwarded to you from Mr Nkosi, from messages he had received from Deputy Chief Dlamini, and that at the time you would have known that. Do you recall that?

MR MNISI: Yes, I did, and I did confirm that, SC.

20 **ADV CHASKALSON SC:** Now, what is General Dlamini doing, saying that the two vehicles for land are Ngaphesheya and Elshadai? Is that anything that he should have a legitimate role in being part of?

MR MNISI: Well, I cannot answer for him, SC.

ADV CHASKALSON SC: Well, you receive a message which you understand to have originated or to have been

sent to Sergeant Nkosi by Deputy Chief Dlamini that says the two vehicles for land are Ngaphesheya Security Services, Elshadai Security Services. What legitimate purpose could Deputy Chief Dlamini have in sending that message to Sergeant Nkosi?

MR MNISI: Chairperson, I cannot answer why he would send it to him. My understanding when I received this, they wanted me to assist in checking compliance, which I could not do.

10 **ADV CHASKALSON SC:** But surely Deputy Chief Dlamini knows that you cannot check compliance. He is a senior official of the city. He understands how procurement is supposed to operate. But he is asking you to do something which would be unlawful, is it not?

MR MNISI: Chair, I am going to focus on my understanding on this, and these messages when received, the purpose of that was for me to assist in checking compliance. I made it extremely clear that there is nothing I can do with that. The thought process for Mr Dlamini would be a very difficult
20 process for me to comment on. I would rather comment on the context of me receiving these and how I understood that and how I understand that now.

ADV CHASKALSON SC: But you have a senior official of the city asking you to do something in relation to a procurement process that you understand to be unlawful.

MR MNISI: Chair, he did not ask me to do that.

ADV CHASKALSON SC: So, he did not ask you to do that. You understood him, or you understood Sergeant Nkosi to be asking you to do that?

MR MNISI: Yes.

ADV CHASKALSON SC: How did you understand the meaning of his message to Sergeant Nkosi? The two vehicles for land are Ngaphesheya Security Services, Elshadai Security Services. What did you understand in
10 relation to that?

MR MNISI: Two vehicles which we need to check compliance on are Ngaphesheya and Elshadai.

ADV CHASKALSON SC: Now why would Deputy Chief Dlamini ask Sergeant Nkosi to check compliance on these two vehicles?

MR MNISI: I cannot comment on why he would ask Sergeant Nkosi, Chair.

ADV CHASKALSON SC: Well, is there any conceivable basis on which Sergeant Nkosi would be in a position
20 lawfully to check for compliance on two vehicles?

MR MNISI: Sergeant Nkosi does not work for the city, so he would not.

ADV CHASKALSON SC: No. So, did it not occur to you that what Deputy Chief Dlamini had done in this regard was probably improper?

MR MNISI: Chair, what occurred to me here was that they wanted me to check compliance. I had received this message from Sergeant Nkosi. There was nothing I could do about that. Hence, in my submission, ignored, did not entertain, and I had to play along in order to get this matter off my table.

ADV CHASKALSON SC: Yes, but I understood your evidence earlier to be that you explained to Sergeant Nkosi that you cannot do this. Did you explain anything to Deputy
10 Chief Dlamini?

MR MNISI: No, I did not speak to Deputy Chief Dlamini about this matter.

ADV CHASKALSON SC: Did you take anything further in relation to Deputy Chief Dlamini and the propriety of what he had done? Did you raise a complaint in the city?

MR MNISI: No, Chair. Purely on the basis that this was a request for me to check compliance. There was nothing improper about it. It was someone's misunderstanding of the procurement environment. At this stage, there is no
20 alarm for me to raise.

ADV CHASKALSON SC: But surely ...[intervenes]

MR MNISI: Except for to safeguard the process. Apologies, SC. Except for me to ensure that the process is followed to the T and there are no glitches along the way. That was my pure responsibility. We deal with a number of

issues, Chair. Sometimes, as a manager, you need to avoid raising any matters that would not have any substance in the future. I had not had any formal substantive evidence that could prove beyond reasonable doubt on what we are discussing now. Hence, I had to take a decision to ensure that the process is safeguarded to the T.

ADV CHASKALSON SC: But here you have a senior official in the Municipal Police Department, who appears at the very least on your understanding of things, to be
10 suggesting through an outsider to the city that somebody should be checking for compliance on the part of two companies at a time when it would be impermissible for anybody to do that.

MR MNISI: Chair, I would not know the discussions between Sergeant Nkosi and General Dlamini. I am aware of this because I had received them as a result of that. I view this as a request for him to check that. Whether Dlamini wanted him to send it to me or anyone else, I do not know, and I cannot comment on that.

20 **ADV CHASKALSON SC:** But you did understand that Dlamini was making this enquiry for Sergeant Nkosi?

MR MNISI: Looking at the text, I agree with you. Looking at this text and how they are formulated, especially on number 3. At the first one, maybe I might not have seen that. But from the second one, when we see afternoon

captain, I really start getting a flag. Because I know he refers to him as captain. On the first one, with all due respect, those inferences that we normally have, as you have alluded to earlier on, the General Mfowethu and captain are not there. But on the second one, that is how I view that.

ADV CHASKALSON SC: Let us go to the second case where these two bidders were sent to you in a message from Sergeant Nkosi. That is, as you pointed out at the foot
10 of page 152. And you dealt with the second case in your responses to the questions of the Commissioners. I just want to put to you that if in the first case you had made it clear that you cannot do that, you would presumably have been mildly irritated when a second request was addressed to you to do that which you had already told someone you could not do. Were you not irritated by the second request?

MR MNISI: The second request, Chair, you need to give someone the benefit of the doubt. And the benefit of the doubt is maybe you did not understand me, maybe you did
20 not get me clearly. From the third instance moving forward, I can confirm an element of annoyance ...[sic] and irritation.

ADV CHASKALSON SC: Well, you see, it is your response to the second request which strikes me as odd. Because you get the request, you have already explained that you cannot do this. And then you text back:

“Thanks, my bro.”

Why did you text back, thanks, my bro?

MR MNISI: So, in the call earlier on at 152, we first had a call before he sent me those messages, as you can see, on 152. In this call, there was a reminder. Did you manage to check on that? I said to him, no, I did not, and I even forgot what entities I am referring to. He then sends them to me, and I say thank you for sending them to me.

ADV CHASKALSON SC: But your evidence is that you had
10 already told him you cannot check on any entities.

MR MNISI: Yes.

ADV CHASKALSON SC: So, the identity of the entities at some level was irrelevant. Whoever they were, you were not going to check.

MR MNISI: Spot on.

ADV CHASKALSON SC: So why did you thank him for giving you information that was irrelevant, first question?

MR MNISI: No, I was acknowledging his reminder. He was reminding me here. I sent you something on the 11th. You
20 did not say anything about it. You did not give me any feedback. He then comes back on the 18th after our phone call, and then he sends them to me again. And the context of our phone call is, did you manage to check on what I sent to you on the 11th on page 148? My response to that was, no, I did not. I could not, but I do not have that anymore. I

do not recall. He then sends them to me as a form of a reminder.

ADV CHASKALSON SC: But ...[intervenes]

ADV BALOYI SC: Presumably, Mr Mnisi, in that call, you would have said to him, I cannot check, you would have repeated what you told him previously in this call before he sends you these messages.

MR MNISI: So, Commissioner, at this point, I just want to move on from this matter.

10 **ADV BALOYI SC:** I understand you want to move on, but you have a call with him. This is the second time. So, presumably, I am saying to you, presumably, you would have said to him, before I cannot check this thing in that call. No?

MR MNISI: So, I did not say that. I said, I do not remember. I recall I said, I do not even remember what you sent me. Then he said, I will send it to you again. In the phone call, the discussion is, did you check what I sent you on the 11th? My response is, I do not remember. What are
20 you talking about? I had remembered, obviously, Chair, but I was trying to move away from that issue. He then sends me the two names in terms of trying to remind me on what I had just said I had forgotten.

ADV BALOYI SC: Yes, and you do not say to him, thank you, I have received it, but as I told you, I will not be

checking. You just say, thank you.

MR MNISI: So, when we hung up on the call, he then sends it to me. Then in the response, I said, thank you, Chair. In the hope that, Chair, it will stop from here. He probably presumed that maybe I will check for you or do something about it. Unfortunately, he is not convinced and he persists.

ADV BALOYI SC: So, you thought he would stop because you said, thank you. You thought from that thank you, he
10 would stop asking you.

MR MNISI: Yes, Commissioner.

ADV BALOYI SC: Thank you.

ADV CHASKALSON SC: But his response to your thank you is to send you a thank you emoji. If you look at page 153, at message time 06:59, actual time 08:59, he sends you a thank you emoji. Those two hands put together.

MR MNISI: I can see that, SC.

ADV CHASKALSON SC: So, he is presumably thanking you for what he thinks you are either going to do or have
20 undertaken to do or have done. I mean, he is thanking you for something. What is he thanking you for?

MR MNISI: I am not sure what he is thanking me for.

ADV CHASKALSON SC: Did it not - I mean, your evidence now is that you were hoping at this stage he would go away. He would understand. But he gives you a thank you emoji.

Is that consistent with someone who thinks that his request has been rejected and explained?

MR MNISI: Chair, he probably thinks I am going to check.

ADV CHASKALSON SC: Yes.

MR MNISI: Yes, so, in this place, I am already starting my strategy of trying to play along because I can see where this is going. So, me thanking him, he is going to think that I am going to do something about it, which, of course, I am not because I cannot and I did not. He thanks me because
10 he is of the view that I will be able to try and assist him. I read that in that context.

ADV CHASKALSON SC: I am sorry to do this. There was one other issue that I wanted to raise in respect to that first occasion.

CHAIRPERSON: Before you move to that, Mr Chaskalson. Do you remember, of course you do, when I engaged you about your use of Mfowethu and I suggested to you that in context it appears either to be thank you or, at the very least, an acknowledgement. Do you remember that?

20 **MR MNISI**: I remember, Chair, when you raised that.

CHAIRPERSON: Yes. Now, here at 153, you have those and there are two of them, one after the other. You explained the two that I referred you to earlier. Despite the fact that they were stand-alone Mfowethu's, but you explained that they were connected to the texts that

followed each one of them. What would you say about these two here? Because there are no sentences that follow them.

MR MNISI: Chair, I would say to you, those refer to the next day.

CHAIRPERSON: I am sorry?

MR MNISI: This is on the 19th, the next day. The previous one was on the 18th. So, the two Mfowethu's that you see is the next day, so it is completely unrelated. It was the
10 start of a new day where I was greeting him as a friend. How are you doing? Are you well? How is your day looking? Simple courtesy greetings of a friend of yours. So, it is not related whatsoever. And when I say Mfowethu, Mfowethu, it does not mean I am greeting him or I am acknowledging or I am thanking him, Chairperson.

CHAIRPERSON: All right, thank you.

ADV CHASKALSON SC: I am sorry to go back to that first message again. But there was an issue that I wanted to canvas with you, which is that very first message on page
20 148. It goes:

“Afternoon, my brother. I trust your will and your family. My sincere apologies for the delay in sending this message. The two vehicles for land are.”

Now, why would someone apologise for a delay in sending a

request to check compliance on two vehicles?

MR MNISI: Well, Chair, as we are aware, these are messages from General Dlamini to Sergeant Nkosi. They must probably have their own discussion after that. But in me receiving this, I pick up the key point of interest, which I know we had a discussion on later on, and it is on checking compliance from Ngaphesheya and Elshadai. In terms of the apologies for the delayed message, that must have been a communication, of course, between the General as well as
10 Sergeant Nkosi, which I cannot comment on.

ADV CHASKALSON SC: And you knew right through this that Ngaphesheya was Sergeant Nkosi's brother's company.

MR MNISI: True.

ADV CHASKALSON SC: Yes, so, you knew that Sergeant Nkosi was asking you to do something in relation to his brother's company.

MR MNISI: To check compliance in terms of his brother's company, yes, SC.

ADV CHASKALSON SC: Yes, at a later stage, though, you
20 came to realise that what he really wanted was for you to ensure the award to the brother's company.

MR MNISI: I suspected that in my own analysis due to the persistence.

ADV CHASKALSON SC: Before we move to the third case, there is something else in relation to this tender, which

happens in between the second and the third case that I want to address with you, and it is the events of the 23rd of March. So, if we go to page 155.

ADV BALOYI SC: Sorry, Mr Chaskalson, maybe before you do that, I did not realise you were moving on. Can I just ask a question about 154, the text that you discussed in 154? It is that text that you say came to you from Mr Modise. Mr Mnisi?

MR MNISI: Yes.

10 **ADV BALOYI SC:** Okay, now, that text was preceded by a telephone call on the previous page between you and Sergeant Nkosi, and then you have that text which you say is from Mr Modise. Now, there is nothing in the text itself from Mr Modise that explains, especially that last sentence. What did you want Sergeant Nkosi to make of that last sentence that says:

“Telling me to submit five is an insult and
did not sit well with me?”

What did you want him to make of it?

20 **MR MNISI:** So, I think, in short, the purpose of the phone call was to contextualise him on the potential irregularities and to try to make the matter sink in, if he did not understand it first. There is no way we can assist in checking compliance. So, the context of the entire message was saying, the Deputy Mayor is even facing issues of this

nature and is raising severe alarms, which I had alerted you on. There is nothing we can do on this matter. Compliance cannot be checked. The process must be followed to the T.

ADV BALOYI SC: Okay, so, in your call, you had told him that Mr Modise what? What about Mr Modise?

MR MNISI: No, he obviously asked the Commissioner, what is this message about, and I told him that there are ...[intervenes]

ADV BALOYI SC: No, the message comes after a call.
10 Otherwise, your message comes cold. It has no context whatsoever. So, are you saying that when you sent this message, he would not have known what this message is about and what the point of you sending it is until you did a call?

MR MNISI: Chair, what I can confirm is that in between there, I had to clarify to him, and I did clarify to him on what was going on.

ADV BALOYI SC: Sorry, in between you did what?

MR MNISI: So, what I am trying to say is that the call
20 afterwards is where I explained to Sergeant Nkosi what the context of that message was.

ADV BALOYI SC: Okay, let us do this step by step. So, when you send him the message that reads:

“I had a meeting with ACTIONSA and
EFF yesterday. Telling me to submit five

is an insult and did not sit well with me.”

So, when this message - I am trying to understand what you are saying. When this message lands in his inbox, you are saying he would not have known what it is about.

MR MNISI: No, until the second call.

ADV BALOYI SC: He just gets a random message from you.

MR MNISI: So, he gets a message from me, and then on 154 we have a discussion and I expand it further.

10 **ADV BALOYI SC**: When you say one from before you had a discussion, you mean the day before, the earlier message, before the text. Sorry, I am begging to understand your sequence and explanation of this text. So be patient with me.

MR MNISI: Yes, Commissioner.

ADV BALOYI SC: You send this message, but before this message there was a call, right? Are you saying that call would have explained this message or it is a subsequent call that explains the message for the first time?

20 **MR MNISI**: It is the subsequent call that explains the message for the first time.

ADV BALOYI SC: So, the call at 09:08.

MR MNISI: 09:08.

ADV BALOYI SC: Which we find at page 154.

MR MNISI: Yes.

ADV BALOYI SC: And what do you say to him about this message? Why are you sending the message to him?

MR MNISI: I thought I had explained to the Commissioner. I was trying to say that I have received this from the Deputy Executive Mayor. He is getting concerns because there are people trying to call him, trying to make him or have him influence the process. It cannot be done. We are safeguarding this process to the T. This was a way of me explaining to him subtle what had happened on 148.

10 **ADV BALOYI SC:** Now, when Mr Modise sends you this message, for it to make sense, to have meaning to you, to mean anything to you, he would have had a call with you. And I think that was your evidence that he had a call.

MR MNISI: Yes.

ADV BALOYI SC: Then explain to us what he said about that last line. Telling me to submit 5 is an insult and did not sit well with me. We know he had a meeting with ACTIONSA and EFF.

MR MNISI: Yes.

20 **ADV BALOYI SC:** And then he tells you that telling me to submit 5 is an insult and did not sit well with me. What did Mr Modise say to you about the submission of 5? What is that all about?

MR MNISI: So, in short, he was telling me that individuals, purported individuals from ACTIONSA and EFF, wanted him

to assist in submitting names for companies to be favoured. And that did not sit well with him. We might not have broken down each sentence during the call, but the context of the call was, you need to be very careful. If I am getting this, I can imagine the influx that you or anyone within your team will be getting. You need to safeguard the process and ensure that it is secured.

ADV BALOYI SC: Okay, so I think I am more interested in what Mr Modise said about the ACTIONSA and EFF, not just
10 generally, just ACTIONSA and EFF from his discussion with them. In that last line, you say he was saying to you, in the telephone call, he was saying to you that these two entities, or one of them, was telling him to submit 5 names to be favoured for the tender, and he found it to be an insult.

MR MNISI: Yes.

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

ADV CHASKALSON SC: Thank you. Can we look at another event that happens between the second and third
20 attempt to raise bidder's names with you? It is a series of events on the 23rd of March, page 155. And they are at message time 05:45, actual time 07:45 pm Sergeant Nkosi messages you are saying:

“Are you well, wanted to check earlier about the meeting with US.”

Now, US is Deputy Chief Dlamini, is it not?

MR MNISI: Yes, it is.

ADV CHASKALSON SC: Your response is:

“I am okay, my brother, in response to
are you well, and then let us meet
General tomorrow, please.”

So, you are saying to Sergeant Nkosi, let us meet with
Deputy Chief Dlamini tomorrow, which would be the 24th of
March.

10 **MR MNISI**: Spot on.

ADV CHASKALSON SC: Later that evening, Sergeant
Nkosi sends you a message which on its face is clearly one
of those messages which originates with Deputy Chief
Dlamini because we see Captain and Mfowethu. But you
can actually see that it comes from Deputy Chief Dlamini on
page 435 chat 1, if you just want to take that note. And the
message says:

20 “Afternoon Captain, I trust you are well
and your family. I thought we will meet
up today so that I could get clarity on
something according to Mfowethu. Cain
called me on Friday and asked if Gubis
wanted to meet up with me on Saturday.
I then pushed the meeting to Monday
with a view of getting direction from

Mfowethu first today. Please check with him on this and his advice, if I should go or drop them. I do not want to make a mistake on such matters because I believe the centre should be one.”

Now, a number of questions. Cain, I presume, is Mr Cain Mpofo who is being referred to here.

MR MNISI: That is true.

ADV CHASKALSON SC: What is his role?

10 **MR MNISI**: He is an Acting Divisional Head in Supply Chain Management.

ADV CHASKALSON SC: So, he has responsibilities relating to procurement.

MR MNISI: Yes.

ADV CHASKALSON SC: The message says that Mr Mpofo called Deputy Chief Dlamini on Friday and asked that Gubis want to meet him on Saturday. He pushed the meeting to Monday with a view of getting direction from yourself first today. He is asking Sergeant Nkosi to check with you and
20 what your advice is, if you should go to the meeting or drop them. Now, what did you understand this request for a meeting from Gubis to be about?

MR MNISI: SC, this was in relation to outstanding payment. There is no link whatsoever to TMPD01. If you take note that during our discussions, there were three-way

calls or messages in reference to an outstanding payment for ad hoc services. During that period, there was an *ex post facto* payment that could not be made as a result of this being related to the previous financial year, the June 2024 invoice, if I am not mistaken.

And if I could point you out to that so that you can understand where I am coming from, if you could please go to page 144 of this pack. So, on page 144, it is an invoice that could not be resolved as a result of it being due in the
10 previous financial year. The context of what you are referring to us now in 155 is in reference to this payment that could not be done and was not done as a result of limitations that the city had faced. It was an *ex post facto* invoice. It had not been captured accordingly in the city's accruals in the previous financial year.

Hence, it could not be paid. The context of that message was in relation to Gubis making a follow-up in terms of this outstanding payment. And when that discussion continues, there are several protocols in terms
20 of dealing with payment. You need to ensure that you follow the correct channels. And the correct channels will be to firstly escalate it to the necessary supply chain management or TMPD officials.

As I initially designated in TM22. The second process, if you are unhappy with that, would then be to

escalate further to myself. So, in relation to that was for them to follow the correct procedures and not jump all processes and just raise the matter with either him or with me. So, there is no relation to that message to TMPD.

ADV CHASKALSON SC: So, what was the correct procedure for them to follow?

MR MNISI: If there is an outstanding payment, Chair, it needs to be escalated accordingly within the relevant user department. If they fail and do not get any joy out of that,
10 they need to escalate that to supply chain management with adequate substantiating reasons. If still they are unable to have joy within that process, it is then escalated to myself. As did the previous ad hoc tender and as I demonstrated on GM22 and GM23. So, you could not jump any process. This reason was not processed for - this payment, or this invoice had not been processed for a reason.

ADV CHASKALSON SC: Can I track this process forward?

ADV BALOYI SC: Can I just ask a question about this?
Sorry, Mr Chaskalson, I do apologise. This text where you
20 are going to be, you say the General should go and meet with Gubis, and then you say, and he can brief us of the outcomes of the discussion when we meet later Mfowethu. Why would, if this is about unpaid invoices, and you say there is a procedure to be followed and that is what you wanted them to do, why would you be planning to have a

report back meeting which involves Sergeant Nkosi when this is a Tshwane matter?

MR MNISI: Yes.

ADV BALOYI SC: It is a payment issue.

MR MNISI: Yes.

ADV BALOYI SC: It is not about checking compliance and any of that stuff. Why are you involving him?

MR MNISI: So, in terms of the payment, he was already involved in this matter. He had overheard that phone call discussion that I had with Mr Calvin Mashangu. From that process, then he took it upon himself to call the general, which I then spoke to. So, he was already involved in this matter. I would not necessarily say we wanted to involve him in terms of the nitty-gritties and the details of that. Hence, I do not explain it to him, and I say, rather, make sure that I meet with the General so that we can outline the possible way forward.

ADV BALOYI SC: I mean, I do not understand your answer. He was already involved, you say, because he took it upon himself. But I would have expected your CFO to say thank you for your assistance in having made that first unsolicited call, but you do not belong to the city, that is the end of it. But here you are. You are saying he must advise Dlamini to go meet with Gubis, and then he can report back to us the following day.

If this is about unpaid invoices, it has absolutely nothing to do with Sergeant Nkosi. It is not about checking tenders. It is a payment internal process, but you already have an answer, because that is what you say. You say there are internal processes to this. So why would you be discussing with Nkosi in the feedback session in the presence of an outsider, because he is an outsider?

MR MNISI: Chair, I think, in fact, at this point in time it was convenient for me, because he had already involved
10 himself. I do deal with a number of issues on a day-to-day basis, and at the top of my mind, one issue off my table and being dealt with was convenient for me. Of course, when I am having a discussion with the General, it would have been, Sergeant Nkosi would have been there just in general terms, and most of the times he would probably be on his phone or doing anything of that nature.

But what I want to reiterate, Chair, is that, in hindsight, I probably should have requested the numbers immediately of Sergeant General Dlamini at this stage in
20 order to enable a direct communication with him moving forward in this matter. That would have been ideal. I should have done that. But, Chair, I also reiterate that I have never shared any confidential or sensitive information with Sergeant Nkosi in this matter. It was merely coordinating those engagements. However, Chair, I do later

on, once this topic or subject matter is closed, request for the General's number, so that on other issues where he had not involved himself initially, I start having direct conversations or discussions with the General.

ADV BALOYI SC: You do not consider payment issues between Tshwane and its service provider to be matter confidential to Tshwane, to which an outsider like Sergeant Nkosi has no business to be involved and should, in fact, not be involved? You do not consider that to be
10 confidential to Tshwane?

MR MNISI: No, no, Chair, I do consider it. But I am saying the discussions were in general terms. If you look at what I am discussing with him, I am not sending him details of how much they are owed. I am not sending him details of specific items that are contained. I am not sending him them. I am sending him in general terms.

ADV BALOYI SC: Thank you.

ADV CHASKALSON SC: Can I just get clarity? You said that the correct procedure is first to escalate to the
20 department.

MR MNISI: Yes.

ADV CHASKALSON SC: Now, I understood there to be some sort of lack of clarity in relation that it caused the non-payments or the delayed payments because the user department, as it were, was water affairs or water and

sanitation, and it was TMPD that needed to pay. Who is the department who they should have escalated to here?

MR MNISI: Whoever they were engaging with. From my perspective, whichever department has given them a deployment letter, if it is TMPD, they need to engage TMPD accordingly. So, in this instance, they would have gone back to the necessary people within APSS and make follow-ups or clarity-seeking questions from them.

ADV CHASKALSON SC: Because I understood the
10 problem in this case to have been, and we have heard some evidence about it, that water and sanitation was employing or engaging these guards without any written authorisation from TMPD.

MR MNISI: No, Chair, as far as I am concerned, water and sanitation were engaging TMPD and TMPD was issuing deployment letters. The standoff came when it was time to pay. Risk assessments were done between water and sanitation business units as well as TMPD when it is time to make a cost centre available for the payment. TMPD said,
20 no, the budget that we have is sufficient for our programmes. When we issued these deployment letters, as per your advice, we were offered that you are going to pay from your general ledger. So, the standoff came when amounts of money needed to be made available to process the payments and to issue the purchase orders.

ADV CHASKALSON SC: So then on that understanding, the relevant department with which Gubis should have been engaging would have been TMPD.

MR MNISI: Spot on.

ADV CHASKALSON SC: And whose responsibility is it within TMPD to attend to these sorts of issues?

MR MNISI: Well, the head is Deputy Chief Revo Spies.

ADV CHASKALSON SC: Yes, so, why are you suggesting they meet with General Dlamini?

10 **MR MNISI:** Okay, so, if there is a standoff on an invoice, that is an indication that that invoice has not been approved or there are issues in terms of uploading that. That is an indication that has not been transferred to the support and finance division of TMPD. As we are aware, Deputy Chief Dlamini is responsible for support services and for finance matters within TMPD.

Meaning what falls within his portfolio is invoices that have been approved with the relevant deployment orders which have been certified as correct and work done.

20 He can then take that forward in terms of processing the relevant payments. In this instance, there was an issue because this was a prior financial year matter. Hence, this invoice had not been approved, technically speaking, because of those restrictions.

So, it was important for them to go back to the

relevant department within TMPD. In this case, it would have been DC Revo Spies's division and the relevant individual within his portfolio. Once that has been approved, it will then revert back to Deputy Chief Dlamini. There was nothing that could be done without the correct process being followed.

ADV CHASKALSON SC: Let us look at this message. It ends with:

10 "I do not want to make a mistake on such
 matters because I believe the centre
 should be one."

What is he saying there? What do you understand him to be saying there?

MR MNISI: It means the process must always be followed to the T. Compliance matters are essential. It cannot be a breakdown in terms of any procedures that the city has set. So, the centre must hold. Internal controls must be followed. Processes and procedures and internal controls must be adhered to.

20 **ADV CHASKALSON SC:** Your response at 08:25, at the foot of page 155, is:

 "Let us let General meet him then. He
 will brief us of the outcomes of the
 discussion when we meet later
 Mfowethu."

MR MNISI: Yes.

ADV CHASKALSON SC: Why did you then need to be briefed at this stage if the procedure was that this was not a matter that should come to your office at this stage?

MR MNISI: Chair, I am a hands-on individual and if any matters that I raise, I need to be aware how it starts and how it ends. I was already involved in this matter. I could not leave it out halfway and just assume that a resolution would have been there. So, the purpose of this would have
10 been to get the proper way forward and what the outcomes of that engagement would have been.

ADV CHASKALSON SC: Let us go forward to page 178. That is four days later on the 27th of March. Do you see it?

MR MNISI: Yes, I see that.

ADV CHASKALSON SC: You see on message time 05:40 which is actually 07:40 pm Sergeant, of course, he sends you a screenshot of a chat between himself and Deputy Chief Dlamini who he has saved as General Dlamini undercover. And it says:

20 “Afternoon, Captain. I had a meeting
 with Cain and those guys today as I
 indicated.”

Who is he referring to?

MR MNISI: So firstly, Chair, there is an indication that the meeting did not occur. So, he had to give feedback via an

SMS. So according to me reading this message, it is a follow-up in terms of the outstanding *ex post facto* payment. He had had a meeting with the representatives of Gubis. Within that discussion, it would probably have been discussing the matters of the *ex post facto* payment.

ADV CHASKALSON SC: And your understanding of process is he should resolve it first with department. In other words, with TMPD. Or Gubis should first resolve it with TMPD. If they cannot, they should escalate it to
10 procurement. And if they still cannot, they can then raise it with you.

MR MNISI: Spot on.

ADV CHASKALSON SC: Let us look at what Deputy Chief Dlamini says:

“I have told them that they should go back where they have started Mfowethu. I said to them, he is the only gateway. They cannot go with a backdoor. I will only be able to assist if I get an
20 indication from Mfowethu. Protocol must be observed at all costs.”

So, he is telling them the exact opposite of what you say is the correct procedure. Instead of starting with him, trying to resolve with him. If they do not get joy with him going up to supply chain management. And if they do not get joy

with supply chain management, finally escalating it to you. He is saying they must start with you. And he will not be a backdoor.

MR MNISI: The inference is respectfully incorrect. The initial protocol that was followed, which resulted in me raising the matter with the Deputy Chief Dlamini, is after the formal process had already been embarked upon. And after we had appropriate and sufficient evidence that indeed these invoices were approved by the relevant APSS
10 department and they were due and payable for payment.

If you go back, Chair, to my submission on 436, that gives an indication of how matters should be escalated accordingly. On 436, I was referring to GM23. On GM23, there is evidence of how this matter was escalated accordingly. Within this instance, we took note that Deputy Chief Dlamini was unfortunately not ccd for whatever reason.

However, the context of this discussion was that they need to follow the processes, ensure that everyone has
20 got the necessary portfolio of evidence. He, on his own, cannot take the matter up. There are systems, there are internal controls that must be observed. And that is how I understood this matter. The protocol must be observed. The city has established systems and controls to deal with this matter.

It cannot be dealt with by one person individually or another without demonstrating that I have been through this matter. I have followed up with these individuals. You cannot jump a process when escalating matters that are outstanding, Chair. That is the context of that. So, this is these individuals trying to use a backdoor to deal with this outstanding payment, whereas they are fully aware of the protocol that they had followed previously.

So, they need to follow those processes. Once I
10 am convinced that there is sufficient appropriate audit evidence, and the TMPD as well as supply chain management have either not dealt with this issue for whatever reason, I can then take it forward. As is, there is nothing I can do. They need to deal with the relevant individuals within the portfolios.

ADV CHASKALSON SC: But that is not what he is saying. He is saying they should go back where they have started Mfowethu. That is you. He calls you Mfowethu in those conversations.

20 **MR MNISI:** That is true.

ADV CHASKALSON SC: They should go back where they have started with you. I said to them, he, in other words, you, are the only gateway. They cannot go with a backdoor. I will only be able to assist if I get an indication from Mfowethu, you. So, he is saying go back and speak to the

CFO. He is the only gateway. Do not use me as a backdoor.

MR MNISI: Spot on, Chair. That is exactly what I am explaining. So, we are virtually on the same page. We just need to try and have consensus on the nature of the event. Because the nature of the event, I am referring this and aligning this to the *ex post facto* payment, which is the true sequence of events of what occurred and what this discussion is emanating from.

10 So as a result of them submitting the necessary portfolio of evidence, demonstrating that they went through the entire value chain. They cannot just go to him. Once I refer a matter to him, I need to also be convinced that they have a case, Chair, that needs to be answered to. First of all, we are sitting here on the 27th of March. The invoice that I am standing is the 28th of June for the previous financial year.

20 That had not been captured in our accruals, it is not recognised in the system whatsoever. So, the only way to have this matter fully exhausted upon is to formalise it accordingly, send the formal communications, submit the necessary portfolio of evidence, in order to enable myself to test that and to test the legitimacy of the claim that they have on board. So that is the context of this discussion when I understood it then. And that is how I understand it

now, Chair, because that is what is really going on in this instance.

ADV CHASKALSON SC: I am sorry, you are losing me here. On the 23rd, Deputy Chief Dlamini says to you, Cain and the Gubis guys want to meet. Must I meet with them? Must I not meet with them? I want direction from you. You say, through Sergeant Nkosi, meet with them and brief us of the outcomes, essentially. We are on the same page thus far.

10 **MR MNISI:** The only place where we are not on the same page is you are reading that in isolation of page 144 and what I tried to ask the Commission to refer to on the 5th of March. You are reading that in isolation of that, which is what is causing you and I not to be on the same page. So, if you go to page 144 on the 5th of March, the discussion here is a copy of an invoice that I am sent.

And the content of this discussion is this one is for the previous financial year. We engage later, Mfowethu, with me on how we can address this in order to avoid *post*
20 *facto*. So, if we read this in conjunction with your later messages, we will then be on the same page. This is an invoice that could not and was not resolved upon when we were dealing with the ad hoc services invoice from Gubis Security Services.

So as a result of this still not being paid, this entity

is making a follow-up, Chair. They are claiming the city still owes them R397 000. Hence, they are making follow-ups after they had received the other payments for the other invoices. This one remained outstanding. So, the context of that now ties together with 157 and 178 that you are presenting now.

ADV CHASKALSON SC: What was the procedure that they should have followed in relation to this previous financial year invoice? As I understood it, it was they should first
10 raise it with the TMPD.

MR MNISI: Yes.

ADV CHASKALSON SC: If they got no joy there, they should then raise it with Supply Chain Management.

MR MNISI: Yes.

ADV CHASKALSON SC: If they got no joy there, they should escalate it to you. So, you should be the last port of call, not the first. You should be the last port of call, not the first.

MR MNISI: I think also what we need to add, Chair, is that
20 during the escalation process, they need to demonstrate beyond reasonable doubt that this invoice is due and payable. Hence, I do not want us to leave the step that they needed to start with an APSS first. An APSS needs to make a motivation now. So, for me to even consider this, I would have to get the invoice from the service provider

along with the motivation from APSS on why I should even think about considering an invoice from a previous financial year that is closed.

ADV CHASKALSON SC: But you knew all of that on the 23rd? You knew that that was what the situation was?

MR MNISI: Yes, I did, Chair.

ADV CHASKALSON SC: And you said to Deputy Chief Dlamini, we will not meet with them, you go ahead and meet and then brief us later?

10 **MR MNISI:** Yes, so, the purpose of that was there is no reason for me to meet. They need to trash the situation out with TMPD, make sure that they are able to submit the appropriate audit evidence. For me to even consider this, Matt, I am irrelevant to this stage.

ADV CHASKALSON SC: So, you are irrelevant to this process unless they submit all of the evidence?

MR MNISI: This is also peculiar because it is a previous financial invoice. The previous one, they were able to demonstrate and submit all portfolio of evidence
20 accordingly. Hence, I was convinced that indeed these are invoices that are due and payable. Authorised by the relevant structures within the city. In this particular case, that appropriate audit evidence was not there.

It is a previous financial year invoice. In order for this to even be considered, there must be an express

motivation on why we should even consider making this invoice available. This would now necessitate for me to make a prior period error correction to my financial statements that had been submitted in the previous financial year.

Hence, I was not willing to entertain that without having appropriate evidence. I would have to ensure that disclosure notes of the financial statements are amended. I would need to ensure justification to the AG coming back
10 next year on why there is a difference now between the closing and the opening balances. Hence, that process is now peculiar because it needs an additional justification.

ADV CHASKALSON SC: And then on the 27th - did you receive anything between the 23rd of March and the 27th of March from General Dlamini?

MR MNISI: Did I receive anything? Formally, the onus was on Gubis to make sure that they make the necessary submissions, and they make a motivation to APSS. APSS is a division within TMPD where DC Revo Spies is in charge.
20 Once that has been approved, it would have automatically been then transferred to Deputy Chief Dlamini, who is the Support Services and Finance Head within TMPD. That is when I can now assist in terms of taking the way forward.

ADV CHASKALSON SC: So, come the 23rd, their obligation was to engage with TMPD. Is that correct?

MR MNISI: Are we on 155 now on the 23rd?

ADV CHASKALSON SC: Yes, their obligation is to engage with the TMPD.

MR MNISI: Yes, TMPD and APSS.

ADV CHASKALSON SC: Yes, they have got to make some sort of motivation to the TMPD, get the TMPD to approve that.

MR MNISI: Yes.

ADV CHASKALSON SC: Yes, now had you received
10 anything from the TMPD between the 23rd and the 27th?

MR MNISI: No, nothing was there, Chair.

ADV CHASKALSON SC: Which then raises the question of why Deputy Chief Dlamini said what he said. Because he did not say, I told them, give me a motivation, I can then escalate it to supply chain management which in turn can escalate it to the CFO. Instead, he said, they should go back where they have started Mfowethu. He is the only gateway. They cannot go with a backdoor. So, he is saying, you have got to go back to the CFO.

20 **MR MNISI:** Yes.

ADV CHASKALSON SC: But in terms of the protocol that you have just explained to us the protocol was you as CFO can do nothing until they have gone first to TMPD.

MR MNISI: Spot on, Chair, and even with this discussion, there was still nothing I could do. Even if Gubis decided to

come straight to me, send me a formal email, give me a call, make an official engagement with my office, there was nothing I would have done. I would have referred them to the correct channels. For them, it would have been to go back to TMPD and sort the matter out accordingly.

ADV CHASKALSON SC: But he is not telling them to go back to TMPD. He is saying, go back to you, CFO. They should go back where they have started Mfowethu. He is the only gateway.

10 **MR MNISI:** It is the gateway, Chair, to ensure that payments are made. And the payments that need to be made, there must be sufficient protocol that has been adhered to and observed at all costs. Within those protocols is ensuring that the internal controls that the city has embarked on and set are followed to the T. Within that is handling the matter with TMPD and with TMPD APSS.

20 So, I would not know what this meant, Chair. But I would presume that he was saying, let them escalate the matter to me. I will then refer it to APSS. But I cannot comment on the nitty-gritties of that. I understood this purely as a means of saying they need to formally raise the matter and submit the necessary supporting evidence. And the protocols and internal controls need to be adhered to at all costs. They cannot try and ambush me or him in dealing with that. So, it is extremely difficult for me, Chair, to

comment on just that one sentence without us having a context or a discussion in the entire message.

ADV BALOYI SC: He also says where they started in the message, which means that they started with you.

MR MNISI: Yes.

ADV BALOYI SC: According to General Dlamini.

MR MNISI: So, Commissioner Baloyi, if you look at the second bundle that I submitted, I attached Annexure GM2. Annexure GM2 is what led me to start looking at the
10 process of outstanding payments. Deputy Chief Dlamini was not ccd in any of these discussions. Hence, he is saying they must refer to that process again, formalise it. I will then be in a position to refer the matter to him and whoever within TMPD to handle. At this stage, he is got insufficient information to even look at the matter.

ADV BALOYI SC: So, you accept that Gubis said started with you? Because that is what that message conveys.

MR MNISI: No, okay, apologies, Commissioner. Apologies for coming in. Gubis did not start with me. They started
20 with supply chain management. And maybe we should go to GM22 and 23. They started escalating, so they did not start with me. The matter was not just raised with me. They followed the necessary protocols which I had just outlined. According to Deputy Chief Dlamini, what he understood is that he must have received the matter for the first time from

me. That is what he understood. But the fact of the matter was they did not start with me. They started through the process as was, as demonstrated in GM22 and GM23.

ADV BALOYI SC: So are you saying where he says where they started, Mfowethu, he is incorrect. That is not where Gubis started.

MR MNISI: No, that is not where they started.

ADV BALOYI SC: Did you at any point refer this matter to General Dlamini after it had come to you?

10 **MR MNISI:** It did not come to me again in a formal nature, so I did not take it up with him.

ADV BALOYI SC: Okay, thank you.

ADV KHUMALO SC: Can I just clarify something, Mr Mnisi, because when you explain what is happening on the 27th of March, you take us back to page 144 and you say the discussion is about that invoice. But if you go to page 145, especially your WhatsApp, the second one, and you read it together with the sixth one, it suggests to me that that invoice was resolved because on the 6th of March you say:

20 “Please extend my gratitude to the
 General. He has delivered. Purchase
 orders as per the request have been
 approved. See you later.”

MR MNISI: Commissioner, I mean all invoices except for that one. This one is clear. It could not have been

approved. It was not part and parcel of that. Remember it was a number of invoices to the tune of between 12 and R14 million. I might not remember the figure in its entirety. So, all invoices for the financial year in question, which commenced from the 1st of July, were resolved. It was all invoices except this one. This one was not resolved.

ADV KHUMALO SC: So, you are saying to us you are now involving Sergeant Nkosi on issues relating to all invoices to the value of R14 million.

10 **MR MNISI:** Chair, I am explaining to you, Chair, because you, Commissioner.

ADV KHUMALO SC: No, but you are not answering my question, Mr Mnisi. I thought the discussion here was about this one invoice. Your answer is no, no, no, no, it is not about this invoice. It is about all the invoices except this one. Now let us focus on all the invoices except this one. And my question to you is are you saying to us you were involving Sergeant Nkosi in matters relating to all invoices to the value of R14 million?

20 **MR MNISI:** I am saying to you, Commissioner, the message that you are referring to was to say thank you. The General has resolved all outstanding messages, all outstanding statements, apologies, except for that one. That is what I am saying.

ADV KHUMALO SC: But you are sending it to Sergeant

Nkosi.

MR MNISI: I am sending a message to Sergeant Nkosi.

ADV KHUMALO SC: You are sending it to Sergeant Nkosi. And my question is, you are involving Sergeant Nkosi on issues relating to all those invoices to the value of 14 million.

MR MNISI: He had already been involved.

ADV KHUMALO SC: How was he involved in those issues? Because you said he overheard an issue about the Gubis
10 invoice.

MR MNISI: Yes, so, those were all the Gubis invoice, Commissioner. How he was involved is that he took his phone, and he phoned Deputy Chief Dlamini while we were in the car. When he called him, he then gave me the phone. I explained to the Deputy Chief the issue that I had been facing and the discussion that I just had with Mr Calvin Mahlangu. What I am saying to you, Commissioner, is that he had already been involved in the process. But from my perspective, it was in general terms. At no stage,
20 at no point, did I raise any specifics with him. But for the purpose of the Commission and clarifying the confusion that is there, I am stating that it was a host of invoices that were involved.

ADV KHUMALO SC: But why do you say it was in general terms? If you say to somebody, purchase orders have been

approved by the City of Tshwane, that is not general terms. You are discussing with him payment issues between Tshwane and service providers. And at no point do you say to him, this is not your issue, do not involve yourself. You actually allow him to continue being involved to the point where you share with him processes.

You allow him to be in possession of invoices of service providers and to share them between you and Mr Dlamini. Because that is what he is doing on 144. And all
10 of that is appropriate to you. That somebody who is not employed by the City of Tshwane, who is not a representative of Gubis, is participating in all discussions relating to outstanding Gubis payments, processes that have to be followed in order for Gubis payments to be made, and whether or not those payments have been made. Why did you consider that appropriate?

MR MNISI: Okay, firstly, Commissioner, I did not share any information with Sergeant Nkosi. There is no single invoice that I have sent to him.

20 **ADV KHUMALO SC:** Listen, listen when you say to him purchase orders as per requested been approved, are you saying you are not sharing information there?

MR MNISI: I am responding to the concern that you have raised.

ADV KHUMALO SC: No, but you are saying you never

shared information with Sergeant Nkosi. Are you saying there, when you say purchase orders as per request have been approved, that is not sharing information?

MR MNISI: Commissioner, I am trying to explain a point. And when I am cut off, it makes it extremely difficult for me

ADV KHUMALO SC: Mr Mnisi, Mr Mnisi ...[intervenes]

MR MNISI: Yes, Commissioner.

ADV KHUMALO SC: We are asking questions.

MR MNISI: Yes.

10 **ADV KHUMALO SC**: And for your benefit, we would like you to answer our questions. When I ask you a question and you avoid it to deal with something else, you are not assisting me. I am trying to understand something. And to be fair to you, once you have answered me, you can give whatever explanation you like. I will allow you. So, if you answer me and you say, can I explain my answer, by all means I will allow you to do that.

20 But what I will not allow is when I ask you a question, you choose not to answer that question because you want to speak about something else. And maybe I have said many things, so to be fair to you, let me break them down and we take it slow. On the understanding that I will ask a question, you will answer it. If you want the opportunity to explain your answer, I give you that opportunity. Otherwise, we will not make progress at all.

So here is the first question. Are you saying in the second last text, you are not sharing information with Mr Nkosi?

MR MNISI: The second last text, no. There is nothing confidential about the text. It is a general message saying purchase orders have been approved. I am not sure, Chair, if I am adhering to your request. I tried to answer and then explain.

ADV KHUMALO SC: You are not answering my question. Are you saying you are not sharing information? I did not
10 ask you about whether it is confidential or not. My question to you is, in that text, are you not sharing information with Sergeant Nkosi?

MR MNISI: It is a message to extend gratitude to the General. I am not sharing information with him.

ADV KHUMALO SC: So, when you say purchase orders as per request have been approved, is that not sharing information?

MR MNISI: Commissioner, the first message says please extend my gratitude.

20 **ADV KHUMALO SC:** No, no, I am not asking about the first message. Mr Mnisi, I am asking about purchase orders as per request have been approved. When you say that to Sergeant Nkosi, are you not sharing information with him?

MR MNISI: I am sharing information.

ADV KHUMALO SC: Exactly. So why does it have to take

five minutes? Now, I am asking you the second question. That relates to other invoices to the value of R14 million, not the invoice we looked at on page 144. Am I correct?

MR MNISI: It refers to all those invoices except that one.

ADV KHUMALO SC: Except that one, yes. And my question was, why do you consider it appropriate?

MR MNISI: He was already involved, and it was convenient for me. He was already in discussions with the General, and thus he fell in general terms.

10 **ADV KHUMALO SC**: And why did you not say to him he cannot be involved? These are issues between the City of Tshwane and its service providers. Why did you not say that to him?

MR MNISI: He was already involved, Commissioner. And I said earlier on that in hindsight, I did mention this earlier on, that in hindsight I should have got the number of the General much earlier than this. Unfortunately, I had not.

ADV KHUMALO SC: I am talking about when you are with him in the car.

20 **MR MNISI**: Yes.

ADV KHUMALO SC: Because you said that is the first stage when he involves himself, because he overhears the conversation. And I am asking you, at the first stage when he sought to involve himself, not when he was already involved, at the first stage when he sought to involve

himself in something that has nothing to do with him, he is not a representative of Gubis.

He has no business speaking to Tshwane on behalf of Gubis. He has no business resolving internal issues between TMPD and whatever the department that sourced these services. He has no business with that. At the first stage when he involves himself, he is with you. Why did you not say to him, Sergeant Nkosi, these are Tshwane matters. You should not be involved in these matters.

10 **MR MNISI:** Chair, like I said, it was convenient for me at the time. We were overtaken by events taken into account that were also in a car. The discussion did not continue any further at that stage after the discussion with the Deputy Dlamini. However, I did mention, Chair, that in hindsight, I should have got the number of the Deputy Chief on that point. However, I need to reiterate that at this point in time, I was not and I did not share any sensitive or confidential information. But in hindsight, I do agree. I should have got the number of the Deputy Chief on the spot
20 and further engaged with him moving forward.

ADV KHUMALO SC: But you can see in the first chat on 145, that that is all sensitive information. I honestly cannot understand how you can say this is not confidential. I have spoken to Cain. He promised to ensure that buyers create purchase orders. As soon as I have received the purchase

orders, I will fast-track the service and entries and I will let accounts payable to release the payments. You then say to him:

“Thank you, Mfowethu much appreciated.

Let us finalise everything tomorrow so we can pay these guys before Friday.”

How can you say that is not confidential between Tshwane and internal Tshwane people?

MR MNISI: No, what I am saying is I did not send
10 confidential message. That message was not from me. The second one is from me.

ADV KHUMALO SC: The one that says let us finalise everything so that we can pay those guys before Friday.

MR MNISI: Yes.

ADV KHUMALO SC: Is that not from you to Sergeant Nkosi?

MR MNISI: That is from me.

ADV KHUMALO SC: Exactly. Why do you say it is not confidential when a service provider will be paid?

20 **MR MNISI**: There is nothing sensitive in that message, nor is there anything confidential at this stage.

ADV KHUMALO SC: Is that your view?

MR MNISI: That is my view. It is information, but my view is that there is nothing sensitive or confidential, but it is information that I am sharing, which he submits and

forwards to the General.

ADV KHUMALO SC: Okay, thank you.

ADV CHASKALSON SC: I do - I still sit with my confusion, but I think we have spent a long, long time about that, but I just want to put to you that it seems to me that what you tell the Commission today is that the procedure is that Gubis should have gone first to TMPD.

MR MNISI: Yes.

ADV CHASKALSON SC: Then to supply chain, and only
10 last to you, and should not really be trying to deal directly with you. Is that correct?

MR MNISI: Yes, without formally escalating the process.

ADV CHASKALSON SC: Yes, but if we look at what you – what Deputy Chief Dlamini tells Gubis, it seems to be the exact opposite. It says that you are the only gateway. They cannot go behind your back to TMPD. They say you must go back to the CFO, is what General Dlamini says, or Deputy Chief Dlamini. And that seems to me to be the exact opposite of what you are telling us is the correct
20 procedure. Any last comment on that?

MR MNISI: On that, Chair, I think what is essential is that the context of the discussion was indeed around that. Maybe there was an element of misunderstanding from the Deputy Chief, which I presume he should be able to answer. Me receiving this text, analysing it, looking at the contents

therein, related to exactly what I had announced to the Commission. The processes must be followed to the T. It needs to be escalated accordingly in the correct fashion. There is nothing I can do. We need to observe all protocols accordingly. That is what I understood when I received this message from the senior counsel, and that is what I understand now when I am explaining to the Committee.

ADV CHASKALSON SC: But how did you understand he, in other words, you, is the only gateway? They cannot go
10 with the backdoor. What does that say?

MR MNISI: It means escalating an issue of confusion. If there is an issue of confusion, it must be escalated. And a person who would probably be in a position to mediate after having reviewed the appropriate and sufficient audit evidence would be me, meaning I would be in a position to assess Gubis submission, the reasons for the department, if there were any, for not paying, and then make the appropriate call with the information at present. In this instance, none of that was there, and that is how I
20 understood that message, Chair.

ADV CHASKALSON SC: Well, you have sent - you received that message from Sargeant Nkosi. If we go to the following, the immediate next message, on page 179, your response is:

“Thanks, my bra, this is the way. Much

appreciated.”

And you are saying that is consistent with your understanding of what the message is saying, that escalated slowly through TMPD, then procurement, and only then, if necessary, will it come onto my desk.

MR MNISI: And to add that all protocols must be followed as per the city's internal controls, SC.

ADV CHASKALSON SC: Now, that is at 07:43 pm on the 27th. At 07:49 pm, you WhatsApp to Sergeant Nkosi a call log that shows a missed call from Mandla Mgcina and then
10 two calls from Mandla Mgcina at 18:55 and 19:33. Why did you send that call log to Sergeant Nkosi?

MR MNISI: Well, Chair, this is a gentleman I had encountered coincidentally. I had nothing to do with him. I had no common interests with him. As far as I was concerned, he is an associate of Sergeant Nkosi. So, this was a moment of laughter, saying, why is your friend calling me? I have got no business with your friend. That I would have sent to Sergeant Nkosi. And I think that persists,
20 because on 181 and 182, he does call again. After we had that discussion, if we could just show that on 182, I even laugh about it. Just to prove to the Commission it was one of those light moments where he even laughs and says, this guy is looking for you.

ADV CHASKALSON SC: Yes, but you say Mandla Mgcina

is just a friend of Sergeant Nkosi, who you do not know.

MR MNISI: Yes, who I met at an event, or at a restaurant, SC.

ADV CHASKALSON SC: Do you know if he has any indirect or direct interest in Gubis?

MR MNISI: No.

ADV CHASKALSON SC: You do not?

MR MNISI: No.

ADV CHASKALSON SC: You do not know, or he does not
10 have?

MR MNISI: I do not know.

ADV CHASKALSON SC: You do not know. Because the evidence will be that he appears to have an indirect interest in Gubis.

MR MNISI: I do not know that, Chair.

ADV CHASKALSON SC: You do not know that.

MR MNISI: Yes.

ADV CHASKALSON SC: And it does seem coincidental that at the point at which Deputy Chief Dlamini says, the
20 only route for Gubis is to go through you as the gateway, suddenly you start getting a series of calls from Mandla Mgcina who you say you do not know. Can you comment on that?

MR MNISI: Chair, I had direct communications with Mr Calvin Mahlangu. As far as I am concerned, Mr Calvin

Mahlangu is the director of the company. If Mr Mandla Mgcina gives me a call, it is something completely unrelated, hence we have a light moment with Sergeant Nkosi. Look at your friend, he is constantly calling me. I do not know what he is looking for. He is your friend, he is not my friend.

ADV CHASKALSON SC: But one of those, or two of those calls actually seem to have succeeded. If we look at the call log on page 179, it says Mandla Mgcina 2, 19:33.

10 **MR MNISI:** Yes.

ADV CHASKALSON SC: What did Mr Mgcina speak to you about?

MR MNISI: He was asking me if we could have a meeting, or if we could meet for coffee or a drink.

ADV CHASKALSON SC: And did he explain what it was about?

MR MNISI: No, it was just him saying we had met earlier on in the year at that restaurant that we did as per my affidavit. We have not had a discussion since. Could we
20 possibly meet?

ADV CHASKALSON SC: So, out of the blue, shortly after Gubis are told that the only gateway is you, you get two unprecedented calls from Mandla Mgcina.

MR MNISI: Which is exactly why I sent the screenshot to Sergeant Nkosi. It was out of the blue for me as well. Had

there been an issue on the outstanding Gubis payment, Mr Calvin Mahlangu had direct contact details of mine, he would have called me on that. That is the pure reason why we even had a light moment of this matter. It was purely out of the blue for me.

ADV CHASKALSON SC: Mandla Mgcina has contact details for you too, because he called you on WhatsApp audio.

MR MNISI: Yes, remember, SC, I did give him my evidence
10 that we met at a restaurant, we had some pleasantries, we exchanged numbers.

ADV CHASKALSON SC: All right, let us go back to the third case where Elshadai and Ngaphesheya are mentioned to you. That is on page 157. It is the 25th of March. And you will see that from 08:01 in the morning through to 08:02, there are three calls from you to Sergeant Nkosi after which he responds yet again with Elshadai Security Services and Ngaphesheya Security Services. You see that?

20 **MR MNISI**: I see that.

ADV CHASKALSON SC: And you have said that you still think that he was asking you to check on compliance.

MR MNISI: Not on those calls. The reason he sends me these is he is asking me to check compliance. But the reason for the calls, Chair, was general matters that we

would always discuss on a daily basis.

ADV CHASKALSON SC: So, when you get the two names out of the blue at 08:12 in the morning, that is not something that you have discussed in the calls.

MR MNISI: Remember, this is not out of the blue for me anymore, Chair. We have seen this pop up at 148 and we have seen this pop up again on 152. It is not out of the blue. I know exactly what he wants and it is his way of reminding me.

10 **ADV CHASKALSON SC:** Yes, but on your version, you have told him twice already that this is not ever going to be possible. You cannot do it.

MR MNISI: Yes, that is true.

ADV CHASKALSON SC: He does not seem to get your message, does he?

MR MNISI: Hence, I say, Chair, at this point I started to understand as well that he is not saying it in general terms, I see, but obviously he is still touting for the matter to proceed.

20 **ADV CHASKALSON SC:** A few hours later, you say:

“Can we meet at Jean Avenue at about
4?”

MR MNISI: Yes.

ADV CHASKALSON SC: And he says:

“Super.”

MR MNISI: Yes.

ADV CHASKALSON SC: And then you say:

“Please bring General Mfowethu.”

MR MNISI: Yes.

ADV CHASKALSON SC: He says:

“Sharp, Mfowethu.”

Over the page at 158. That meeting presumably took place because if we look at page 158, at message time 02:08 pm, which would be 04:08pm, you say:

10 “I have arrived, please let me know when
you get here.”

And at 02:11, which is 04:11, Sergeant Nkosi says:

“I am here.”

So, the meeting did take place.

MR MNISI: The meeting with Sergeant Nkosi did take place. However, the General was not there. Hence, I need to take you back to 178. This is on the same day. The General did not attend that meeting. He was committed on other matters that I am not aware of. On the same day, I
20 mean on the 27th, he then gives feedback on that outstanding matter. He was not present at that day. He could not make it.

ADV CHASKALSON SC: So, he could not make it?

MR MNISI: Yes.

ADV CHASKALSON SC: So, what - why did you want him

there?

MR MNISI: I mean, this issue of outstanding payment was persisting.

ADV CHASKALSON SC: So, it was still just about outstanding, the one outstanding payment to Gubis?

MR MNISI: Spot on.

ADV CHASKALSON SC: And you wanted a meeting with Sergeant Nkosi and the General?

MR MNISI: Well, with the General.

10 **ADV CHASKALSON SC:** So why was it necessary for Sergeant Nkosi to be there?

MR MNISI: At this point, I did mention that it was the hindsight view of mine, where I should have obviously gotten the General's number at this point, but it was not necessary because we are still resolving that outstanding matter.

ADV BALOYI SC: Can I just find out, if at this point you are still resolving the outstanding matter, why are you speaking to General Dlamini about it when you have said,
20 you have explained to us there is a process which starts with APPS, I think, and then you have said SCM, and then it gets, eventually it will get to you, but somewhere there is Spies.

Why are you not following that process that you have described? Why are you talking directly to Dlamini

when in fact he has not yet presented to you what you said there has to be evidence so that you can also justify your decision eventually? Why are you not insisting on that process being followed?

MR MNISI: Chair, I am a person who wants to complete matters end to end, and at this stage, these matters are still hanging and matters like this do not just hang. It ends up in one way or another further escalations or litigations. So it would be clear for us to be fully aware of the position of
10 the city, and the position must be clear. Are we able to process this? Are we not able to process this? So, if we are able to speak in one voice, in the manner, in the event that the service provider decides to escalate it to me, there needs to be one voice that we speak into as a result of the fact that we have at hand.

ADV BALOYI SC: Let me say what it looks like to me. It looks like you have a process as you have described it, but you were content with dealing with this matter without following that process, because on your own account, you
20 start off by getting a call from Gubis. I think you say, Mr Mahlangu, you are in the car with Sergeant Nkosi. And then it involves General Dlamini.

You describe to us a process but nowhere is there evidence of that process being followed. You keep speaking to General Dlamini and Sergeant Nkosi about this.

So, on your own account, you are not following that process that you say is necessary in order to resolve these issues which ultimately comes to you because you must resolve it eventually.

You are the gateway, finally. But you are not following that process consistently. You are not following the process. You are speaking to Dlamini and Nkosi, both of whom are not the instrument to resolve the issue, especially Nkosi because he does not belong here. But on
10 your own process, Dlamini is not the one that resolves the issue. It still has to go to SCM and then come to you. Can you just explain that?

MR MNISI: Respectfully, Commissioner, I do not agree with that. I am an individual who follows up with all enquiries from end to end, even if it is a resident raising an issue on an account. Once that issue is being raised, I do make follow-ups with my colleagues. There was this issue that was raised by ...[indistinct] over households in reference to a billing issue.

20 Have you resolved that now? Even though I have formally escalated the matter for them to deal with procedurally, there are timeframes. You cannot leave issues hanging forever. The city gets overtaken by events because a lot happens on a day-to-day basis. Same in this instance. The purpose of this was for me to get feedback

from the General in terms of what is happening.

We cannot just ignore this thing. I am not breaching any processes. I am dealing with the General who is part and parcel of the process. So, what I would have expected from here was the clarity that he sends, I think on 177, where he then sends the no, not 177, 178, where he then gives that feedback. That was the purpose of that. So, I was still following our own procedures and protocols, and it is normal for me to get feedback on the process towards resolving matters from our colleagues.

ADV BALOYI SC: Yes, I accept that at 178 he gives you feedback, and I am happy you say that, but this feedback that he gives you at 178, it is clear from it that it is not followed the process that you have described to us, and yet you do not say to him in response, you do not say to him, follow the process. In fact, you accept when he says, I have directed them to you, which is where they started. You say, you are right, that is the process, and that is the part that I do not understand. In fact, that I am putting to you seems to be inconsistent with your own process that you have described. And I am battling to understand or to see that you are not involved in a way that undermines the very process that you have described needs to be followed.

MR MNISI: So, at this point, Commissioner, I can only deal with the colleagues that we have. And once they raise this,

I need to accept that as the status quo, meaning the onus is now on the service provider to take the matter forward. Meaning I am not breaching our processes because I am not actively intervening. I was requesting for feedback, and that is normal in terms of resolving matters. Once colleagues who are within the city give me feedback, I accept that. And then the onus is on the service provider to take the matter on.

ADV BALOYI SC: Yes, but you see, Dlamini says, I have
10 told the service provider to go back Mfowethu. That is a problem I have. That right now you say that the onus is on the service provider, and I accept that. They must submit the necessary documents.

MR MNISI: Yes.

ADV BALOYI SC: But here is what is happening internally. General Dlamini, you have said he must go and meet with them, right, in those WhatsApp exchanges where Sergeant Nkosi forwards to you where General Dlamini says I need to know whether to meet with Gubis. You say, let him go meet
20 them. He gives feedback. He says, I have met with them, and in my meeting with them, I have redirected them to the CFO.

I have said, they must meet with the CFO because that is where they started. You respond, and you say, this is the way. Much appreciated. So, on your own handling of

this matter, you do not say to General Dlamini, tell the service provider to do our internal process, which is submit to APPS, then it must go to SCM, and then it will come to me.

You do not do that. You say to him, I agree with you that you have redirected them to me, which is where they started. I do not know what you are saying the service provider, if indeed this was about payment, what you are saying the service provider must do now, because they
10 started with you. And Dlamini tells them, go back to the CFO, and you say to Dlamini, I agree. And yet you are explaining to us now that the process is different, and they were not following the process. I am completely confused about your explanation if this was about payment.

MR MNISI: Okay. Commissioner, this was about payment, firstly. Secondly, once I receive such communication, it means the matter has been fully ventilated, and I do not expect anything further. There is nothing further I can do except for wait for any form of communication that I will
20 refer accordingly. When I say, thanks, this is the way, I am sufficient, and I am happy with the explanation that I am receiving from the Deputy Chief Dlamini, I mean, meaning from his end, he is done what he can do.

There is nothing else that he can do. Meaning, if these guys want to take it further, they just need to refer

the matter to me. He, at his stage at TMPD, is most likely saying, I have evaluated this matter. I do not see any probable case for payment. You can escalate this matter if you want. I then respond and say, okay, that is the way. Let us see what they have. Let them escalate and let them submit POE now.

ADV BALOYI SC: Thank you, Mr Mnisi.

ADV CHASKALSON SC: So, the purpose of this meeting, as I understand it, was to deal with the Gubis payment
10 issue.

MR MNISI: Yes.

ADV CHASKALSON SC: And the critical player there would be General Dlamini or Deputy Chief Dlamini.

MR MNISI: TMPD.

ADV CHASKALSON SC: TMPD, yes.

MR MNISI: Yes.

ADV CHASKALSON SC: But he did not come to the meeting.

MR MNISI: He was not available.

20 **ADV CHASKALSON SC:** So why did you and Sergeant Nkosi meet anyway?

MR MNISI: We socialised all the time. We had a meal after that. It was a long day. We probably had lunch.

ADV CHASKALSON SC: When did the General tell you that he was not going to come?

MR MNISI: He did not tell me. He told Sergeant Nkosi.

ADV CHASKALSON SC: And you just met anyway?

MR MNISI: No, we just met anyway and we had a meal.

ADV CHASKALSON SC: Let us look at what the - I am going to call him the General because that is how he is referred to in the papers. Let us look at what the General does later that evening. Can we go to page 176? Same bundle. So, at 176, the last text on the page is a screenshot that Sergeant Nkosi sends you at 08:31 pm.

10 And it is a screenshot that on its face comes from a message that the General sent to him at 08:08 - sorry, 08:02 that day. And it is a table that has tender number TMPD1 and then it is got a list of seven companies on it. And at the bottom it says:

“Captain, nayi mandate uVictor aphiwe yona from US.”

And helpfully underneath it, the Sergeant Nkosi has said:

“Companies given to Victor by Nico.”

20 So, a number of questions. We have established that US is the General.

MR MNISI: Yes.

ADV CHASKALSON SC: So, this comes from the General. And the message says, Captain, this is the mandate that Victor received. Victor was given to Victor. Is that correct?

MR MNISI: In terms of message, yes, that is correct, SC.

ADV CHASKALSON SC: Sorry?

MR MNISI: You say what must I confirm?

ADV CHASKALSON SC: Look at the foot of that message.

MR MNISI: Yes.

ADV CHASKALSON SC: Captain, nayi mandate uVictor
aphiwe yona.

MR MNISI: Yes.

ADV CHASKALSON SC: This is a mandate given to Victor.

MR MNISI: Yes.

10 **ADV CHASKALSON SC:** A mandate.

MR MNISI: Yes.

ADV CHASKALSON SC: In other words, something that
Victor must act on.

MR MNISI: It looks like it, yes, SC.

ADV CHASKALSON SC: Yes, and we see below that the
mandate was given by someone called Nico.

MR MNISI: Yes.

ADV CHASKALSON SC: So, let us identify the players.
Who is Victor?

20 **MR MNISI:** Victor is a chairperson of this evaluation
committee.

ADV CHASKALSON SC: Victor Kgopa.

MR MNISI: Yes, that is him.

ADV CHASKALSON SC: He is the Chairperson of the BEC
and he is been given a mandate.

MR MNISI: Of BEC, yes.

ADV CHASKALSON SC: Yes. Seven companies.

MR MNISI: Yes.

ADV CHASKALSON SC: How did you understand this message?

MR MNISI: I ignored this message.

ADV CHASKALSON SC: No, no, that was not my question. How did you understand it?

MR MNISI: I read the message. It said, Captain, nayi
10 mandate uVictor aphiwe yona. That is how I understood it.

ADV CHASKALSON SC: So, Victor has been given a mandate.

MR MNISI: Yes.

ADV CHASKALSON SC: In relation to seven companies and this tender.

MR MNISI: Yes.

ADV CHASKALSON SC: How I understand it is Victor has been given a mandate to make sure that these seven companies get the tender.

20 **MR MNISI:** Yes.

ADV CHASKALSON SC: Is that how you understood it?

MR MNISI: Well, Chair, I am not going to comment on what that is because I can assure you now, I did not even entertain this thing.

ADV CHASKALSON SC: No, no, I accept that you did not

entertain it, but I want to know how you understood it.

MR MNISI: This could have meant a number of things. It could have meant Victor must make sure companies are awarded which he cannot because he sits with a committee of individuals. Secondly, it could have meant that Victor must check compliance, so it is difficult for me to give you an answer, Chair. I did not entertain this message ...[intervenes]

CHAIRPERSON: Sorry, sorry, Mr Mnisi. The question is
10 about how you understood it. It is not about several possibilities. How did you understand it? That is the question.

MR MNISI: Yes, Commissioner. And my answer is I understood it within those probabilities that it could mean a number of things. I did not know what it meant but it could mean those two probabilities. But I cannot come to the Commission and expressly say I understood this have meant that.

CHAIRPERSON: So, as you read it.

20 **MR MNISI:** I had options in my mind.

CHAIRPERSON: As you read it you understood it possibly to mean one of those possibilities.

MR MNISI: Yes.

ADV CHASKALSON SC: Who is Nico?

MR MNISI: I do not know who is Nico.

ADV CHASKALSON SC: Sergeant Nkosi confirmed that Nico was Nico Mathobela. Do you know Nico Mathobela?

MR MNISI: No, I do not know Nico Mathobela.

ADV CHASKALSON SC: You have never had any dealings with Nico Mathobela?

MR MNISI: I have never met him. I do not know him. I have never had any dealings with him, SC.

ADV CHASKALSON SC: Was there anyone called Nico Mathobela who had any role to play in the award of this
10 tender? Official role?

MR MNISI: No, I am not aware of any official by the name of Nico Mathobela.

ADV CHASKALSON SC: And you have said in relation to the message that you understood it to be capable of two meanings:

[1] Victor had been given a mandate to appoint these seven.

[2] Victor had been given a mandate to check compliance on these seven.

20 **MR MNISI:** Yes.

ADV CHASKALSON SC: Would either of those mandates given to Victor be lawful?

MR MNISI: No, he cannot. There is no way he could check compliance. Firstly, tender is closed. He can only by law give clarification on the outcomes of the bid. So that is no

from a compliance perspective. Secondly, it is also no. He is not allowed to get names from external individuals to appoint.

ADV CHASKALSON SC: Did you raise this with Victor?

MR MNISI: No, Chair, I did not raise it with him.

ADV CHASKALSON SC: Why not?

MR MNISI: Because my job was to ensure that I strengthen the process and ensure that there is no glitch within the award of TMPT01. For me, this was a matter that
10 I need to look out for and ensure that the process is even stringent.

ADV CHASKALSON SC: Well, here you have the Chair of the BEC who you are being told has been given a mandate either to appoint seven companies or to check compliance with seven companies at a stage when it would not have been lawful to do so. Did you not think that it was appropriate to raise with Mr Kgopa whether this report of his mandate was true?

MR MNISI: SC, firstly, Chair, me raising this with him
20 would now have an element of me trying to find out what is going on within the BEC. Once I am aware of such information, my role is to strengthen that process and, amongst others, is to ensure that property assessments that are done are completed accordingly and that all information that is assessed, validated, is true and correct. It does give

me a warning to be vigilant and to ensure that we strengthen this process, which is exactly what was done by referring the matter to probity for further assessments.

ADV CHASKALSON SC: So, although on its face, the message suggested at least a real possibility that Victor had been given a mandate to rig this tender, you did not see fit to take this further in any city processes?

MR MNISI: No, I did see to take it further. And me taking it further was insisting on probity to occur without fail.

10 **ADV CHASKALSON SC:** But probity would have occurred come what may. This tender was above 20 million. You did not have to play any role there.

MR MNISI: No, Chair. Remember, not all matters, even if it is after 20 million, are automatically taken by a probity team. For me, me was to emphasise there are reprioritisations that occur all the time. So, it was essential for me to ensure that that probity assessment is not deviated at all costs.

20 **ADV BALOYI SC:** But probity would not have picked up attempts, external attempts to interfere in the process. For example, and this is from your explanation of probity, of the probity process. Probity would not have picked up, for example, that Mr Modise has been approached to do something, the WhatsApp that we looked at. Probity would not pick up that Sergeant Nkosi asked you to, you say, to

confirm compliance, and later on you suspect, in fact, he wanted you to influence the tender.

Probity would not have picked up this mandate to Victor. So, the answer cannot be that, well, I insisted on probity and so all was covered. If the question is, what did you do? You are the CFO with some responsibility, together with the city manager, for your procurement processes, the integrity of your procurement processes.

And when you are asked, you become aware that
10 there are these attempts, including people being given mandates, allegations that people have been given mandates. If you are asked the question, did you do anything about it, the answer cannot lie in probity, because probity looks, you said to us, I think on Friday, probity looks at all the tender documents, all the documents that were submitted, and then they make a determination whether the process was fair. So, the answer must be something else, cannot be probity.

MR MNISI: Chair, that is a relevant answer, you know why
20 I am saying that. Because it would be in a position to check whether all compliance, administrative, mandatory, and all stages of procurement are followed to the T. Matters of this nature, from my perspective at this stage, I just need to be vigilant and be wary of them. So, the process of probity is essential, because it validates whether there has been any

breach within the steps.

Also, what is key, Chair, is that within the segregation of duties, before documents are transferred from point A to point B, they are always under lock and safe, and there are always individuals who are there signing off on handing over documents. So, what would occur within that process would be something that would express for probity to ensure that there is portfolio of evidence on what happened within that process.

- 10 **ADV BALOYI SC**: Could probity have picked up that Sergeant Nkosi tried to influence you to do something about his brother's tender? Is that something that probity, outside of the tender documents that were submitted, just from your communication with Sergeant Nkosi, could the probity process have picked it up?

MR MNISI: The answer is no to that, but can I please explain?

ADV BALOYI SC: You can.

- 20 **MR MNISI**: Probity would have picked up whether there was an actual tender of those documents, whether there was actual influence. They would not have picked up an attempt. An attempt is not easy for them to pick up, but an actual tender, it is easy for them to pick up. They utilised a number of specialised audit tools in assessing documents, how they are compiled, whether there has been exchange of

documents. That is the process that they follow.

ADV BALOYI SC: Yes, and the question was, and if it was not Mr Chaskalson's question, then it is my question, it is, you become aware, because you are directly approached to assist a tender, right, a particular tender or bidder, you become aware that your deputy mayor has been approached to assist and for that matter, he says in a meeting, he says I was in a meeting, so it is parties that are represented in the municipality that he says I had a meeting with and this
10 is what they said.

You become aware of that. You become aware that General Dlamini is involved with distributing lists of companies that are supposed to be favoured, whether at the BEC level, you become aware that the Chairperson of the BEC has been given mandates, at least that allegation. My question is, CFO, why do you do nothing about it?

Not probity. Do not say to me, I know probity will pick it up. I am asking you CFO, because you and the city manager do have responsibility for the integrity of your
20 procurement processes, the entire, the SCM, the whole process. You have responsibility and accountability for it. Do you do anything about those attempts at external influence? And if you do not, what is the reason for that?

MR MNISI: So, at this stage ...[intervenes]

ADV BALOYI SC: And I want to add the involvement of

Sergeant Nkosi as well. You have a complete outsider who is involved in this, who has a personal relationship with you. You do absolutely nothing to discourage his involvement in affecting the tender or the procurement processes of the city. Can you just explain that?

MR MNISI: So, at this point, Chair, for me to raise anything further, I need to have evidence of gratification, inducement, or an acceptance by other party that indeed you do this for me, I am going to get one, two, three, four.

10 That is the sufficient appropriate evidence that I need to have at my disposal before I can even escalate a matter for further engagement.

Because at that point in time, I would have had evidence that there is interest, and there is always interest in these matters. I would also have evidence that there has been an agreement and there is a form of gratification and inducement that has been advanced by any other parties. So, without that, at this point in time, my role is to strengthen the processes and to ensure that everything is
20 followed to the T and that probity is aware of ensuring that all matters of the stages of procurement are adhered to.

So, the reason I do not do that, there is no evidence of inducement, nor is there any evidence of gratification. It would render my case a case of strengthen your controls. Even if I were to raise that, it would be you

need to ensure that the processes are strengthened at this stage in time. We do not have sufficient evidence to really take the matter forward.

ADV BALOYI SC: Thank you.

ADV CHASKALSON SC: Chair, we have reached 13:05. I have a long way to go on this topic.

CHAIRPERSON: Let us adjourn and come back at 14:05.

INQUIRY ADJOURNS

CHAIRPERSON: Yes, Mr Chaskalson?

10 **ADV CHASKALSON SC:** Thank you, Chair. We had dealt with the issue of the message in relation to the mandate given to Victor. But that was not the only message that Sergeant Nkosi sent you on the 25th of March. If we go to page 177, that message was succeeded by a message at 09:08PM where Sergeant Nkosi says, a message which is, again, from its language forwarded from General Dlamini that says:

“Captain, find below our vehicles for land
to be given Mfowethu in order of priority.”

20 And then there is a list of seven and the first two are Elshadai and Ngaphesheya. Your response is:

“Thanks, Mfowethu, I am on top of this.”

Now, this message, did you recognise this message as a message originating with General Dlamini?

MR MNISI: Through its language, yes.

ADV CHASKALSON SC: So General Dlamini was through Sergeant Nkosi saying find below our vehicles for land to be given to yourself in order of priority, and then Elshadai and Ngaphesheya are the first two. What did you understand General Dlamini to be wanting through this message?

MR MNISI: That I would be able to assist in checking compliance.

ADV CHASKALSON SC: Assisting in checking compliance?

10 **MR MNISI:** This is also the fourth time that this is coming on board. So at this stage, I have also indicated that I was a tad, you know, irritated and annoyed because this thing was persisting right from page 148. This was the fourth instance that I was facing with receiving requests of checking compliance. And at this stage, I had already indicated it. From my perspective, I already had an idea that it might not have been stated verbatim, but it was more than just checking compliance.

20 **ADV CHASKALSON SC:** So by this stage, you were starting to suspect that they may be wanting you to rig the tender in favour of those companies?

MR MNISI: I had suspicion because I have explained on many occasions that I cannot do that, but the matter kept persisting.

ADV CHASKALSON SC: And indeed, if they were not

asking you to rig the tender, it is difficult to make sense of order of priority, is it not? What could order of priority relate to other than an attempt to rig the tender?

MR MNISI: Check compliance, starting with Elshadai. Then you can check compliance followed by Ngaphesheya, et cetera.

ADV CHASKALSON SC: But why would priority even be relevant if all they were asking you to do is to check compliance?

10 **MR MNISI**: Because time permitting, you could not check all documents. It would take a considerable amount of time if you were to check any document if it is compliant.

ADV CHASKALSON SC: But at this stage, it is not possible to cure any deficiencies in relation to compliance. The bids have closed.

MR MNISI: 100%. Hence, SC, I am indicating that over and above that, I already had suspicions, but this is over and above that. Even though it was not stated to me verbatim, I knew that.

20 **ADV CHASKALSON SC**: But because bids have closed, why would priority make any sense if all they were asking you to do is check compliance?

MR MNISI: That is how I understood the message.

ADV CHASKALSON SC: You still understood it to be relating to compliance?

MR MNISI: Spot on.

ADV CHASKALSON SC: And then you answer, thanks, I am on top of this.

MR MNISI: Yes.

ADV CHASKALSON SC: Why?

MR MNISI: So at this stage, I realised that either I am being taken for a fool here, because I have explained this on a number of occasions, so I am also going to play along and take them for a fool. In terms of fine, I am on top of
10 this, because I needed this to stop. It was persisting over and over and over again. So I played along. I entertained. I used what we generally refer to as huffing and puffing.

ADV BALOYI SC: When he sent you this list now, you must have had a conversation with him on the phone where he told you, I am sending you a list. So there is the initial list that was preceded by his own telephone call and you say in that call, he would have told you that he wants you to check for compliance. Now at 177, that would have also been followed by or preceded by a telephone call.

20 **MR MNISI**: Commissioner Baloyi, in this instance, no, there was no telephone call.

ADV BALOYI SC: So when he gives you a different list, because this is a different list from where you started, so it could not be a reminder without an explanation. He is giving you new companies.

MR MNISI: Yes, Commissioner, but the context is the same. Once he gives me companies of this nature, with the starting point of the two, in my mind, I can already see and I can relate this to the context of 148, 152, and 157.

ADV BALOYI SC: Even though he did not say that to you?

MR MNISI: Even though he did not say that.

ADV BALOYI SC: He does not say to you Two Cops, Tau Tau, Vision, Vimtsire, Shumile. I do not know if you know these companies, but he does not say to you I would like
10 you to check for compliance with these other companies. He just sends and you conclude without him saying anything to you, you conclude that it is about checking compliance.

MR MNISI: Yes, Commissioner. I related this to the beginning of 148, and I concluded when I read this message it was in relation to that, yes.

ADV BALOYI SC: Just on the face of this message?

MR MNISI: Yes, Commissioner.

ADV BALOYI SC: Okay, thank you.

ADV KHUMALO SC: Mr Mnisi, are you aware that the list
20 on 177 is different to the list on 148? So you cannot be, they cannot be asking you the same thing. If you look at the list on 148, those seven companies, and presumably that is the people who purport to represent the EFF, just have a look at that list in the second last chat. Do you see that it is not the same as the list on 177?

MR MNISI: Yes, Commissioner, I see.

ADV KHUMALO SC: So if the earlier conversation, because you say this only happened once where they asked you to check for compliance, once they get to 177, it is clear that what you have is an alternative list to the mandate given to Victor.

So he is saying this is the mandate given to Victor, but this is our list, which means this is the counter to the mandate given to Victor. The list on 177 can be the same
10 as the discussion in 148, because they are completely different lists. So if on 148 you were asked to check compliance, that is not what you are being asked on 177.

MR MNISI: Commissioner, my understanding when I read these messages, subsequent to the following discussions and the various occasions, that what was requested of me to do, and I could not have. I related this to the same TMPD-1. They came in succession of one another. Even if you look at 148, they first request me to check Ngaphesheya Elshadai and then a list of seven companies.

20 Moving further to 177, they send me a whole different list with a caption of a mandate to Victor, but then thereafter after another list as well. So from my perspective, there is a clear understanding that this is in relation to one event.

Yes, there might be competing views coming from

wherever, which I am not involved in, and I will not entertain and I did not entertain. From my context and understanding of the sequence of events, it was in relation to checking compliance, whether their priorities were changing or not.

ADV KHUMALO SC: So your understanding is that you are being asked to check compliance of 21 different security companies? Because these are 21 different security companies.

MR MNISI: My understanding was that I must check
10 compliance, yes.

ADV KHUMALO SC: Of 21 different security companies?

MR MNISI: Yes, and then their priorities changed. I mean, from 138, they stopped sending me the list of seven. It was a different set. That is what they thought. That is what they expected.

ADV KHUMALO SC: And does it not surprise you that it is always seven? They come in sevens. They do not come in fives. They do not come in threes. They always come in sevens when they come to you, and that is not unusual for
20 you?

MR MNISI: It is in relation to the tender TMPD-1.

ADV KHUMALO SC: Ja, but why seven?

MR MNISI: Because seven companies were appointed. I think that was the mandate, one per region. They obviously understood that.

ADV KHUMALO SC: So seven companies were to be appointed.

MR MNISI: Spot on.

ADV KHUMALO SC: So when people send you seven companies, the first thing you think about is it is not related to who should be appointed. It is related to checking compliance.

MR MNISI: Yes, Commissioner, but can I explain?

ADV KHUMALO SC: Compliance with what? Before you
10 explain.

MR MNISI: Compliance with mandatory requirements, administrative requirements, whether they were ticking the boxes. And it is something I could not do at this stage at all. I could not even advise on that.

ADV KHUMALO SC: And to be fair to you, you asked to explain. So explain and then go back to Mr Chaskalson.

MR MNISI: What I was explaining, Chair, is that that is what they were asking me to do, and that is what made me link the two to the first discussion. The first discussion was
20 on 148, please assist in checking compliance. If they keep on sending a list of seven companies, it is in relation to that. Hence, you can see this persistence, Chair, and you can see why I would not waste my time doing this.

ADV KHUMALO SC: But Mr Mnisi, you can see why it could not have been a reminder. So your evidence this

morning that they were reminding me cannot be correct, because if it is a different list, then you are not being reminded to check compliance of the previous list because it is a completely different list.

MR MNISI: I respectfully disagree with that, Commissioner. The request was to check compliance, whatever they were sending me. If you look at 148, it explained, right? I ignored it, I did not even say anything. It was preceded by a phone call. That phone call is what
10 expedited or what I was requested to do. If you look at the second instance on 152, that second instance, they just sent me two and it is after a phone call.

The phone call this time comes first. There is a request while we are speaking. Did you check that? No, I did not check. I do not even remember what you sent me. They then sent that to me again, which is why, from my perspective, that is a reminder. On 157, similar thing happens. And then on 177, exactly the same thing happens. There is no way where I trigger that, firstly, and I
20 respectfully disagree with that point of view, Commissioner.

ADV KHUMALO SC: Okay.

ADV CHASKALSON SC: Now, you have just spent, these messages come from, in a period around about, from 08:30PM on the 25th of March. You have spent the evening of the 25th of March in what should have been a meeting

with Sergeant Nkosi and General Dlamini, but turned into just a night out with Sergeant Nkosi. Remember?

MR MNISI: It was not a night out. It was probably just lunch for 45 minutes, not a night out.

ADV CHASKALSON SC: Just 45 minutes. And it started around about, I think the last, about 04:15 is when Sergeant Nkosi arrived. So you just spent 45 minutes together and you went your separate ways around about 5 o'clock, but you did spend 45 minutes together.

10 **MR MNISI**: Yes.

ADV CHASKALSON SC: And before that, on the same day, before you have spent that 45 minutes together, Sergeant Nkosi has sent you two names, Ngaphesheya and Elshadai, early in the day.

MR MNISI: Yes.

ADV CHASKALSON SC: And now afterwards, he sends you seven names saying this is the mandate given to Victor by Nico. You do not know who Nico is.

MR MNISI: No, I do not know who Nico is.

20 **ADV CHASKALSON SC**: But these are seven strange names. And then he answers, then he follows that up saying, here are another seven names. Find below our vehicles for land to be given to Mfowethu in order of priority. You see that?

MR MNISI: In order of priority.

ADV CHASKALSON SC: In order of priority.

MR MNISI: Yes, I see that.

ADV CHASKALSON SC: You say:

“Thanks, Mfowethu. I am on top of this.”

And then you say:

“This is ours, Mfowethu.”

This is the final list, right? So now is this huffing and puffing? You are playing along with him?

MR MNISI: Yes.

10 **ADV CHASKALSON SC:** I see. And it is just a pure coincidence that the two, the top two on that list just happened to be awarded the contract a few months later?

MR MNISI: It is not a coincidence, SC.

ADV CHASKALSON SC: It is not a coincidence?

MR MNISI: They were compliant. The documents that were submitted, that were evaluated, that were probity checked, deemed these companies as compliant.

ADV CHASKALSON SC: No, well, there are many issues before you get to the award of a tender. The compliance is
20 one of them. In due course, we will show that they were not remotely compliant. The second is whether they were the best bids. But of course, if you are not compliant, you should not get your foot in the door at all. You accept that?

There is a third issue, which is if there is an appearance of bias in the process in favour of a particular

company, they should not be awarded a contract. In fact, the whole process should be nullified. Are you aware of that?

MR MNISI: So there is no bias that is reflected here, Chair. I am sorry.

ADV CHASKALSON SC: Sorry, you say there is no bias here?

MR MNISI: There is no bias at all.

ADV CHASKALSON SC: I am talking about the
10 appearance of bias.

MR MNISI: The appearance of bias is in the event that physical exchange of documents and there is physical proof to prove that. And once there is sufficient evidence, we can rely on that to take the matter forward.

ADV CHASKALSON SC: Well, I mean, I do not want to enter into a legal debate with you, but I want to put some facts to you. By this stage we have a series of texts which show that a complete outsider acting with the deputy head of the client department is repeatedly asking you to give
20 preference to the bids of two companies, Elshadai and Ngaphesheya. You accept that? Four separate occasions.

MR MNISI: I accept that with an explanation that it was for me to check compliance.

ADV CHASKALSON SC: But earlier on you recognised that by this stage, the fourth stage, you had started to

realise that what they were actually asking for you to do was to interfere with the proper processes of the tender in favour of those companies.

MR MNISI: Indeed, I mean, I have seen this and I see the persistence and I can read in between the lines. Unfortunately, at this stage, I still do not have sufficient evidence to confront anyone in reference to that. But from my perspective, in my own understanding, it was clear. I mean, you cannot persist so much being rejected, being
10 explained, but you still persist on the same matter. It is either you are ignorant or you are playing me for a fool, which was, of course, the second aspect. Hence, I had to decide to play along and to ensure that I deal with this matter once and for all.

And with all due respect, you will take note that after this and my purported playing along and entertaining, or rather huffing and puffing, it stops. Not ever again do I receive any communications of this nature.

ADV CHASKALSON SC: Well, that is not entirely true, but
20 let us look at the sequence. Let us go to page 444. And there you will see that on the 13th of April General Dlamini sends two messages to Sergeant Nkosi. The first one says:

“Lease agreement for both company and
director for rates and taxes.
Interpretation of PIE Act. Three years’

financials must be done by independent auditor and signed or certification that they have been audited. Lease agreement of vehicles. The document submitted of ABIS is a quotation and we need an agreement with photos of vehicles, including a five-tonne truck. Public liability insurance for 10 million.”

And immediately underneath:

10 “Afternoon, Captain. I trust you well and your family. Please push Bheki to submit the above documents.”

These look like documents that would be mandatory requirements for compliance with that tender TMPD-1. Is that not correct?

MR MNISI: But we are sitting on the 13th of April.

ADV CHASKALSON SC: Yes.

MR MNISI: That has been submitted and closed on the 2nd of October, SC. These documents are under lock and key.

20 **ADV CHASKALSON SC**: Are you seriously – have you been through these documents, have you not?

MR MNISI: So my question is, why would we infer that these, this chat here is in reference to that? Maybe if firstly, I have never received this. This was never, ever forwarded to me. You are now, with respect, SC, showing

me a conversation between Sergeant Nkosi and the Deputy Chief Dlamini and you are pointing out areas of deficient. This is clear areas of deficient. I can see that. I am just requesting for you to please show me the alignment between TMPD-1 and this.

ADV CHASKALSON SC: Well, was a lease agreement for both company and director for rates and taxes a mandatory requirement for TMPD-1?

MR MNISI: With your permission, I want to go to my
10 annexures where I look at the mandatory requirements so that I give you a certain answer.

ADV CHASKALSON SC: You can just say yes or no if you know the answer. If you want to go to, if you need to go to the annexures, by all means go there. But if you know the answer, let us hear it.

MR MNISI: With your permission, please, SC, may I please go to my document so I can verify this?

ADV CHASKALSON SC: Go ahead.

MR MNISI: So I am on my bundle and I am on Annexure
20 GM13. I am going to start at page 162 and I presume this is stage 1 and it should be part of administrative requirements. So A is in reference to a tax compliance. B is in reference to CSD documentation. C is in reference to confirmation that the bidder's company rates and taxes are up to date. Original municipal bidder, statement for the

bidder not older than three months, and account must not be in arrears. Letter of statement and affidavit from landlord or that the bidder has no disputed account and that the account is not in arrears.

So based on this, there is a company document that is required or a letter in the form of an affidavit. So I can confirm that as a requirement. So here we are saying a lease agreement for both company or director. What I am seeing on page 163 of my bundle, GM13, item number C, it
10 does request for a confirmation of the bidder's company documents for rates and taxes, one, or a letter from the landlord confirming that.

ADV CHASKALSON SC: So are you saying that item 1 in this chat on page 444 was not a mandatory requirement?

MR MNISI: So what I am saying, SC, that on page 44, item 1 says lease agreement for both company and director for rates and taxes. The actual documentation on GM13 says all. You need to submit the company's, does not say both. Further...

20 **ADV CHASKALSON SC:** Under the MFMA, is it permissible to award a contract to a bidder whose directors are not up to date with their rates and taxes? Do you know the answer to that?

MR MNISI: The terms of reference and the specifications as discussed in the specification committee is key.

ADV CHASKALSON SC: So you are saying this is not, there are no overriding requirements in the MFMA?

MR MNISI: The statement of return, the statement that must be submitted, whether for the company or for the director as per the specifications, must not be in arrears.

ADV CHASKALSON SC: So if the directors are in arrears but the company is not, you can still consider the tender?

MR MNISI: In the event that the terms of reference as per the specifications are clear, that we want either or. So if
10 whatever has been submitted ...[intervenes].

ADV CHASKALSON SC: I am asking you a separate question. I am asking you about a legal requirement that is higher than anything your specifications can say. Does the MFMA contain such a provision? Are you aware of that?

MR MNISI: The MFMA contains a provision that the rates and taxes that are submitted must not be in arrears.

ADV CHASKALSON SC: For companies and directors?

MR MNISI: Or.

ADV CHASKALSON SC: You say or?

20 **MR MNISI:** Yes.

ADV CHASKALSON SC: Continue.

MR MNISI: Well, I will go to the second one. I think the first one might – remember what I am trying to do is to see an alignment or a linkage between 444 as well as the terms of reference. So from item 1, I do not see that alignment

because it says this requirement is for both. The terms of reference says one. So then already from my perspective it does not align to TMPD-1. Item number 2 ...[intervenes].

ADV BALOYI SC: Before you go to item number 2, unless we are reading different documents at 163, your page 163, item C from the top, it says confirmation that the bidding company's rates and taxes are up to date.

MR MNISI: Yes.

ADV BALOYI SC: And then D, in addition to the above,
10 confirmation that all bidding company owners' rates and taxes are up to date. Am I missing something in your discussion with Mr Chaskalson?

MR MNISI: Yes. So we are getting to D. Remember, I just touched on C. I am getting to D now, because we want to move on down the ladder.

ADV BALOYI SC: You are not saying it is either or. I am reading this to say, my reading of this seems to suggest that you require both to be compliant.

MR MNISI: If you look at both C and D, yes.

20 **ADV BALOYI SC:** Okay.

ADV CHASKALSON SC: Do we have to look at both C and D or can we choose which of these requirements we are going to honour and which ones we are not?

MR MNISI: No, we have to look at both C and D. These are mandatory requirements.

ADV CHASKALSON SC: So that first requirement is tallies with the tender?

MR MNISI: Yes.

ADV CHASKALSON SC: Let us look at the second ...[intervenes].

MR MNISI: C and D, SC, yes.

ADV CHASKALSON SC: Interpretation of PIE Act.

MR MNISI: Interpretation of PIE Act.

ADV CHASKALSON SC: What is this tender about?

10 **MR MNISI:** The tender, TMPD-1?

ADV CHASKALSON SC: Yes.

MR MNISI: Illegal land invasion and illegal occupation of the City's buildings.

ADV CHASKALSON SC: What is the primary legislation governing that process?

MR MNISI: That is TMPD competency and that is why they are involved in complying with specifications. I cannot answer that.

20 **ADV CHASKALSON SC:** Do you know what PIE Act stands for?

MR MNISI: No.

ADV CHASKALSON SC: Prevention of Illegal Evictions Act.

MR MNISI: Okay.

ADV CHASKALSON SC: Would you accept that that is the

single most important piece of legislation governing the subject matter of this tender?

MR MNISI: Amongst the rest. This is a key requirement.

ADV CHASKALSON SC: Not amongst the rest. The single most important.

MR MNISI: SC, with all due respect, all the requirements are equally important. Anyone that is not there results in disqualification. So it is equally important as all other mandatory administrative ...[intervenes].

10 **ADV CHASKALSON SC**: I am talking about legislation governing the subject matter of this tender, not qualifications to enter the bidding process. Legislation governing the subject matter of this tender.

MR MNISI: So the specialists will be able to answer that and the specialists will be individuals from human settlements as well as TMPD.

ADV CHASKALSON SC: So you cannot comment on that?

MR MNISI: I do not know.

20 **ADV CHASKALSON SC**: What is your response to two in terms of the requirements of the tender?

MR MNISI: Two, on the administrative requirements, I do not see that there. I am going to stage 2 now. On stage 2, on 164, we start on 165. And I can see on item number 4, there is a reference that bidders must submit a complete copy of the prevention of Illegal Eviction of an Unlawful

Occupation Act. I agree to that.

ADV CHASKALSON SC: How about three?

MR MNISI: I am just jumping in between the two. Three references, three years' financial must be done by independent auditor and signed or certification that they have been audited. So I will presume that this must have been part of the administrative requirements. I am going to go back up to one first, and then I will see if they are there in B. So we have covered A in terms of the tax compliance
10 certificate. B was the CSD. C and D made reference to the company's rates and taxes, as well as individual rates and taxes.

E makes reference to ensuring completion of all bidding documents 1, 4, 5, 8 and 9. And then part of E is the failure to declare interest, will be disqualified, financial statements for the most recent three years, or financial statements from date of existence for companies less than three years.

The bidder must submit signed, audited annual
20 financial statements for the most recent three years, establish for a shorter period, submit audited annual financial statements from the date of establishment. If a bidder is not required by law to prepare signed financial statements for auditing purposes, then the bidder must submit proof that the bidder is not required by law to

prepare audited financial statements.

So what I can confirm from what we are seeing here is that audited financial statements needed to be submitted, but the element of having an independent auditor sign them off a certification, I do not see that.

ADV CHASKALSON SC: Sorry, maybe we are missing each other. What are audited financial statements if they are not signed off by an independent auditor?

MR MNISI: Audited financial statements are financial
10 statements that are audited.

ADV CHASKALSON SC: Does the auditor not have to be independent?

MR MNISI: Yes. So what I am looking at here is the element which covered that, and I am saying it is there, Chair, as part of, I think, the second, third line item from the bottom. It says:

“If it is established for a short period,
submit audited annual financial
statements from the date.”

20 So it is audited financial statements that are required. I am not disputing that. I was just explaining.

ADV CHASKALSON SC: Let us go to the next slide.

MR MNISI: Next one is lease agreement for vehicles. Document submitted of ABIS is a quotation, and we need agreement with photos of vehicles, including five-tonne

truck. That must have been within the mandatory requirements, and I think that is covered on item 5, where it says:

“Lease vehicle, signed lease agreement by either director or company along with the title holder for certification.”

And the next one, on the public liability insurance for 10 years, for 10 million, apologies, it is captured for under seven, 166.

10 **ADV CHASKALSON SC:** So we have now established that all of these were mandatory requirements.

MR MNISI: These are mandatory requirements as per GM13, yes.

ADV CHASKALSON SC: And General Dlamini is saying:

“Afternoon, Captain. I trust you are well and your family. Please push Bheki to submit the above documents.”

20 So what it looks like is that some six months after the tender has closed and documents are supposed to be under lock and key, General Dlamini and Sergeant Nkosi are trying to make arrangements to cure five different mandatory disqualification features of the Ngaphesheya bid.

MR MNISI: That is what it looks like, but however, this does not also preclude this from being a bid anywhere else. Why I am saying that is because this is the 13th of April.

There is no way documents could be amended from my point of view. I have outlined how the process operates. So I am still struggling to see why this could purely relate to that, to TMPD-1 from my perspective.

ADV CHASKALSON SC: We will get there. I want to take you to some other sort of strange features of this. Let us look at the top of page 455. This is ...[intervenes].

MR MNISI: 455?

ADV CHASKALSON SC: 455. This is Sergeant Nkosi on
10 the same day:

“General, I spoke to Bheki now. He tells me he has spoken to Nico.”

You did not know who Nico was, but ...[intervenes].

MR MNISI: Excuse me, I see I am not following. My 455 ...[intervenes].

ADV CHASKALSON SC: 445. 445, sorry. Sorry, sorry.

MR MNISI: Okay, 445. Yes, I see that.

ADV CHASKALSON SC: And you remember, you did not know who Nico was, but Sergeant Nkosi identified him as
20 Nico Mathobela.

MR MNISI: Yes, I see. I do not know him.

ADV CHASKALSON SC: And you said Nico Mathobela had no illegitimate role to play in this contract.

MR MNISI: No, he is not an employee of the City, as far as I am concerned.

ADV CHASKALSON SC: Well, Sergeant Nkosi writes to General Dlamini:

“I spoke to Bheki now. He tells me he is spoken to Nico when he was busy with the documents of Elshadai.”

Elshadai is one of the two companies that Sergeant Nkosi has repeatedly been sending your way. And with hindsight, we believe he was asking you to interfere in the process in favour of Elshadai:

10 “Nico promised to help out. Now he is no longer answering his phone. Please check Nico. I will push Bheki. These people must know it is not one thing they must work as a team, not the other way. Please, General, intervene. We cannot lose now. We have been waiting for this for a while.”

What does that look like to you?

MR MNISI: So this looks obviously like they are assessing
20 documentation or they are preparing a bid document or they are analysing what the requirements are of a specific bid that they are dealing with and they need to ensure that those companies' details or mandatory or administrative requirements are compliant. That is what it looks like to me.

ADV CHASKALSON SC: And you do not see any link between that and TMPD-1, the tender TMPD-1?

MR MNISI: SC, TMPD-1 had closed on the 2nd of October. The process that I have outlined and how I know how the City operates, there is no way this could have related to that. So at this stage in time, those could be individuals working on bids from I do not know where. So I am still at this point in time unable to conclusively say it is for TMPD-1. What I can confirm is that it looks like individuals are
10 working together on a submission, but it cannot be a submission for the City of Tshwane because you cannot be starting a whole bid from scratch. This looks like people analysing, assessing, auditing documents that they have and preparing a bid. That is what it looks like to me.

ADV CHASKALSON SC: Let us go to your chats now. Let us go to page 228. This is now the 24th of April.

MR MNISI: Yes.

ADV CHASKALSON SC: At message time 12:39, actual time 02:39PM, you send to Sergeant Nkosi a message
20 saying:

“Ngaphesheya is Grade B and has nothing in the documents.”

MR MNISI: Yes.

ADV CHASKALSON SC:

“Mfowethu, please send to US and

request him to provide him with information for the correction. We need Grade A guards.”

MR MNISI: Yes.

ADV CHASKALSON SC: Yes, so you did send those messages?

MR MNISI: Yes, these are my messages and I did send them.

ADV CHASKALSON SC: Yes, what were you doing?

10 **MR MNISI**: So at this point in time, Sergeant Nkosi had sent me a document for another institution where they were preparing a bid. So the bid that they were busy preparing, I looked at the published tender document that was there. Spotted the key requirements.

Key requirements of that tender document was Grade A, nothing to do with Grade B. So I was saying, because I knew that the General would assist him on preparing bids in some way or form, they need to take it up with him so they can work on that together. This, I can
20 assure you, was not in relation to TMPD-1 whatsoever.

ADV CHASKALSON SC: So your version is that the General, yourself, and Sergeant Nkosi were freelancing on the side for a tender for another government institution. Is that the version?

MR MNISI: Not freelancing. Providing bid clarification on

the tender that they had been working on.

ADV CHASKALSON SC: Sorry, providing what?

MR MNISI: Well, he had asked me to look at the gratification on the document that was there. I am not freelancing because I am not expecting any payment. I do not want any payment. I am purely providing advice on something that they are interested in, SC.

ADV CHASKALSON SC: So you are offering free tender advice to Sergeant Nkosi, and you are suggesting that he
10 gets the assistance of General Dlamini, another employee of the City, to get more free advice on his tendering process?

MR MNISI: Of course.

ADV CHASKALSON SC: That is correct?

MR MNISI: That is exactly what I am saying.

ADV BALOYI SC: Where do we see this other document, or whatever was sent to you to advise on? Because you must have been working off something to say Ngaphesheya is Grade B and has nothing in the documents.

20 **MR MNISI:** Yes, yes.

ADV BALOYI SC: To say we need a Grade A guard, and then ask him to provide information for correction.

MR MNISI: Yes.

ADV BALOYI SC: You were working from what to be able to make those observations?

MR MNISI: Yes, Commissioner, I have seen the actual tender document for that institution.

ADV BALOYI SC: So how did you receive it? Was it given to you in hard copies? Was it sent on email? Was it sent on WhatsApp?

MR MNISI: No, it was not.

ADV BALOYI SC: Because so far, everything that you have about this transaction, it is on WhatsApp.

MR MNISI: Yes.

10 **ADV BALOYI SC**: How did ...[intervenes].

MR MNISI: No, this one, he gave me a copy of it. The actual, the raw tender document, Sergeant Nkosi.

ADV BALOYI SC: To assist who? Who was the bidder that you were assisting?

MR MNISI: Ngaphesheya. That is his brother.

ADV BALOYI SC: Okay.

MR MNISI: And the requirements of that was Grade A. They did not have Grade A, so they were never going to qualify for that bid.

20 **ADV BALOYI SC**: Yes.

MR MNISI: Because they had Grade B.

ADV BALOYI SC: No, I am answered. You were assisting Ngaphesheya. You had Ngaphesheya's documents in front of you.

MR MNISI: No, no, I did not have – sorry. I am so sorry,

Commissioner. I do not want to interject. Apologies, but I just want to correct. I did not have Ngaphesheya's documents. I had a raw tender document that was not completed. I did not have Ngaphesheya's documents. I had known that this requires Grade A. They do not have Grade A guards.

ADV BALOYI SC: Yes, but you say in the message, you say Ngaphesheya is Grade B and has nothing in the documents. So you had Ngaphesheya's documents
10 ...[intervenes].

MR MNISI: Maybe just ...[intervenes].

ADV BALOYI SC: The question is, which documents? You cannot walk back this message. This message, clearly, you had Ngaphesheya's documents. That is why you are able to say there is nothing in the documents.

MR MNISI: With all due respect, I was referring to the tender document. I had a document. It was a raw tender document.

ADV BALOYI SC: Why do you know that Ngaphesheya has
20 nothing in the documents if you are looking at a raw, what you call a raw unnamed? It does not have anyone's name.

MR MNISI: Yes.

ADV BALOYI SC: If that is the document you have in your hands, how do you know that Ngaphesheya is B and there is nothing in the documents?

MR MNISI: So my point of reference and what I meant with this message is you can even see the sentence structure and the construction is not so good. However, Ngaphesheya is Grade B. There is nothing in the documents about Grade B.

ADV BALOYI SC: No, you are not saying that. You are saying Ngaphesheya has nothing in the documents. That is the only sensible way of reading this message. It has nothing to do with construction or misunderstanding. When
10 you read this and you read it sensibly, you are saying Ngaphesheya is Grade B and has nothing in the documents. So you are working off Ngaphesheya's documents.

MR MNISI: Honourable Commissioner, I think I am just going to clarify that again because I know the document I was working on and it was the tender document. I say here Ngaphesheya is Grade B and there is nothing in the documents. So I meant that there is nothing in the documents about Grade B because this particular tender required Grade A, did not require Grade B. Maybe it is how
20 I wrote it at that point in time, but the interpretation and what I meant when I sent that, regardless of how quick I was and my inability to correct the sentence structure at that stage, but that is what I meant.

ADV BALOYI SC: And when you say we need Grade A guards, if you are not participating in this tender, who is the

we? Why are you speaking as a party participating in a tender if you are not a party to it?

MR MNISI: Unfortunately, Commissioner, this is how we would normally refer to each other. There are many instances in the chat where I say ours, which should have been him, where he say ours, which should have been me. So it was a way that we would speak and there are many instances that I can also show you in this where I say can we, whereas it meant you. That is just the way that we
10 adopted of speaking. It was an informal conversation.

CHAIRPERSON: So you say all that you had was the raw documentation when the tender was issued and not Ngaphesheya's documents?

MR MNISI: Yes, yes, Chairperson. That is what I am saying.

CHAIRPERSON: Yes. Of course, I am aware that you say that the language here that is in the text that Commissioner Baloyi has just referred to needs some refinement. But as it stands, it says and has nothing in the documents. So that
20 obviously refers back to Ngaphesheya. So if Ngaphesheya has nothing in the documents, that could not possibly be a reference to the raw documentation you have referred to.

MR MNISI: Commissioner, it is in reference to Grade B. Ngaphesheya is Grade B. There is nothing in the documents about Grade B. That was the intention and there

was understanding when I wrote this message.

CHAIRPERSON: But it may well have been about Grade B, but looking at the documents, it has nothing on what is required and it can only be because you have gone through its documents that you are able to pronounce on what it has or does not have in the documents. That can only be Ngaphesheya's documents, not the raw documents. Otherwise, this is totally senseless.

MR MNISI: Commissioner, with respect, this was in
10 reference to the tender document and the key requirements from the mandatory perspective. Within that, they ...[intervenes].

CHAIRPERSON: What could it possibly have had then from the raw data? Because it could either have had or not to have had documents based on what it had submitted. So you could only make that pronouncement based on what it had submitted. You say it has nothing in the documents. You could not pronounce on that based on the raw data because the raw data has nothing to do with the specifics
20 that is Ngaphesheya's documents.

MR MNISI: Yes, Chair, but I can pronounce on the key requirements as per the raw document. I was already aware ...[intervenes].

CHAIRPERSON: That cannot assist you looking at the raw data without comparing with what Ngaphesheya has or does

not have. The raw data cannot assist you. So to keep referring to the raw data cannot assist you.

MR MNISI: Chair, I respectfully disagree with that notion. Those are the sequence of events.

CHAIRPERSON: Those were the what?

MR MNISI: That is what was happening. The sequence of events. I had the raw document. It required Grade A. Ngaphesheya is Grade B. They had nothing in the documents about Grade B. Unfortunately, in this stage
10 ...[intervenes].

CHAIRPERSON: And I am sure if I ask you – and how had you established that Ngaphesheya was Grade B? I know what the answer is going to be, but let me hear it.

MR MNISI: I was informed, Chair.

CHAIRPERSON: I knew that was going to be the answer. But what is sensible to me is that you actually had Ngaphesheya's documents. You saw from the raw data what was required, which was Grade A, and you looked at Ngaphesheya's documents. You saw that it was Grade B.
20 That is why you are able to refer to the documents, which in context could only have been Ngaphesheya's documents, but I will leave it at that.

ADV KHUMALO SC: Please look at 535 quickly. Same file, File 4.

MR MNISI: Excuse me?

ADV KHUMALO SC: 535.

MR MNISI: Page 535?

ADV KHUMALO SC: Yes.

MR MNISI: I am on page 535, Commissioner.

ADV KHUMALO SC: Are you there?

MR MNISI: Yes.

ADV KHUMALO SC: So these are Ngaphesheya's documents. In the PSiRA grading, you see the recognised training qualification as of date of issue, Grade B.

10 **MR MNISI:** Yes.

ADV KHUMALO SC: That is the only place you could have picked that up because somebody telling you that Ngaphesheya is Grade B would have required that you verify it. You could not positively say, I know that Ngaphesheya is Grade B, what is required is something else. You must have seen this document on 535 for you to be able to positively state that Ngaphesheya is Grade B.

MR MNISI: Commissioner, I did not see that document, firstly. Secondly, I was aware that it is Grade B because I
20 was informed. And thirdly, my job was to advise on the raw tender document whether is it Grade A or B. They are Grade B. There is no way they were going to qualify for that specific bid. And further to that, Commissioner, this has nothing to do with TMPD-1 completely.

ADV KHUMALO SC: And it must be a coincidence then

that this document also features in the chats and you did not see it. It must be a coincidence that it finds its way into Chat 357.

MR MNISI: So, Commissioner, this was never sent to me, by the way. So I do not have these chats. I think SC Chaskalson was clear. These were chats between Sergeant Nkosi and DC Dlamini. I do not have that.

ADV KHUMALO SC: But it must be a coincidence that it features in the chats around the same time that the
10 discussion about Ngaphesheya's grading is taking place.

MR MNISI: Commissioner, like I said, I have not seen those documents. They were never, ever sent to me. Even the first set that the SC Chaskalson was referring to, I have never seen them. I am only responding now because the Commission is posing questions to me.

ADV KHUMALO SC: And do you remember what the tender documents were for, for which municipality?

MR MNISI: I do not remember.

ADV KHUMALO SC: But they were delivered to you. You
20 said you received a hard copy.

MR MNISI: I had seen a hard copy, yes.

ADV KHUMALO SC: Thank you.

ADV BALOYI SC: Let me show you why the answer you are giving is not correct when you say you did not have, you had only the raw document. At that page 228, there was a

message that we were looking at. It could not have been a raw, by raw you mean the standard tender document which is not completed. Because in that same message, in the message after Ngaphesheya is Grade B, the very next message from you says, please send to US and request him to provide him with information for correction. Right? So you are seeking a correction.

You are sitting with a document which is completed in a way that you have determined or you have been told
10 does not meet the requirements. Otherwise, a blank document does not require correction if indeed you were working with a blank document or your standard tender document that was issued.

There would be nothing for Ngaphesheya to correct. You would simply have said, tell him he needs to submit a Grade A certificate, but you are speaking about correction. So that is consistent with you are sitting, you are looking at a completed tender document of Ngaphesheya and you picked up errors or shortcomings about it, which is that it is
20 a grade, it is indicated Grade B, and you are saying Dlamini must advise him to correct this, which you have seen.

So it is not correct and it is not truthful for you to say the reference to documents where you say nothing in the documents, speak to a blank standard tender document. You were, what I am putting to you is, you were sitting with

Ngaphesheya document. That is why you are advising Nkosi to tell Dlamini, to tell Ngaphesheya or Bheki to make a correction.

That is the only sensible construction of this series of WhatsApp messages, not what you are telling us. And the sensible construction is you had, you were working off Ngaphesheya's documents.

MR MNISI: May I respond, Commissioner?

ADV BALOYI SC: Yes, you may.

10 **MR MNISI**: So respectfully, I disagree with that inference. Why I am telling you that is these are my chats and I understood what I was going to and what I was saying in reference to this. There is no assumption that I am making in terms of this. Fortunate part is that these were informal and there was no formality in the manner in which we were having these discussions.

I did confirm to you as a Commission that I had a raw document from the institution. I picked up one shortcoming. I stopped looking at the rest because I saw
20 we are never going to make this if there is a shortcoming of this nature. If you want to get this matter resolved, please speak to ...[indistinct], maybe we can advise you further on how to get this corrected.

That was the notion around this discussion. It was not in relation to any tender document for the City of

Tshwane. It was not in relation to TMPD-1 and I did not have a complete set of documents for the entity Ngaphesheya.

CHAIRPERSON: Was it not a conflict of interest anyway for you to be at the same time, around the same time, to be assisting Ngaphesheya with a tender even if according to you there was a totally different tender and for another municipality when Ngaphesheya was competing for an award within your municipality in a process where you were
10 going to be one of the adjudicators as the Chairperson of the Bid Adjudication Committee? Was that not a conflict of interest?

MR MNISI: No, it was not, Chair. It had no relationship with the City of Tshwane at all. Further to that, why I am saying no, I am just trying to expand on that, Commissioner Khumalo, is that it had nothing to do with the City of Tshwane, firstly.

Secondly, I did not look at raw documents. I did not look at any attachments and conducted a physical
20 assessment of what was there. I just looked at the raw documents and provided advice on a key area which is not done, just forget about that. So there was no conflict of interest, firstly, because of those two reasons.

Secondly, as a result of this tender that was already open, it had not closed at that point in time and I

was just giving friendly advice in a similar way where I would get informal legal advice from an attorney. It does not necessarily mean – who is a friend of mine for argument's sake. It does not necessarily mean that that is something that I must pay that individual for, firstly, or that is something that I am buying. It is just simple advice. So it was no harm from my perspective because I was not involved in this tender. It had nothing to do with my employment. I only interacted with raw documentation as well.

CHAIRPERSON: For a Chief Financial Officer, that is a very narrow view of a conflict of interest. You, by agreeing to assist, have come to have a relationship with this entity, not just a relationship, but a relationship in terms of which you assist that entity with the preparation of its bid.

By preparation, I do not necessarily mean starting from the beginning, but at the point at which that bid was, you were requested to assist to make sure that that bid document was what it ought to be or to have been. And that same entity is participating as a competitor in a bid process which you are going to share, to Chair, I am sorry, at the stage of deciding with a view to a recommendation to the Municipal Manager to recommend whether to award or not to award.

It is at the tail-end of the process. You basically

adjudicate and you say there is no conflict of interest. In my view, that is a very, very narrow view of what a conflict of interest is.

MR MNISI: Chairperson, if I may respond? I think, firstly, there is no association between this and the City of Tshwane. That immediately, immediately absolves me of any conflict of interest. Besides, I have got no interest whether financial or of any other sort, whether they receive or they are appointed within that area where I am assisting
10 in reviewing and looking at the road documentation and what the requirements are. I have got no interest in that.

I stand not to benefit. I have not been promised any monies. I have not been promised any funds. It is just merely a friend who specialises in these matters to have a look at what is key as per those documents. That is the context roughly on this.

Secondly, providing advice when bids are open, it is the nature of my job from part and parcel of that. I try to demonstrate as well that when I made a presentation on
20 GM2 and GM3, even if this was a tender within the City of Tshwane, within the applicable open period, I am allowed to say this is what you need.

Clarify in general terms, this is a matter that was further escalated to the City's war room as a result of items of this nature serving as a red tape, if I might put it as such,

where individuals were being disqualified for petty issues which could have easily been avoided had they understood the contents of the requirements of any bids.

As long as it is within a particular open period, firstly. Secondly, as long as I do not interact and I provide general advice, which is what I did in this aspect, Chair.

CHAIRPERSON: This is different. This is totally different. This is your friend's brother's company. You assist that company for a bid, which as you say, was for some other
10 entity, whatever the entity was. So it is something that you have a close or intimate relationship with.

You have said you are close friends with Sergeant Nkosi. So this is his brother's company. Based on what you are telling us, you did not even see a need to make a disclosure when the bids were being adjudicated and you were Chairing that process.

I am sure based on how you are responding to me now, you did not even see a need for a disclosure. In fact, I will suggest to you that you basically do not know what a
20 conflict of interest is if you can have as narrow a view as you have or as you have explained.

Now, can you respond in particular to the fact that this is not just any entity? It is an entity belonging to your close friend's brother. You assist with the preparation of a bid. Is that not likely to give the perception if this were to

be known? Is it not something that will give the perception that surely he is going to favour this company even in the bid that he is adjudicating now?

It is on that basis that I say that your view of a conflict of interest is very, very narrow and I do not understand that coming from a chief financial officer. Please respond.

MR MNISI: Thank you, Chair. Chairperson, I see where you are coming from but I must with due respect disagree
10 with you. On the basis, firstly, that within the City of Tshwane there is segregation of duties in terms of the appointment process and there is no way whatsoever that I can do, Chair, to influence that process. Nothing at all. I demonstrated how that process works, Chairperson ...[intervenes].

CHAIRPERSON: There is nothing you can what?

MR MNISI: There is nothing I can do to influence and I have not influenced ...[intervenes].

CHAIRPERSON: Conflict of interest is not necessarily
20 about the reality of you actually doing something. It also concerns perceptions. Are you saying as you are sitting there that you are not aware of that? That conflict of interest only relates to what you may actually have done?

MR MNISI: Chair, you gave me a loaded question. I need to respond to all aspects of that. I am not ignoring

everything else that you have made.

CHAIRPERSON: Yes, yes.

MR MNISI: I will touch on them, but I needed to touch on the most important factors first.

CHAIRPERSON: Yes.

MR MNISI: And those most important factors, firstly, is I did not influence the process within the appointment of TMPD. I could not influence that process.

My virtue at BAC was purely to provide oversight to
10 ensure all compliance matters were adhered to, not to influence to play an oversight ...[intervenes].

CHAIRPERSON: You see, my question is not about whether as a matter of fact you influence the process. That is not where I am. And you heard me and you heard the lengthy explanation I gave and you have not addressed that. You choose to address whether you actually influence the process. That is not my question. Can you please answer my question now?

MR MNISI: Apologies, Chairperson. I am getting there.
20 Your question was extremely ...[intervenes].

CHAIRPERSON: No, you went quiet, I thought. I am sorry. Okay, please continue. Please continue.

MR MNISI: Secondly, Chair, me providing general advice on a bid outside the City without any expectation of inducement, payment or anything of that nature, it cannot

say I have got a conflict of interest because I am not interested in that. It is a general way of providing advice.

Like I am also saying, had it been at the City as well, if the prescription process was still open, it is normal to do that and it is acceptable on a general terms. Secondly, in terms of the conflict of interest, I have got no interest in his brother's company.

He is my friend. So Chairperson, by virtue of people being friends with me, now, for an example,
10 everyone needs to disclose wherever they are, because I am the friend of a CFO of another institution, for argument's sake. That is a bit difficult, Chair, because I have got no interest in that. I am not friends with his brother. I am his friend.

So, conflict of interest and another individual's suffering as a result of this friendship would be extremely harsh. I had no interest. I was promised no gratification. Hence, at this point, I can formally confirm and disagree with the notion that I was conflicted. I was not conflicted on
20 two aspects.

I did not interact with physical documents. On general terms, looked and advised on a document that does not even relate to the City of Tshwane. Whilst this process was closed a long time ago, which relates to the City of Tshwane, I had no involvement or influence on that. Hence,

I am just trying to touch on the most important point that you raised, Chair, so I can have that on record on why I am saying I respectfully disagree with that notion.

I do not have an interest in his brother's company. Maybe it is unfortunate I am his friend, but I do not have an interest at that at all. I do not expect to receive anything from him or his brother.

CHAIRPERSON: The second and last question. According to you, the test for conflict of interest is subjective and
10 based on what you think. I did not, I did not, I did not. According to you, the test for conflict of interest is purely subjective based on whatever it is that you actually did or what you thought or what you believed. The test is subjective.

MR MNISI: Chair, according to me, conflict of interest is if you are interested in a particular firm, you have got an association with its directives ...[intervenes].

CHAIRPERSON: Can you please answer directly? Is it subjective? Is the test for conflict of interest purely, purely
20 subjective? Can you please answer the question directly, Mr Mnisi?

MR MNISI: No, Chairperson. Can I explain?

CHAIRPERSON: Yes.

MR MNISI: My explanation, Chairperson, is that my understanding, the answer is no to your question. The

further explanation is that, firstly, conflict of interest is if it is clear from my perspective when I read the documentation that I sign, do you have an interest in the company or any of its directors? Is there an association of any sort? From my perspective, the answer was no. And it remains no, even at this stage, Chairperson.

CHAIRPERSON: Lastly, so basically, and I am sure the answer is going to be in the affirmative. So from where you are sitting, you saw no need whatsoever to disclose that
10 you had this relationship or interaction with Ngaphesheya through Sergeant Nkosi? You would not even have seen a need to disclose?

MR MNISI: No, Chair.

CHAIRPERSON: Thank you.

ADV BALOYI SC: At that page 228, and I think what I want to raise with you is that it is either you are correct or you are truthful that this was a tender for another institution and not for Tshwane, or, in fact, it was for Tshwane. And I want to suggest to you that at 228, where you say we need a
20 Grade A guard, that suggests that you are speaking for Tshwane, because at that time you are the CFO of Tshwane. So you are speaking, you are telling Sergeant Nkosi what your Mfowethu, what your institution needs.

And for me, that is consistent with what you do at page 178 after you are given a list that we find at 177,

which has Ngaphesheya Item 2, that list where you are to deal with matters in order of priority. And your response to that list, first you say:

“Thanks, Mfowethu, I am on top of this.”

But more importantly, and this is what I am raising with you, at 178 right at the top, you say:

“This is ours, Mfowethu. This is the final list, right?”

So this is ours, Mfowethu, of a list that contains
10 Ngaphesheya. When you read that with 228, where you say we need Grade A guards, it speaks to a Tshwane tender in which you have an interest, and the interest being that Ngaphesheya gets this contract. Whether or not you are going to get money or not, your interest is that Ngaphesheya gets this tender.

So that is the first scenario, and I say to you that is a more probable picture of what, in fact, what was happening here. The second is what you are saying, the second possibility. You can do notes of what I am putting to
20 you so that you can respond.

The second is you are correct, the possibility is you are correct, this was for another institution and you are assisting with completing the Ngaphesheya documents so that they are successful in that tender with another institution. But that is still problematic for your position,

because you are promoting or rooting for the commercial success, financial success of Ngaphesheya to succeed in that tender.

And that must raise a problem for your position in the BAC as the Chairperson, because on the one transaction you clearly want Ngaphesheya to succeed with another institution if we believe and accept that it was for another institution.

When you are a Chairperson, we must accept that
10 you still have the same interest and bias towards Ngaphesheya and that it must succeed, even if you get nothing. So on either scenario, it is not helpful to you. In the one is an outright case of an illegality, in fact, in the one where you are participating in the corruption of a tender process that is already underway in Tshwane.

The alternative is you are promoting the financial interests of Ngaphesheya in another institution, and that should have disqualified you to sit as a BAC Chair in Tshwane one or, in fact, it should have declared. You may
20 comment if you want to.

MR MNISI: Thank you, Commissioner. With your permission, I would really like to comment on that. And I am commenting, I want to start on the first scenario that you gave. The first scenario that you gave, you mentioned that this is probable that this was for a City of Tshwane

tender, and I would probably say for TMPD-1.

So I am going to request us to do that same exercise and to test whether Grade A cards were necessary for TMPD-1. This will, in some way or form, try and deal with this aspect conclusively now. So you look at the same annexures that I provided on GM13.

On GM13, I want to refer you to two places. The second bundle of my own submissions. In the message it was clear that the requirement for that bid was Grade A. If
10 you look at page 156 of the second bundle, right at the bottom, personnel per region, security personnel, two Grade B or higher, meaning Grade B is sufficient.

Further to that, I want to take you to page number – just one minute. I will take you to the evaluation criteria. There we go. For argument's sake, we could refer to page 212 of my bundle still, Commissioner Baloyi. On my bundle, still page 212, right at the top, to validate that this was Grade B and nothing more.

So based on that, I would refer the Commission to
20 this instance and to state on record that there was no relationship whatsoever. So the first situation is completely not there. The first scenario that you have provided, Commissioner Baloyi, is completely non-existent because this was a requirement for Grade B guards.

The document that I was assessing was purely for

Grade A. So on those grounds, there is no relation whatsoever to that, and we cannot, with all due respect, link that to 177 and 178. It is completely not related.

ADV BALOYI SC: Can I just ask you a question for clarification? In that page 212 there is a Grade B supervisor and there is a Grade C guard, and your certificate here is a Grade B, the one that you were discussing with Commissioner Khumalo.

MR MNISI: Yes.

10 **ADV BALOYI SC:** So what is the relationship here?

MR MNISI: For Grade A ...[intervenes].

ADV BALOYI SC: Specifically, I am asking B and C because you are referring us to 212 as evidence to show that, in fact, the requirement of TMPD-1 was not A.

MR MNISI: Yes.

ADV BALOYI SC: What do I see in 212?

MR MNISI: What you see in 212 is firstly that you needed Grade B or higher. So Grade B was the highest that you needed. If you had Grade A, it is just a plus. It is not going
20 to score you any additional points. Grade C was the lower-level guards. So in terms of hierarchy, there is Grade A, B, and C guards. A is presumably the highest level, from my understanding.

For the tender TMPD-1, they needed only Grade B and Grade C. Ngaphesheya, by virtue of having Grade B,

as their director, they had Grade C in terms of all other guards. So now I am going to move over to the second scenario that you are bringing on board, and I will agree with you.

I am here to the Commission to present a true circumstance of what occurred, and this is what happened. This was for another institution, purely for another institution, where they had asked me for general advice, taking into account that I am a CFO and I specialise in
10 issues of this nature. General advice did not interact physically with documents. That particular tender was still open.

I gave that advice, subsequent to having a look at the critical documents that were there. Chair, I did not actively want them to succeed. I just played my role to give general advice. With the evidence that you have in front of us in the communications, I did not actively want them to succeed. I was not interested in that.

I was just interested in my role of giving advice as
20 requested by a friend. I did not actively want them to win in this tender whatsoever. That was up to them in terms of what document they put in place, which leads them to be successful.

ADV BALOYI SC: What did you know about General Dlamini's involvement with this tender on the second

scenario? Why are you redirecting them to General Dlamini? This has nothing to do with Tshwane.

MR MNISI: Yes. At this point, I knew that General Dlamini and Sergeant Nkosi were very close. I did not want to take this matter any further. I said, if you want any further advice, please speak to US. He also knows a lot about issues of this nature.

ADV BALOYI SC: No, no, no. That is not what your message says. Your message says Dlamini must tell him to
10 make a correction. So you knew that Dlamini is intimately involved. Otherwise, you would not have referenced Dlamini. You would have simply said to Nkosi, if this was a matter between you and Nkosi, you would have said to Nkosi tell Bheki to make that correction. You say Dlamini must tell him to make the correction. So you know that General Dlamini is involved with whatever is going on.

MR MNISI: Commissioner, I knew that they were close, hence I referred him to him.

ADV BALOYI SC: Okay. All right, that is your answer.

20 **ADV CHASKALSON SC**: Can I just clarify my understanding of how you explain these texts? That first one, Ngaphesheya is Grade B and has nothing in the documents. You said that you had not seen Ngaphesheya's documents, that you knew that they were Grade B only, and that this raw tender document for this third-party

municipality or government required Grade A. Is that what your version is?

MR MNISI: I knew that from seeing the raw tender document.

ADV CHASKALSON SC: From seeing the tender document, the invitation to tender?

MR MNISI: Exactly.

ADV CHASKALSON SC: So that third-party municipality or organ of state was asking for Grade A guards and that you
10 knew because you could see the document.

MR MNISI: Yes.

ADV CHASKALSON SC: And you knew that Ngaphesheya had no Grade A guards.

MR MNISI: Yes.

ADV CHASKALSON SC: But your next message says:

“Mfowethu, please send to US and request him to provide him with information for the correction.”

MR MNISI: Yes.

20 **ADV CHASKALSON SC**: If Ngaphesheya has no Grade A guards, how could they ever correct this problem?

MR MNISI: Meaning they would need to apply for that. That tender process was still open. They need to get advice on how the application process works to get an upgrade.

ADV CHASKALSON SC: Sorry, get an upgrade?

MR MNISI: To Grade A.

ADV CHASKALSON SC: To Grade A?

MR MNISI: Yes.

ADV CHASKALSON SC: So the advice that they were going to get from General Dlamini was how you can get an upgrade to Grade A.

MR MNISI: From my perspective, they had Grade B. They were never going to be complying for that. I had to refer
10 them to someone who had more knowledge of PSiRA and the security industry, which was the General at this instance. Hence, he would be in the position to give them further advice on what to do to get this issue corrected. There was nothing further I could do about that.

ADV CHASKALSON SC: So you thought that General Dlamini could advise them on how to go about upgrading their PSiRA status from B to A?

MR MNISI: Precisely.

ADV CHASKALSON SC: I see. Do you have any sense of
20 how long that takes?

MR MNISI: I do not know. I am not aware. I do not know how that works.

ADV CHASKALSON SC: And how long was this third-party tender bid open for?

MR MNISI: With all due respect, SC, I do not recall.

ADV CHASKALSON SC: You then say we need Grade A guards. Who is we?

MR MNISI: So we is this unfortunate way of how we refer to each other. It is repetitive in these discussions. Even when it is something that involves him, we say ours. We have seen that on many occasions. I said we in this instance as well. It was a way that we used to speak. There was an informal discussion. There was nothing formal about this matter. I knew exactly. I knew he would
10 be able to understand this. This was just our way of speaking.

ADV CHASKALSON SC: So the we is an informal way that you referred to yourself, Sergeant Nkosi, and General Dlamini?

MR MNISI: No. Sometimes I say we. He must do that. Sometimes he would say ours, even though it is my responsibility or it is a matter that rests with me. So we use such terms interchangeably because I think at this point we had become good friends.

20 **ADV KHUMALO SC:** Brother for life. In you, I have found brother for life.

MR MNISI: At this point, we were friends.

ADV KHUMALO SC: Brother for life.

MR MNISI: Commissioner, we were friends.

ADV KHUMALO SC: I did not understand you to take issue

with that. In you, I found a brother for life.

MR MNISI: Chair, I am not taking issue. I am responding and I am saying we were friends.

ADV KHUMALO SC: This is more than friends. This is brothers for life.

MR MNISI: And I did indicate in my sworn affidavit that he had, in fact, become like a brother to me. He was there for me in an extremely difficult period of my life.

ADV KHUMALO SC: Yes.

10 **MR MNISI**: And the support he had provided me, Chair, no one would have provided me such. So at that point, he was really a brother to me ...[intervenues].

ADV KHUMALO SC: He was like family. Like, not family. He was like family.

MR MNISI: He was like family, Commissioner. He was not family, though. He was just a good friend of mine. So I am not related to him.

ADV VAN DEN HEEVER: Chairperson, I am sorry to interrupt. I have asked my learned friend that we – in fact,
20 I wanted to have it at 3 o'clock just for a very brief adjournment because it became clear to me that we are not going to finish today. And I indicated to him I need to make arrangements, of course, because I have got other briefs for tomorrow. I have been trying to deal with it through messaging and I could not deal with it. So I am extremely

sorry to ask at this point if we can have a very short adjournment so I can try and make telephone calls. Officers, unfortunately, work on normal landlines and do not work on WhatsApp. So, please, I will appreciate that.

CHAIRPERSON: It should not be more than 10 minutes, please?

ADV VAN DEN HEEVER: No, it will definitely not be that long.

CHAIRPERSON: So I will not indicate a time. You will
10 indicate when we may ...[intervenes].

ADV VAN DEN HEEVER: It is most probably going to be shorter.

CHAIRPERSON: All right. Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV VAN DEN HEEVER: Chairperson, I am indebted for the short adjournment.

CHAIRPERSON: You are most welcome, Ms Van Den Heever. Yes, Mr Chaskalson.

20 **ADV CHASKALSON SC:** Thanks, Chair. So your version is that these documents, this advice that you were giving to Sergeant Nkosi related to a completely different contract or tender with a different municipality. And you did not see any conflict of interest in advising Sergeant Nkosi and Ngaphesheya in relation to a different bid at the same time

as you were presiding over their bid to the City of Tshwane.

MR MNISI: I was not presiding over the City of Tshwane bid. At this stage it was not even an evaluation, it was not even an adjudication. At adjudication, Chair, it was nine months down the line in about September as previously indicated.

ADV CHASKALSON SC: You were Chair of the BAC that was going to make the award of this tender that was already in the tender process.

10 **MR MNISI**: I agree with that.

ADV CHASKALSON SC: And you saw no conflict there?

MR MNISI: As previously indicated, there was no conflict, Chair. My answer, permission to explain again, in reference to the general scope of work that I was going to provide advice and guidance on, firstly. Secondly, in reference to referring them to other individuals who would be able to assist them, I did not interact with any documentation. The bid was also open at that stage. I did not see any conflict of interest by virtue of me not having any interest in the
20 company as well.

ADV CHASKALSON SC: I want to round off on this topic, but I want to round off by actually putting to you all of the common cause facts in relation to this contract and then putting to you some inferences from that at the end of the common cause facts. I am just going to put common cause

facts to you now. I do not want any comments. I just want you to accept whether these facts are common cause or not. We can then get into what inferences to draw from them at a later stage. The first fact is that 57 bidders bid for this contract, TMPD-1. Is that accepted?

MR MNISI: Yes. I confirm, Chair.

ADV CHASKALSON SC: Then the second fact is that on 11 March 2025, Sergeant Nkosi sent you the names of two of those bidders, Elshadai and Ngaphesheya.

10 **MR MNISI**: I confirm.

ADV CHASKALSON SC: You knew at the time that his message had been forwarded from General Dlamini.

MR MNISI: On the 11th of March, I did not know because there were no common factors that we have, like your captain, et cetera.

ADV CHASKALSON SC: Sorry, if I can take you back to that 3rd of March message, you will recall that three messages were forwarded simultaneously to you by Sergeant Nkosi, all with the same timestamp.

20 **MR MNISI**: It is on page 148?

ADV CHASKALSON SC: Page 148. They all have the same timestamp, 01:21:43, 01:21:43, 01:21:43. The last one has the language of General Dlamini in it.

MR MNISI: Yes.

ADV CHASKALSON SC: I thought we had established at

the time that you realised that all three came from General Dlamini because they all had the identical timestamp. But if not, then by all means, say so. I am interested in the first one, not in the second and the third.

MR MNISI: Okay.

ADV CHASKALSON SC: Did you realise at the time that that first one, the two vehicles for land on Ngaphesheya Security Services, Elshadai Security Services, that one came from General Dlamini through Sergeant Nkosi?

10 **MR MNISI**: Yes, Chair, with the request to check for compliance.

ADV CHASKALSON SC: Then the next fact is that those two bidders, Ngaphesheya and Elshadai, are subsequently two of the seven bidders who win the tender more than six months later pursuant to a decision taken by the meeting of the BAC on 25 September 2025 that you Chaired. So let us take it step by step. Those two, Ngaphesheya and Elshadai, are two of seven bidders who ultimately get awarded a contract through the tender process. Do you

20 accept that?

MR MNISI: I accept that. Permission to just explain? After a thorough process has been followed, what the verification of external probity contains.

ADV CHASKALSON SC: That award takes place pursuant to a decision of the BAC on 25 September at a meeting that

you Chair.

MR MNISI: I confirm that.

ADV CHASKALSON SC: I am going to give you all the time in the world to comment later. I just want to establish which of the facts are common cause.

MR MNISI: I confirm that, Chair.

ADV CHASKALSON SC: Okay. You now realise, even though you did not at the time, that Sergeant Nkosi was asking you to rig the tender in favour of those two bidders.

10 Do you accept that?

MR MNISI: Chair, I am not going to say yes or no. I qualified this with all due respect. Firstly, by virtue of persistence, I made up my own inference. There is no conclusive evidence for me to accept that. But due to the persistent nature of the request and how they came about, I, in my mind, saw it as that. But I cannot conclusively say with objective evidence that I was asked to lead the tender. The request that was sent to me was to check for compliance.

20 **ADV CHASKALSON SC**: Certainly at the time of the first message, your evidence is that you thought Sergeant Nkosi was just asking you to check for compliance.

MR MNISI: Yes.

ADV CHASKALSON SC: You knew at all times that you could not check for compliance because the documents

should be under lock and key at BEC and you should have no sight of those documents until they served before you at the BAC.

MR MNISI: I knew that and I could not assist. And I can also confirm I had no sight of those documents at any point whatsoever.

ADV CHASKALSON SC: You did not send any written message to Sergeant Nkosi telling him that you could not check for compliance because that would be an improper
10 interference with the BEC, but you say you told him this in a call at the time of that first message.

MR MNISI: Yes, SC.

ADV CHASKALSON SC: Although General Dlamini should have known that any enquiry on your part in relation to Ngaphesheya or Elshadai would be an improper interference with the BEC, you took no action in relation to what appeared to be his request that you check for compliance in relation to those two companies.

MR MNISI: I took no action because at this point in time
20 there was no action to be taken.

ADV CHASKALSON SC: Despite the fact that you allegedly made clear to Sergeant Nkosi on 11 March that you could not do anything to check the compliance of Ngaphesheya and Elshadai, one week later, on the 18th of March, he sent you another message with those two names

and you understood him to be asking again for you to check for their compliance.

MR MNISI: The persistence was continuing, Chair, and this is why it was at this point where I mentioned to the Commission that I really started to suspect that this is him playing me for a fool in terms of saying, please assist in terms of ensuring that this is awarded. Hence, I also played along and I used a method better known as huffing and puffing, but I did not assist in any way or form.

10 **ADV CHASKALSON SC**: And as part of your huffing and puffing, you responded to that message saying, thanks, my brother.

MR MNISI: Yes.

ADV CHASKALSON SC: And you chose to do that instead of sending him a message in writing saying that what he was asking you to do was impossible and improper.

MR MNISI: Yes, SC, and the reason for that, as stated earlier on, I had no conclusive evidence that he was asking me to do something that is improper. What I had was him
20 asking me to check for compliance. I was not willing to start any conflict by virtue of me not having any conclusive evidence.

He would have just told me straight, but I did not ask you to do that. Why are you even saying that? So I chose to deal with this matter in a delicate matter and wait

for him to be clear on what he thought and what he wants me to do. I took it on the basis that we had a discussion. It was a check for compliance, SC.

ADV BALOYI SC: You did not consider a request to check for compliance when a bid has closed. You did not consider that to be improper, that request?

MR MNISI: No, it was improper. Hence, I told him from the beginning that it is improper and I did make that clear to him.

10 **ADV BALOYI SC:** Okay.

ADV CHASKALSON SC: Also on 21 March, the Deputy Mayor told you that ActionSA and EFF had asked him to interfere with the tender by putting forward five companies. Is that correct?

MR MNISI: That is correct, but also just to qualify, it was a statement of warning that be careful, there are people purporting to try and influence the process. We need to safeguard this by all means possible.

20 **ADV CHASKALSON SC:** But the fact was that he had told you that the EFF and ActionSA had asked him to put forward five companies for this tender.

MR MNISI: My understanding at the time was that, hence I have agreed. I just requested your permission to explain and I think I have provided an explanation on the context behind be careful, we need to safeguard the process

accordingly. We cannot allow this to jeopardise the City's tender processes. That was the discussion with the Deputy Executive Mayor.

ADV CHASKALSON SC: You forwarded the message from the Deputy Mayor to Sergeant Nkosi?

MR MNISI: Yes. To explain further, the reason for forwarding him this message was also to plant the discussion that I had with him on 148. This is sent on 152, well after he had started enquiring about these issues. The
10 purpose of that was to try and cement the point, there is nothing I can do to assist you with this. This is a process that is against the law.

ADV CHASKALSON SC: You at no stage raised the threat of interference from ActionSA and EFF with the compliance people?

MR MNISI: The answer to that is yes. Can I request permission to explain further? Chairperson, in this country we need to be extremely certain when you raise any threat of interference by any parties. You need to ensure that you
20 have conclusive evidence to justify your case. We have seen what happens to whistleblowers. We have seen that people die in this country for raising matters with concrete evidence.

In this case, in point, I have no concrete evidence. The only discussions that were there were individuals

asking me to do something that they thought was lawful, which was of course unlawful and I was clear on how I dealt with it. It would have been extremely reckless and irresponsible for me to do that without the appropriate evidence to back up my claim, not only for myself, Chair, but for my family.

ADV BALOYI SC: But you are sharing it with somebody else as a fact. You forward this to say, and you said to us earlier that you said, see what others are doing. So you
10 have formed a view that this is a fact. ActionSA and EFF have said to Mr Modise that he must submit only five and they also want to interfere. You have given us all of that explanation. So you have formed a view as you share it with Sergeant Nkosi. It is not as if you are in doubt about it.

Certainly from your explanation, you did not express any doubt about the veracity of what is contained here and what is being discussed with you is you do nothing about it. In fact, you do something. You share it with an
20 outsider. Within the City, you do nothing about it.

MR MNISI: Chair, context of that message, firstly, I do not have and I did not have any conclusive evidence. Secondly, sharing it with the outsider was purporting to asking me to do the same thing. It would be helpful for me to desist the persistence from continuing further. That was the context of

sharing that in order to try and make the matter solid within Sergeant Nkosi's mind on why I say I cannot assist on this matter.

ADV BALOYI SC: I hear your answer, but I must say it does not make sense.

ADV VAN DEN HEEVER: Sorry, Commissioner, we did not hear what you said.

ADV BALOYI SC: I hear his answer, but it does not make sense, his answer.

10 **CHAIRPERSON:** Do you want to comment on that, Mr Mnisi?

MR MNISI: With all due respect, yes, I do. These are the sequence of events. For me to raise any threat, I need to justify to my superior with concrete evidence on why I am saying this is there, Chairperson. Without having that, the City Manager would put systems in place to safeguard the process. I would not be in a position to even justify to him what I am saying. He would say, we are seeing these messages, we are seeing this communication, show me
20 verbatim where you are seeing unlawful instruction.

Hence, I am saying, Chair, without that being on board, there is no way that I could have taken a risk of that nature without being safeguarded. We have seen what had happened. We had a point in time when my security personnel was withdrawn for no reason whatsoever. I need

to be sure when I raise issues of this nature, and I need to be able to back that up with concrete evidence.

ADV CHASKALSON SC: Let us continue with the sequence. We have now got to 25 March and you have now told Sergeant Nkosi twice that you cannot do anything to check the compliance of Ngaphesheya or Elshadai. You have never done that in writing, but you say you have done it twice in calls. He now sends you a message for the third time with the two names, Ngaphesheya and Elshadai and
10 you understood him again to be asking to check for their compliance.

MR MNISI: I understood him?

ADV CHASKALSON SC: Again, for the third time, to be asking you to check compliance on those companies.

MR MNISI: Is this on page 177?

ADV CHASKALSON SC: No, it is not 177. It is 157.

MR MNISI: So on 157, Chair, like I am saying, that is what I suspected and I ignored him. Because at this point in time due to the persistence, I had already made up my mind,
20 well, thought about this, that this is more than just checking compliance. In my mind, I already formulated that, and it was known to me.

ADV CHASKALSON SC: You were supposed to have a meeting with Sergeant Nkosi and General Dlamini later that day, the 25th of March, but General Dlamini did not arrive at

the meeting.

MR MNISI: Yes.

ADV CHASKALSON SC: So instead, you just spent 45 minutes with Sergeant Nkosi.

MR MNISI: After 45 minutes, yes.

ADV CHASKALSON SC: After your 45 minutes with Sergeant Nkosi, but still on the same day, Sergeant Nkosi forwarded you another message from General Dlamini with a list of seven companies, saying that these were the seven
10 companies that Victor Kgopa, the Chair of the BAC, said were his mandate. And the mandate was alleged to have come from someone called Nico. You are nodding your head, so you accept all of that.

MR MNISI: I accept all of that.

ADV CHASKALSON SC: And you did not know who Nico was, but Sergeant Nkosi has now explained that it was Nico Mathobela.

MR MNISI: Yes, Chair. I did not know who Nico was, and I still do not know who Nico Mathobela is.

20 **ADV CHASKALSON SC**: Nico Mathobela was certainly not any person who had any legitimate role to play in the procurement process relating to TMPD-1.

MR MNISI: I do not know Nico Mathobela. I am not aware of him being an employee at the City of Tshwane. So as far as I am concerned, he might be an outsider. I do not know.

ADV CHASKALSON SC: But the fact that the BEC Chair had apparently been given a mandate from an outsider to appoint seven companies was not an issue that you saw fit to raise with anybody.

MR MNISI: Firstly, the BEC Chair needs to come on board and raise this issue with me. Thirdly, any of these companies that were there in any case would disqualify for various reasons, as we have seen. So at this point in time, I was not even interested in this. My pure interest was to
10 safeguard the process, one, to get an alert that could serve as concrete evidence for me in order to enable any potential escalations.

ADV CHASKALSON SC: But you did not see fit to raise the allegation that someone had given a mandate to the Chair of the BEC, with the Chair of the BEC himself.

MR MNISI: I cannot raise it with him. I would now be actively interfering in the BEC process. This is a BEC that is independent, and they need to ensure that they do not discuss anything of the BEC, the work that they do, outside
20 the committee itself. I, as the CFO, am not allowed to ask for progress, status quo, of any nature, whilst that process is ongoing.

By law, I cannot interfere. That would be interfering. So I would wait for the BEC Chair to raise this as an alarm and say, I have got a problem now. This is

what is going on. As part and parcel of that, I could effectively use that submission as part of my evidence of escalating further. In the absence of that, I just need to ensure that we safeguard the process and be alert of any concrete evidence that I need to obtain, which will enable me to escalate the matters further. At this point in time, there was nothing that was there.

ADV CHASKALSON SC: You certainly did not raise it with the probity investigators when they were later charged with
10 investigating the probity of this tender.

MR MNISI: I was accountable of the probity exercise, taking into account I know the stringent process that they undertake, the stringent process of document analysis, the various systems that they use, not only in terms of validating handwritings and signatures, they have got intense processes that they utilise.

I was supportive of that process, and I thought I could place full reliance on that. Secondly, on the basis that this is an external firm who has got absolutely no
20 interest and wants to ensure that the process is seamless, I placed significant reliance on that process. It is an external party. It is a third-party confirmation, which is superior and authoritative in nature.

ADV KHUMALO SC: But we know from you that probity sometimes gets it wrong. We know about the truck issue.

We know about the financial statements issue.

MR MNISI: Yes, we do. We have seen that.

ADV KHUMALO SC: So you could not be confident that everything they did would be 100%.

MR MNISI: Chair, if we were to operate in that manner, we would never trust anything because at this point in time, almost every external certification step is based on human intervention and human analysis. The point is, are those matters picked up at a certain point in time? Are the
10 internal controls strong enough to have a debate or a discussion on those matters?

I mean, we have had instances where sometimes auditors get issues wrong, and those are third parties as well. So internal controls are key to identify any mishaps, even from a third-party confirmation perspective, taking into account that these are also human beings. But by virtue of these guys being external independent individuals, it carries significant weight because it lessens the burden in terms of worrying of any particular interest.

20 But further, I am happy that internal controls are strong and I am able to pick up any deficiencies within that process as well.

ADV CHASKALSON SC: Straight after the message about the alleged mandate of Victor Kgopa was sent to you, you receive another message also forwarded by General Dlamini

through Sergeant Nkosi, which lists seven companies, which are described as, the message reads:

“Captain, find below our vehicles for land to be given ...[indistinct] to in order of priority.”

MR MNISI: I confirm.

ADV CHASKALSON SC: You confirm you received that?

MR MNISI: I confirm I received that. Also, permission to just explain on that?

10 **ADV CHASKALSON SC**: Before you, can I just? You have a permission. You will get an opportunity. As I understood your evidence, you decided to huff and puff at this point because you suspected they were asking you to interfere improperly. Is that correct?

MR MNISI: Correct. At this point, I knew there was more than just compliance. Even though from their perspective, it was still compliance in inverted commas, I had to huff and puff because I was aware.

20 **ADV CHASKALSON SC**: And so you responded by sending two texts. The first is:

“Thanks, Mfowethu, I am on top of this.”

And the second is:

“This is ours, Mfowethu. This is the final list, right?”

MR MNISI: Correct. I sent those messages by way of

huffing and puffing.

ADV CHASKALSON SC: And your huffing and puffing seems to have succeeded because the response of Sergeant Nkosi was:

“Yes, it is our final list.”

MR MNISI: Also, just to – yes, permission to just explain, SC, is that from then moving forward, no further inferences were made in terms of me assisting in compliant checks in reference to this bid. Hence, my huffing and puffing helped
10 me deal with this assistance that I had been facing.

ADV KHUMALO SC: That makes sense. If you agreed with his final list, there is nothing further to do. You are on the same page as far as what his final list is. He does not need to come back because you said it is a final list he confirmed. So as far as you are concerned, everything is in order. Why does he need to come back? Because final list is agreed.

MR MNISI: That is the point of huffing and puffing, Chair. That is the exact point of huffing and puffing.

20 **ADV KHUMALO SC**: So I do not understand how it supports what you are trying to say because if he says this is our final list, right, or you are saying that and he says yes, that is the final list, it means the final list of seven is set. There is no further debate. There is no need for further request because there is the list. He is happy with

it. You are happy with it. That is the end of it.

MR MNISI: Yes, spot on, Chair. But your understanding, I just need to qualify on that and on my reason for saying why I had to entertain him. This issue has been persisted right through to the end. I had really seen that this was a situation where it was more than just compliance under the pretext of just compliance. Even though I do not have conclusive evidence to say that at this point, but why should I continue entertaining him and have this matter haunting
10 me indefinitely?

I played the same game that they were playing. They were huffing at me in terms of just checking compliance. I did the exact same thing. It helped me, Chair, because I needed no longer to deal with any of these issues moving forward.

ADV KHUMALO SC: I think you are missing my point, Mr Mnisi. I am saying to you there was no need for him to send you further lists or to require you to do anything further because you say to him this is ours, this is the final
20 list, right? And then he confirms. So the issue is finalised.

MR MNISI: Chair, the issue is not finalised. That is exactly what I wanted to achieve. I needed to get him off my back. If he thinks it is finalised, that is his thought process on its own. On my perspective, I know exactly what I meant.

ADV KHUMALO SC: And the same seven companies on his final list, those are the companies that were awarded?

MR MNISI: No, not all of these companies are awarded. From my looking at this list, three of them are awarded out of the seven.

ADV CHASKALSON SC: Four out of seven.

MR MNISI: Okay, four, but not all of them were awarded.

ADV KHUMALO SC: Okay.

ADV BALOYI SC: When you ask in that page where you
10 ask, this is ours, Mfowethu, as against whose?

MR MNISI: We addressed this at first.

ADV BALOYI SC: Ja, no, you can address it again. This is ours, Mfowethu, against whose?

MR MNISI: Yes, so the purpose of this, this is ours, meaning this is the final list. I put a question mark, it was the informal nature of our discussions. What I meant to this was, this is the final list, this is our final list, this is the final list. The context of how the informal nature has been
20 termed, it might not make sense now, but that is what I meant by that.

ADV BALOYI SC: No, you are asking two different questions. However you read this, whatever context, whatever formulation and repositioning of what is written there, it is two different questions. The first question is, this is ours, Mfowethu? And the second different question

is, this is the final list, right? So I am asking you about the first one. When you say this is ours, Mfowethu, my question is, as against whose list? Because we are talking about a list, and you are confirming with him that this is yours.

MR MNISI: Yes.

ADV BALOYI SC: As against whose list?

MR MNISI: Commissioner, I was not comparing it with any list that had been received. I was merely stating the fact
10 that this is the final list, by way of huffing and puffing, so this matter could stop for my end. That is what I meant when I sent this message.

ADV BALOYI SC: So we should not read, we should consider the first question as not written, because the two do not coalesce into one question. In any construction, they do not. They are two different questions. Your response suggests, or means to me, that then I must consider the first question as not written because with both questions you were conveying, according to you, that this is
20 the final list. That is what you were asking him, this is the final list, right?

MR MNISI: Yes, but permission to expand, Commissioner. The context of that, I could have easily stopped at this is ours, Mfowethu. And I know in instances when I deal with informal matters, I respond extremely quickly. I could have

easily deleted it. I do not know why I did not make those necessary corrections. But what I meant when I was sending this, what I have just explained, that this is the final list.

ADV BALOYI SC: But can we just work, I want to see if you are happy to agree this. Let us work with the text as it is, right? Do you accept that the text, even before you explain it, do you accept that the text conveys two different questions? The text.

10 **MR MNISI:** Yes, yes, I agree.

ADV BALOYI SC: You accept that?

MR MNISI: Yes.

ADV BALOYI SC: Okay. And so I do not read, I should not read, not read one. I should try and find a way to reconcile them. I must not disregard any one of them because they have, it is two different questions.

MR MNISI: That is my request, Commissioner. I do not want to say to just completely disregard the first one, because it is there, unfortunately.

20 **ADV BALOYI SC:** Okay.

ADV BALOYI SC: And you say we must disregard the first question of this is ours, Mfowethu, and rather go with the question that asks, this is the final list, right?

MR MNISI: That is what I meant.

ADV BALOYI SC: Okay, thank you.

ADV CHASKALSON SC: Now, while this process is still before the BEC, you are advising Ngaphesheya on what you say is another tender with another municipality.

MR MNISI: Based on the submission and the scrutiny of those documents, I can say with surety. It is not based on what I am sharing, I am certain, it was not anything related to the City of Tshwane, but I can confirm that I did provide general advice on what the requirements are.

ADV CHASKALSON SC: And in the context of that
10 process, you send a message that says we need Grade A guards. So if it is not a tender for the City of Tshwane, then by referring to we, you are referring to Ngaphesheya as part of we.

MR MNISI: So firstly, this is not part of the City of Tshwane. I had tried to clarify on that inference where there was two scenarios that was raised by Commissioner Baloyi. This is Grade A that was needed. There is nothing in TMPT-1 which requires Grade A. I respectfully thought we had dealt with that matter.

20 And my only concern now is that, yes, I did advise, after seeing a document from another institution on the key terms of reference, but I again refer you to that. But further, the scoresheets that are there, the scoresheets that I was provided to SC in terms of Bundle 4, we could see where those scoresheets engage. I am just adding further

to that inference if we still think I might have interfered.
But it does matter ...[intervenes].

ADV CHASKALSON SC: Mr Mnisi, I think we are at cross-purposes. I am just putting to you the common cause facts. I am not going back to debate whether this was for a Tshwane tender or another tender. You say that this was for a third-party municipality or organ of state tender.

MR MNISI: Yes.

ADV CHASKALSON SC: And in that context, you say, you
10 send a text saying we need Grade A guards.

MR MNISI: Yes.

ADV CHASKALSON SC: We.

MR MNISI: Yes.

ADV CHASKALSON SC: Which suggests that we refers to yourself and Ngaphesheya.

MR MNISI: This is how we used to speak. It referred to me and Sergeant Nkosi, not me and Ngaphesheya. This is also one of the key questions that I received, that in some instances, we interchangeably used those like we, ours, to
20 a point where Commissioner Khumalo even said brothers for life.

That is what I was trying to explain when I was saying that. We did not mean City of Tshwane. We did not mean me, Ngaphesheya. It meant me, Sergeant Nkosi. That is how we used to normally speak. But that is what I

meant when I said we need that.

ADV CHASKALSON SC: So you and Sergeant Nkosi needed Grade A guards for the Ngaphesheya tender.

MR MNISI: No, not me. That is what he needed. In a normal inference, we would refer to each other interchangeably as we and ours. There are many other inferences within the chat where you see that. It is something that purely deals with me alone, but he would say ours.

10 Where it is a matter where it deals with him alone, I would say we should be worried, for argument's sake, where it has got nothing to do with me completely. So I am just trying to bring that inference. When I said we, it does not necessarily mean Sergeant Nkosi. It means you, but that is how we spoke due to the nature of the relationship and how it had developed over time.

ADV CHASKALSON SC: Let me take you to another instance where you use we quite clearly to refer to Ngaphesheya, yourself, and Sergeant Nkosi in relation to a
20 tender at the City of Tshwane. Can you go to page 99? You have it?

MR MNISI: I have got page 99.

ADV CHASKALSON SC: And there you will see that on the 7th of January, at message time 08:55:35, which is 10:55 in real time, you send a screenshot to Sergeant Nkosi

advertising a tender for the supply, delivery, and offloading of refuse bags for the City of Tshwane for a period of three years as and when required. And the message underneath says:

“Mfowethu, I have sent the above to Bheki.”

In other words, to his brother:

“We need to regroup on it.”

What is we regrouping on a tender about?

10 **MR MNISI**: So firstly, let me clarify a few things. This was a tender that was advertised on the 12th of December. I sent to him on the 7th of January. There is nothing sensitive about that. There is nothing confidential. Something in the public domain. I think that is the first clarification I want to bring on board.

Second, it had not closed. It was still open. Regrouping was me giving them advice in terms of what the key administrative requirements are, mandatory requirements, as well as key evaluation criteria. This
20 seemed like something easy, and if you get that right, the competition would now be purely based on pricing.

As I have stated earlier on, it is allowed by law. This is a matter that was even escalated by the City Service Delivery War Room. So the regrouping, that meant giving advice on an open tender within the City in reference to

administrative, mandatory, as well as evaluation criteria in a general context.

The we, again, it is just the way we used to speak. And I am happy you are raising this because it is one of the items where it does validate that. We does not mean me, him and Ngaphesheya. I have got no interest in that. That is just our way of speaking.

ADV KHUMALO SC: Sorry, can you just clarify what is allowed by law? You selecting one potential supplier and
10 advising them on how they should comply with the requirements, and then you later on evaluating the same tender? You say that is allowed by law?

MR MNISI: No, I am saying what is allowed is to explain where certification matters.

ADV KHUMALO SC: No, no, but here you are selecting one service provider potential and you are saying, give this to your brother, presumably so that he can submit a bid, and you must regroup to advise him on how he must complete so that the only thing remaining is the price. And
20 then you are going to later on evaluate the same tender.

MR MNISI: I will not evaluate. I will adjudicate.

ADV KHUMALO SC: Adjudicate, yes.

MR MNISI: Yes.

ADV KHUMALO SC: So you say that is what is allowed by law?

MR MNISI: Chair, the context of this was me to provide general clarification. And I could provide general clarification on anyone who asked me that. He had asked me in previous instances on this matter. It started with the matter in terms of the vendor number. During those discussions he had asked me.

ADV KHUMALO SC: So you do it with all the bidders or you choose one and you only give advice to that one?

MR MNISI: Bidders are at liberty to ask me, and it does
10 happen where you send some clarification emails and we provide that as well.

ADV KHUMALO SC: And you meet with them to regroup with them?

MR MNISI: If needs be, they are invited to come on board and we will discuss them physically if they still maintain that they cannot understand them, as long as the bid is still open and as long as you do not interact with any documentation.

And also, maybe for the house to know, they were
20 unsuccessful because they did not meet any of those mandatory requirements. So even if I did do that, it did not assist because they did not comply with the ambit of the law, and they were not awarded in this bid. But the principle and the prescripts behind that, it is allowed, Chair. There is nothing wrong with that. As long as there is no

physical interference in interaction with documentation from those bidders.

ADV BALOYI SC: The print here is very fine, so you can correct me if I am wrong, but I understand you to be saying this was a bid or a tender that was open.

MR MNISI: Yes.

ADV BALOYI SC: You were bringing it to Bheki's attention when you say in your message, I have sent the above to Bheki.

10 **MR MNISI:** Yes.

ADV BALOYI SC: You were alerting him.

MR MNISI: No. In previous discussions, he had told me that he had seen the Sergeant Nkosi. So I was confirming if this is the one, then I am sending it to him. He had raised this to me. It was in the public domain since the 12th of December. This was the 7th of January in this time. So they were already aware of it. It was not me initiating anything, Commissioner Baloyi.

20 **ADV BALOYI SC:** Why were you sending this to Bheki if this tender is in the public domain? And my focus is not whether it was or not in the public domain, so let us not make that the conversation. But now that you have said that, if this tender is in the public domain, so presumably Bheki is aware of it, presumably, why are you sending it to him if you are not alerting him to, friend, there is a tender

like this?

MR MNISI: No, I was confirming that this is the one. I was not actively alerting him. We had a discussion previously, and this was by way of me confirming. Some individuals ...[intervenes].

ADV BALOYI SC: Sorry, finish?

MR MNISI: Yes, Chair, that was a confirmation.

ADV BALOYI SC: So you were confirming to him what? I am sorry, I am not understanding your explanation.

10 **MR MNISI**: Okay. So I was confirming if this is the one that they alerted me to, firstly. Secondly, I am available to discuss any key administrative, mandatory and evaluation criteria if you do not understand that. If needs be, that is for me to regroup. I can be able to explain that to you.

ADV BALOYI SC: Your message says, I have sent the above to Bheki.

MR MNISI: I agree.

ADV BALOYI SC: You do not say, I am confirming whether this is the one.

20 **MR MNISI**: Yes.

ADV BALOYI SC: Your message, and again, maybe you will say it is because this is on text and you are writing formally, but your message as it stands now, it is you have sent this to Bheki. That is all it is. And then the next thing you say is different. You say we need to regroup on it, and

your explanation is it was to advise him about how to complete it.

And I am summarising, how to complete it minus price, so that price is the only issue. So you are conveying two different things. You sent it to him, come, let us meet so I can help you complete. That does not square up for me, at least, with you asking for confirmation from him whether this is the tender that he was talking about.

Because the regrouping, you must be planning to
10 regroup about something that you are certain about. You are certain it is this tender that you are sending to him. There is certainty about it. That is why the invitation to regroup.

MR MNISI: Commissioner, firstly, the intention around that, it was a reminder. We had had a discussion about this previously. Me was just confirming, is this what you were talking about earlier on? Secondly, I did not help complete. I just want to get that clear. I am not allowed to help complete documentation. I am not allowed to interact with
20 submissions by law, but I am allowed to explain critical evaluation criteria, mandatory documentation and mandatory requirements, if need be. That was the context of this message.

ADV BALOYI SC: What does that mean? The tender document does tell and provide explanation. It tells all

bidders what information they should be providing in the document, right, and what should accompany that document. And that is what everybody gets evaluated on. So when you say you are going to be advising them about evaluation criteria, and by the way, this is not the first time that Ngaphesheya, if we look at the sequence of messages, it is not the first time that Ngaphesheya is submitting a bid. And so I am not sure that, it is not clear to me, that they would have required your advice about what is the
10 evaluation criteria, among other things.

MR MNISI: Yes.

ADV BALOYI SC: So can you just then explain what were you going to be advising Bheki and Sergeant Nkosi about relating to this tender?

MR MNISI: Yes. Commissioner, like I said, it was purely to advise, if need be, in terms of administrative, mandatory and evaluation criteria. Nothing else and nothing more. They have submitted many bids. They were unsuccessful. Equally with this bid, they were unsuccessful because they
20 did not comply with whatever requirements that were raised. So bidders do not understand compliance documents.

We just looked at item C and D, which said we want a company's rates and taxes, but then D says also individuals. So most people misinterpret that and only consider one. That is why, Commissioner, I even attached

Annexure GM2 and 3, because this matter was so persistent, it was even escalated to the echelons of the City service delivery war room.

ADV BALOYI SC: No, I do understand that. I do not think you need to repeat that over and over and spend as much time as you are spending on it. We are speaking about a very specific bid. This is not general, the general issues that you advise bidders on. There is a very specific tender. You elect a potential party to it and then you say we need to
10 regroup on it.

He has not asked you, he has not said to you, and that has not been your evidence. You are not saying he said to you I do not know how to complete it or I want advice from you. You initiate on your account, you sent it to him to confirm if this was the bid he was talking about. And then, in addition to that, you say we need to regroup on it.

So here you are Chairperson of the BAC, inviting a very specific party who wants to bid, who you are suggesting they should bid. In fact, I want to say that to me
20 this looks like you are alerting him to a tender and you wanted him to submit and you needed to get together so that you can discuss what you are discussing about completing that tender.

And you are Chairperson of the BAC that is going to be adjudicating that very bid and you see nothing wrong

with that. Even in hindsight, you do not see anything wrong with it if you did not see it at the time.

MR MNISI: Firstly, I did not actively alert. I am giving context. I think some of these matters, unfortunately, there is an element of restriction to what we have in front of us. But the context behind this was not me actively alerting. It was a confirmation taken into account from a previous discussion that we had.

How I am validating that is that this was already in
10 the public domain. I know you say it is not relevant, Chair, but with due permission, it forms a critical component as part of my explanation and that they had seen it. It was just a confirmation.

Secondly, regroup if needs be. If you need clarification, I am available. If you need clarification on these matters, only restricted to this, I am available for that. And ultimately, Chair, they were not compliant. They were not awarded on this bid in any case because they failed to meet the minimum requirements, which means the matter is
20 falling dead on this aspect and I did not interfere and I could not interfere, regardless of whether I sat at BAC.

ADV BALOYI SC: Ja. Well, the last thing I want to say is your text does not say regroup if need be, which is completely different from what is written here. What is written here is we need to regroup on it. It is quite positive.

It is not open-ended as to it is up to Bheki and Sergeant Nkosi. You actually say we do need to get together about it. That is my last comment on it.

MR MNISI: Chair, before we move on, it is just unfortunate that messages are informal and that is what I meant at this point. So I want to give that as my advice, as my testimony to the Commission in terms of clarifying the content of that discussion.

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

10 **ADV CHASKALSON SC**: Chair, we have gone long past 4 o'clock.

CHAIRPERSON: Let us go until half past, perhaps.

ADV CHASKALSON SC: I am sorry, Chair. I should ...[intervenes].

CHAIRPERSON: Or should we stop?

ADV CHASKALSON SC: Can I ask if we can adjourn at this point? I did assure my learned friend that we would never run much beyond 4 o'clock.

CHAIRPERSON: I saw Ms ...[intervenes].

20 **ADV VAN DEN HEEVER**: Chairperson, I do not want to discuss it in public, but it is very difficult to go past four. Thank you.

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

INQUIRY POSTPONED TO 21 APRIL 2026

INQUIRY ADJOURNS
