

IN THE HIGH COURT OF SOUTH AFRICA

DURBAN AND COAST LOCAL DIVISION

DURBAN

CASE NO      CC27/04

DATE    21 February 2005

THE STATE versus

1. SCHABIR SHAIK
2. NKOBI HOLDINGS (PTY) LTD
3. NKOBI INVESTMENTS (PTY) LTD
4. KOBIFIN (PTY) LTD
5. KOBITECH (PTY) LTD
6. PROCONSULT (PTY) LTD
7. PRO CON AFRICA (PTY) LTD
8. KOBITECH TRANSPORT SYSTEMS (PTY) LTD
9. CLEGTON (PTY) LTD
10. FLORYN INVESTMENTS (PTY) LTD
11. THINT (PTY) LTD [charges withdrawn]
12. CHARTLEY INVESTMENTS (PTY) LTD

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BEFORE THE HONOURABLE MR JUSTICE SQUIRES

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ASSESSORS:

MR J I JACOBSZ  
MR A B MOHAMED SC

ON BEHALF OF THE STATE:

MR W J DOWNER SC, assisted by  
MR G H PENZHORN SC  
MR A STEYNBERG  
MR S MANILALL

ON BEHALF OF THE DEFENCE:

MR F VAN ZYL SC [On behalf of  
accused 1 - 10 & 12, instructed by  
Reeves Parsee Attorneys]

MR H K NAIDU SC [On behalf of  
accused 11, instructed by Fathima  
Karoida Attorneys]

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PROCEEDINGS RESUMED ON 21 FEBRUARY 2005APPEARANCES AS BEFORE

SQUIRES J Yes.

MR VAN ZYL May it please the Court, M'Lord. M'Lord, I'm not going to do an opening statement for the defence. We have set out our case in cross-examination quite substantially.

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SQUIRES J Yes.

MR VAN ZYL And I'll get right on. I'm going to call accused No 1 -accused No 1 also, of course, represents the other corporate accused.

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SQUIRES J Yes.

MR VAN ZYL With Your Lordship's leave, may I call accused No 1.

SQUIRES J Yes, certainly.

MR VAN ZYL CALLS

SCHABIR SHAIK

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SQUIRES J Mr Shaik, would you like a chair to sit on? --- M'Lord ..[intervention]

If you have been unwell or ...[intervention] --- ... perhaps request one later, M'Lord, if I feel ...[intervention]

Well, will you just say when you would like one. --- Thank you, M'Lord.

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Yes.

OATH ADMINISTERED AT THIS STAGE

EXAMINATION BY MR VAN ZYL Mr Shaik, you are accused No 1 in this matter. You also represent the corporate accused 2 to 10 and 12? --- Yes, M'Lord.

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You are at present a director of all these companies? --- Yes, M'Lord.

And I think it is common cause, it also has been admitted when these companies were incorporated, etcetera, you made those admissions and you stand by them? --- Yes, M'Lord. 5

Can you just tell the Court, Mr Shaik, how old are you at present? --- I am 48 years old.

Are you married? --- Indeed I am, happily married.

And do you have children? --- No, M'Lord, I don't.

Mr Shaik, can you tell the Court in your own words your association with the current Deputy President of this country, Mr Zuma. When that began, the background against which it began and how it developed. Please speak slowly. --- M'Lord, the bonds of our relationship, the bonds of our solidarity between the Deputy President, my family and myself began during the years of struggle against apartheid, M'Lord. I had the occasion and the privilege to be introduced to the Deputy President, Zuma, on the introduction of my brother, Mo Shaik in London and the purpose of my meeting with the Deputy President Zuma was to begin my process of training in the field of remote systems detonation. My induction into the ANC was largely influenced by my own brothers, Mo Shaik, Yunus Shaik and Chippy Shaik, their commitment to the struggle for liberation in our country so, as such, M'Lord, I was a latecomer for that process. My training in London in this field was very short and brief and I had the option, M'Lord, to assist the ANC Underground in South Africa in developing what we referred to as the conduits of finance and again, 10 15 20 25

M'Lord, it was the Deputy President that provided me the guidelines; it was the Deputy President who introduced me to the late Thomas Nkobi, who was then our National Treasurer-General for the African National Congress.

Mr Shaik, if I can just stop you there. Before you went to London, what were you doing in this country? What work, what occupation? --- M'Lord, when I left high school, I worked in my father's business and he was an upholsterer by profession or by occupation. My dad was unable to put me through a tertiary education and I was quite happy to work in his shop. M'Lord, I was then apprenticed as an instrument mechanic or technician, as we refer to it and undergone some training at the South African Institute of Instrumentation at Mount Edgecombe.

SQUIRES J Is that the technical college? --- The technical college. After this training, M'Lord, I then proceeded to work at various industries, culminating at Sasol 2 and 3 in the field of industrial instrumentation and process control and lastly was seconded to the nuclear power station in Koeberg. I worked there, M'Lord, for almost ...[intervention]

Just tell me what that means, what that involves, instrumentation control? --- M'Lord, these are various electrical, mechanical and digitally controlled instruments that are used in industries where there's a movement of raw material to a finished product, so sugar cane to sugar juice, for example, M'Lord.

Yes, thank you.

MR VAN ZYL You then went to Koeberg Power Station. What did

you do there? --- M'Lord, I was employed as a testing - in the lab of instrumentation involving testing of instrumentation that would be utilised for the operation of the nuclear power plant itself and I was very fortunate, M'Lord, to be given that opportunity, because it exposed me to a very advanced field of process control. 5

Did you have any ties with the Peninsula Technikon in the Cape? --- M'Lord, I was then offered a position to lecture at Peninsula Technikon.

In what field did you lecture? --- I was to head up the position of Instrumentation Process Control and Automation. It was a course that the Technikon was looking to introduce in its *curriculum* in electrical engineering light current and I felt it was an opportunity that I could not miss and, M'Lord, I then lectured in that position for at least a year and a half to two years and I was then called on to head the Research Division within the Department of Electrical Engineering. 10 15

M'Lord, at that time I competed, on behalf of the Technikon, for a research programme which Intel at that time globally had put out and I competed against various universities and was happy to have won a very prestigious prize and scholarship in instrumentation and control which I later developed at the Peninsula Technikon and that led me up to 1980- late '84/early '85. 20

And why did you leave the Technikon? --- M'Lord, I was aware during my working career that my brothers were very involved in the African National Congress and some of the union work that my brother, Yunus Shaik, was involved in and in '85, my brothers were detained under Section 29, if I may, M'Lord, or Section 28 25

...[intervention]

Of the Security Act? --- Of the Security Act, yes.

Yes? --- In addition to my father having led to be detained in that same period and as a consequence, M'Lord, he had a heart attack or a stroke - I believe he had a heart attack and was admitted to hospital. M'Lord, this was an important juncture in my own life and career, as it began to define my own contribution to what I saw my family and particularly my younger brothers were involved in. I then sought permission from the Technikon to go back home and assist in my father's business, because he was in hospital at that time and lend the financial and moral support that I thought was important for my family's well-being. M'Lord, this was an important juncture, as I said, because I later discovered that because of the decision the Deputy President made when he despatched Ebrahim Ismail - Ebrahim into South Africa, he was to work with my brother, Mo Shaik, and the decision that the Deputy President Zuma had to take when that particular network had been exposed to the security branch and the security forces, it was either the extraction of Ebrahim Ismail back to Swaziland or Mo Shaik. The decision was taken by Mr Zuma to extract Ebrahim Ismail and as a consequence of that my brother, Mo Shaik, Yunus Shaik and Chippy Shaik were detained as a result of that.

Are you saying that as a result of the decision taken by Mr Zuma at the time, that led to the detention of your three brothers?

--- Absolutely, M'Lord.

Mr Zuma's position at that time, what was he and what was his

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position? --- M'Lord, I understood his position to be responsible for the intelligence operations of the African National Congress in exile or outside of the country and had various persons like my brother, Mo Shaik, responsible for the intelligence networks within the country. I don't believe, M'Lord, that the Deputy President Zuma at that time knew the gravity of his decision or the consequence of **his** decision, but such was the nature, M'Lord, of the commitment and the seniority of Ebrahim Ismail, that he could not have been captured - he should not have been captured and I think this weighed very heavy on the Deputy President's mind, as I later - as I later realised.

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Now you told us earlier in your evidence that you then met Mr Zuma in London. When you met him, were your brothers still in detention or had they already been released? --- M'Lord, I - as I said I was - they had - they were already released. I met Deputy President Zuma with Mo in London. Both Mo and I had to leave the country on false passport, as we did many times.

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Now at that time, were you already a member of the ANC? --- No, M'Lord, I don't believe I was.

Did you subsequently become a member of the ANC? --- Yes, M'Lord, I subsequently became a member of the ANC.

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Who recruited you? --- M'Lord, I - it was a very important moment in my life. I was very fortunate to be recruited by - at a - at a senior level by Deputy President Zuma and at a junior level, if I may not - sounding disrespectful, by my brother, Mo.

Now you've already said that after your recruitment you received training in remote systems detonation? --- That's quite

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right, M'Lord.

And thereafter you also told us you were involved in the transfer of funds to South Africa? --- That's quite right, M'Lord.

Exactly what did that entail? Briefly. --- Thank you. M'Lord, during those perilous times, the ANC required to transfer funds that it would collect from international donors and to facilitate those funds into South Africa for the various operations, sensitive operations, some of which were led by my brother, Mo Shaik, in KwaZulu-Natal; other operations like the VULA(?), which was led by Mr Maharaj; the payment of legal consultants, lawyers and senior counsels; the payments towards the UDF; payments towards the Beyers Naude fund.

Yes, and you were responsible for the transfer of these funds? --- M'Lord, I was responsible for setting up what I referred to later as the conduit of funds between London and South Africa in various banks in South Africa.

Now during this time, did you stay in one place in South Africa or outside the country, or what were your movements? --- I had to, M'Lord, travel quite frequently between London and South Africa and particularly outside of South Africa to -the sophistication of electronic transfers, M'Lord, was something we could not be exposed to because of the - or the financial tracking. We had to physically be present in London, collect those funds in cash, deposit those funds in various banks in London and arrange for those funds through our own methodologies we deployed at that time.

And the point is you travelled to and from South Africa at the

time? --- Quite correct, M'Lord.

Did you, during that time, again see Mr Zuma? --- I met Mr Zuma on several occasions in London at ...[intervention]

For what purpose? --- M'Lord, my purpose was to debrief the Deputy President on the instructions of my brother, Mo Shaik with regards to many of the activities within South Africa and in Swaziland. My brother, Mo Shaik, was largely responsible for the intelligence gathering of information, that he needed to courier to people like Deputy President Zuma, Aziz Pahad and others in London. It was on those occasions that I would meet Deputy President Zuma.

Now the ANC was unbanned in 1990. Up to that point, how would you describe the relationship between you and Mr Zuma?

SQUIRES J Between you and?

MR VAN ZYL And Mr Zuma.

SQUIRES J Zuma. --- M'Lord, the relationship has to be seen within the context of the organisational structure of the ANC. Zuma at first was our Senior Commander-in-Chief and Senior Comrade and as such there were levels of discipline and interaction that occurred between us. The relationship obviously was very close because of the level of information that transacted between our - between ourselves; the level of confidence and the level of trust. M'Lord, one of the very important features of meeting people like - or exiled ANC outside of the country was - you would never know when you would be compromised on returning to South Africa and we literally placed our lives in Zuma's hands because, M'Lord, in London it was a big problem in some of our senior ANC people being trapped by MI5 then,

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so the level of trust and confidence in each other grew, M'Lord, and I say with clarity that those were the foundations of developing a relationship that would sustain, M'Lord, to this day. Sustain itself ...[indistinct].

So this was more than just an official relationship, it was also on a personal level? --- Indeed, M'Lord, because if you meet exiled comrades in, for example in London or in Swaziland, you tend to share a - a different kind of comradeship, a different kind of camaraderieship. You begin to confide in each other and, for example, in this case of the Deputy President having hailed from KwaZulu-Natal, he was always keen to know how things were going back home and so he would spend a lot of time, M'Lord, whether it's in pubs or in restaurants, reminiscing issues that were important, so you developed a very close relationship, a very trusting relationship.

Now when the ANC was unbanned in 1990, did Mr Zuma return to South Africa at the time? --- Yes, M'Lord, he was one of the first and few most senior leadership within the ANC that arrived in South Africa.

And this relationship that had developed between you and Mr Zuma, when he was outside the country, did that endure or did it come to an end? --- M'Lord, that relationship continued, particularly during 1990 and the reason - the reasons for that, which one stands out as a - as a hallmark, was during the unbanning of all the banned organisations and particularly the African National Congress, my brother, Mo Shaik, found himself in a very perilous position. M'Lord would recall that including our Honourable President,

Mr Mandela, and all the prisoners on the island were released, I found my brother in a position where he was still wanted by the security forces. He was, as such, a hunted person and that continued for an entire year of - during 1990. My responsibility was to communicate to Deputy President Zuma, which I did, the various necessary communication that Mo and him needed to exchange. Mo was in hiding, so I was almost, M'Lord, an interloper or an in-between party between Mo and Zuma and therefore we shared very confidential exchanges.

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Now this relationship between you and Mr Zuma, you've now told us about 1990, in the years thereafter, leading up to the election in '94, did it endure? --- Yes, M'Lord, Zuma would return to KwaZulu-Natal, obviously being his home here, our families will interact with each other, particularly during our religious festival periods, during our Christmas periods, during the weekend when Zuma himself was beginning to integrate into his family. I would assist him by either a means of transport, but spending more time - I think the families really began to get to know each other and - and ourselves with him, my brothers and himself. My dad and Mr Zuma were very close. I found a particular relationship developing between my dad and Mr Zuma, so I would say, M'Lord, the relationship really solidified further during the unbanned time.

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It's now on a family basis? --- That's quite correct, M'Lord. That warmth of friendship extended to our family.

Now you did make mention earlier that you started working with Mr Thomas Nkobi, the Treasurer-General of the ANC at that time.

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Can you just very briefly give the Court a resume of how that came about? --- M'Lord, during the exile period, I was working with Thomas Nkobi's assistant, a very senior person called - forgive me, M'Lord, I detracted - Horst Kleinschmidt and Horst Kleinschmidt, Nkobi and myself developed those conduits of finance, but I had developed that more closer with Horst Kleinschmidt. It was during the - during 1990 that the ANC were looking for volunteers to assist at Shell House to perform several functions. The Deputy President, Mr Zuma, recommended to Mr Nkobi that I work with him as his assistant and even though I knew Mr Nkobi quite well, I hadn't known him - I knew of him quite well, my relationship with Nkobi got closer as a result of that introduction of Zuma to Mr Nkobi. I then worked in the Treasury as an assistant to Mr Nkobi until the first democratic elections in 1994.

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Now you did tell the Court that during this period 1990 to 1994, you sometimes assisted Mr Zuma with transport. Was that the only form of assistance that you gave him during that time? --- M'Lord, the assistance financially was extended by members of my family to Deputy President Zuma and one must understand, M'Lord, that during the unbanning of the ANC, you had these returning exiles(?), like Deputy President Zuma and many, many others, that would return to South Africa, would - beginning with a zero infrastructure. No homes, no bank accounts, literally, M'Lord, having to start their lives all over again. My brother, Mo, M'Lord, at that time, was a practising optometrist. I had some income saved from my years of working and therefore, M'Lord, assisting our leadership that

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were returning into South Africa with a zero infrastructure was again an extension of our comrade - camaraderieship and the level of our commitment to each other as friends. I met with Zuma several times at Shell House on a weekly basis. He would come in to meet Mr Nkobi, soliciting funds for a range of projects in the country and again our paths would cross and warm exchanges would be made.

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Your personal assistance to President(?)Zuma during that time, was that confined to transport? --- It was confined not only to transport, M'Lord, but as I said through my family and members of my family, it extended to some funds being extended to him and I recall particularly my brother, Mo Shaik.

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Now during this time, you worked with Mr Nkobi, the then Treasurer-General of the ANC. Were your activities confined to this country? --- M'Lord, my role and function with the late Thomas Nkobi, was to specifically deal with special projects, not of a sensitive nature, but special projects, for example like returning exiles into South Africa had the notion that they had to bring their entire lock stock and barrel, if I may respectfully say so, second-hand fridges and stoves and household equipment, and that would impose a great burden financially on the Treasury having to pay for those relocation costs. M'Lord, my first task was to work out the financial viability of such movements of our returning exiles and recommend to the Treasurer that it's cheaper for us to provide a stipend to the returning exilee, than to go through the expenses of having to airfreight or shipfreight such goods. That continued for a ..[intervention]

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SQUIRES J Whose furniture was this you were repatriating? The?

--- The returning exiles, M'Lord, from various parts of the world.

Yes, thank you. Sorry, Mr Van Zyl

MR VAN ZYL As the Court pleases, M'Lord. --- M'Lord, the second phase of my assistance to Thomas Nkobi was the Malaysian Government or Malaysian Party called the UMNO Party, had made a sizeable ...[intervention]

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For the record it's spelt U-M-N-0. --- ... the Malaysian ruling party, UMNO, had made a sizeable contribution to the African National Congress in terms of the first democratic elections that was coming and in preparation of that, had despatched a large contingent - contingency of people and funds and paraphernalia and memorabilia and as such, M'Lord, one of my responsibilities was to assist in the decimation(?) of that information or those materials throughout South Africa. I would have to liaise with our regional structures and regional leadership and get this out ...[indistinct], M'Lord, introduced to such leadership so that they can continue with their function.

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Mr Shaik, during that time did you travel abroad? --- I travelled extensively with Thomas - the late Thomas Nkobi.

For what purpose? --- M'Lord, Mr Nkobi had to travel to thank many governments for their financial assistance that they would lend to the African National Congress. We travelled to Doha Qatar, we travelled to the Arab Emirates, we travelled to Pakistan and, M'Lord, we travelled to London and finally to Malaysia. The purpose, M'Lord, if I may, the purpose of our trip to Malaysia was twofold. Firstly, to -for our Treasurer-General to thank the Treasurer-General of the UMNO Party at a personal level and having to convey - and having to

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convey our President's heartiest thanks to the President of the UMNO Party.

When you're saying "President", you're talking about the President of the ANC at the time? --- That's right, M'Lord, Mr - our Honourable Mr Mandela. The second part of our trip, M'Lord, involved Thomas Nkobi's view of trying to understand the Bumiputera empowerment model that was used by the UMNO Party in empowering the indigenous Malay of Malaysia. M'Lord, those discussions led to the Treasurer-General of the UMNO Party, Tun Daim Zainnuddin and our Treasurer-General, Thomas Nkobi, with me having to meet some of the leading and prominent business figures in Malaysia that had been developed as a result of the Bumiputera philosophy.

Bumiputera is spelt B-u-m-i-p-u-t-e-r-a. What does that mean, Mr Shaik? --- M'Lord, as I understood and as I understand, Bumiputera really means "Sons of the soil", and in this case in the context of Bumiputera, means "Sons of the soils of Malaysia" and they're really referring to the indigenous Malay of Malaysia.

Again very briefly, can you just tell the Court your understanding of how this system of economic empowerment or Bumiputera worked in Malaysia? --- M'Lord would understand that Malaysia was a colonised country and the Chinese were used as the front of - of these colonialist powers to subjugate the Malay population in Malaysia. During the uprising of the UMNO Party, this led to the vision 20/20 that led to the formation of large government funds that would be made accessible to prominent and selected

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Bumiputera persons. These funds were akin to much like the IDC of the SA Development Funds, but would be given to these prominent businessmen for acquisition of - acquisition of companies on the Kuala Lumpur Stock Exchange. M'Lord, endemic in that process was an almost - almost unrecorded understanding between the ruling party UMNO, and these, let's call them Bumi(?) companies, in which the UMNO Party would gain continuity in revenues as a result of these business ventures.

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SQUIRES J Would it actually be a shareholder in some of these enterprises? --- M'Lord, as I later understood, particularly with the larger companies like Petronaz(?), Renong, Landmarks, the UMNO Party held through various trusts a particular equity.

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Now following from that, was Mr Nkobi's idea of the model to follow in this country that the ANC would similarly have a participation in the black empowerment enterprises in mind? --- Indeed, M'Lord.

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Was that his plan? --- That was his plan and his intention, M'Lord.

Yes. Sorry, Mr Van Zyl.

MR VAN ZYL In other words Mr Nkobi found this model in Malaysia as a possible model to be introduced into South Africa? --- Indeed, M'Lord. We(?) looked at the Kuwaiti big 5 model, but for some - for the reasons of social - the social, the economic and the political landscape, the Malaysian model suited Nkobi's vision for South Africa.

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Now the general elections in '94 happened and after the general elections, what was your position *vis-a-vis* Mr Nkobi and the ANC?

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--- M'Lord, shortly before 1994, if I may, Thomas Nkobi left me in Malaysia and had to return to the first democratic elections in Cape Town and, M'Lord, I was tasked by Mr Nkobi, to work with the selected Bumiputera companies and to begin an understanding, to gain a clear understanding of the operations of these companies, from a business perspective. M'Lord, I did so for several weeks and would return to South Africa to report to Mr Nkobi, who was then at Parliament and this continued until Mr Mandela asked or requested Mr Nkobi to leave Parliament because he was very sickly. He had sustained a multiple heart attack in Malaysia, and despite his condition he - he was forced to come back to South Africa. So this continued, M'Lord, for a while, me travelling back and forth from Malaysia and South Africa and on my return informing and briefing Thomas Nkobi of the developments I was pursuing in Malaysia. M'Lord, Thomas Nkobi then returned to South - returned to Durban or came to Durban, as he felt he needed to be close to me, as he had already embarked on a very important project in his mind. M'Lord, his residence **was** in Johannesburg, but he chose to spend time, the last remaining months, which would be for about 6 or 7 months in Durban, where I would report to him on my progress.

Can I ask you to go in Court file 3, to Exhibit P.78 P.78 ---  
M'Lord, may I please ask you to repeat that?

P.78. --- 7A?

78. --- 78?

Yes. It's a letter under the heading of the African National Congress and if you look at P.80, you will see it's a letter that is

written by Thomas Titus Nkobi. --- That's quite right, M'Lord.

You're familiar with this letter and this correspondence? ---

Indeed I am, M'Lord.

And you confirm that this letter was indeed sent off to Mr Mandela at the time? --- Yes, M'Lord. 5

In the first paragraph he says -

"I am presently recuperating in Durban having been discharged from the hospital where I received treatment for a mild stroke sustained last month".

Is this a reference to recuperating at your house? --- Yes, M'Lord. 10

In the second paragraph it says -

"With regard to my role and function as the Treasurer General of the organisation, I wish to inform you of the steps that I have taken to address my responsibilities, thus ensuring that all matters of the Treasury are indeed taken care of and continue to function satisfactorily in my absence". 15

If I can ask you to turn over the page to P.79, at the top of the page he says -

"I believe it is important for you to be ..." 20

and I cannot make out the words in my copy, it looks like "briefed" -

"... on my initiatives in connection with joint ventures with Malaysian business. In June of 1994 Mr Schabir Shaik and myself travelled to Malaysia to meet with certain key and extremely prominent businessmen in the Malaysian economy. These meetings were arranged by 25

our Chief Representative, Cde Ismail Coovadia, and were also known to the Prime Minister, Mr Mahathir, his deputy Mr Anwar Ebrahim, the Minister of Finance, Mr Tun Diam, the Treasurer General of the Umno Party, former Finance Minister, and currently the economic adviser to Malaysia and Vietnam.

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We were briefed on the scope of investments and the intentions of the Malaysians to invest in South Africa and particularly their willingness to include our organisation in their investment strategies. The objective of this inclusive strategy, arises from their understanding that our organisation is indeed in a strategic position to guide their investments within the context of the RDP. In addition, they have come to share in our common belief and concern that our organisation needs to be financially strong and secure and that we ought to move away from a past where we had to depend on the international community for funding of our various programmes and the normal functioning of a political party. Furthermore, I was assured that given our joint cooperation they would be in a position to immediately assist the ANC to a value of R40 million in removing our current and growing bank debt. I instructed Mr Shaik to remain in Malaysia and to report to me on his return to South Africa, which he has done".

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It is that what you referred to earlier in your evidence that you were

requested to stay in Malaysia? --- Yes, M'Lord.

And this reference to the ANC being in a position to guide their investments within the context of the RDP, what does that refer to?

--- M'Lord, the ANC developed a framework of, as M'Lord is aware, of the RDP guidelines for its social and economic and political transformation and the UMNO Party, as such, and the Malaysian Government, as such, shared this common belief. Is that the question, M'Lord? Is that ...[incomplete]? 5

If I can take you to the last paragraph on P.79 -

"I have requested Mr Shaik, Cde Temba Luxomo (presently Head of Finance) and Mr Hilmi Daniels, our external auditor, to work on the structures required to be put in place to develop these joint initiatives. This structure is envisaged as being outside of the structures of the ANC, but with necessary reporting mechanisms established. I would propose that reporting should be done to yourself, as ANC President, the Secretary General and the Business Projects Coordinator within the Finance Division. The nature of the relationship would require that all matters relating to these ventures be dealt with sensitively and with confidentiality. 10 15 20

Finally, Cde President, I wish to express my serious concern on the matter of our official representation in Malaysia. I would like to very briefly comment on the role that Ismail Coovadia had played in facilitating much of what the organisation has come to achieve from 25

Malaysia and what Mr Shaik hopes to realise in the projects and investment portfolio from this region".

Is this a reference to what you've earlier described as how the ANC would benefit from such business ventures? --- That's quite right, M'Lord. As M'Lord would be made aware, that there would be several projects that would flow from this relationship, both in Malaysia and in South Africa.

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Yes. And in the last paragraph he says -

"In conclusion, Cde President, I have requested that Temba Luxomo, Ismail Coovadia, Hilmi Daniels and Schabir Shaik make themselves available to give you a detailed briefing should you require it and at your convenience".

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Did such a briefing take place? --- Yes, M'Lord, an extensive briefing occurred to Mr Mandela at Shell House.

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And at that stage, this is August '94 this letter is dated, were any decisions taken by the ANC leadership on this vision of Mr Nkobi of the ANC obtaining equity in business companies? --- M'Lord, perhaps a short background to the structure of this content(?) and the reason for this letter was that Mr Nkobi was ailing in health at a tremendous rapid rate and was then sent to hospital at St Augustine's where he - Mr Mandela visited him. M'Lord, Mr Nkobi, could barely(?) - could really(?) express himself at that time and Mr Mandela then requested a meeting with myself - with himself and I at Shell House where I had to explore - explain to Mr Mandela the kind of projects we were pursuing in Malaysia on behalf of the African National Congress.

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Shortly after that, M'Lord, Mr Nkobi passed away and I was instructed by Mr Mandela to halt on these projects ...[intervention]

SQUIRES J To halt? --- To halt - halt on these projects, as Mr Mandela felt it prudent to wait for the new and incoming Treasurer-General, which would be only decided, I believe, in the December of 19 of - December of that year. 5

MR VAN ZYL At the Annual Congress of the ANC? --- Yes, M'Lord, at the Annual Congress.

SQUIRES J So no decision was taken then about implementing Mr Nkobi's designs? --- At that time, no, M'Lord. 10

MR VAN ZYL You were told to put everything on hold as far as the ANC ...[intervention]? --- Mr Mandela's instructions were quite clear and simple, to hold on any travel and - and continuing with any project with the Malaysians in particular, as this had to fall within the responsibility of the new incoming Treasurer-General. 15

Hm-hm. So the new Treasurer-General was elected at the end of that year, the Reverend Stofile? --- That's quite right, M'Lord.

Can I ask you to turn to, in Court file 3, to Exhibit P.82. I presume he was aware of what he would be doing on instructions of Mr Nkobi and Mr Nkobi's vision? --- Yes, M'Lord. 20

Now this letter is dated 9 May 1995 and it is addressed to yourself from the Reverend M A Stofile, the Treasurer-General of the ANC under the heading of the African National Congress. Subject, "The ANC and Your Position" -

"I have just returned from a consultative meeting with other officials of the ANC. I have fully briefed them on

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the reports you gave me, both in writing and by way of answering my questions. I also gave my own impressions created by our several meetings. I insisted that your status within the ANC be defined categorically. After a brief discussion, the officials decided as follows. 5  
The initiative of the late TT Nkobi, for which he proposed you to head, would not be pursued or authorised. You had been appointed to assist with the last elections and as such you have no position within the ANC. My communication with you on behalf of the ANC should 10  
come to an end, including imminent programmes or plans. This, Comrade, throws all our plans for Malaysia and elsewhere completely overboard. I regret this terrible inconvenience and personal embarrassment for me, but **so be it**. As a disciplined member of the organisation I 15  
have to stand by this decision. I hope our personal relationship will not be affected by this decision. I have grown to respect your intellect and skills. Maybe we will still find a way to benefit from those. Nothing does not change except change itself. Regards". 20

And signed on behalf of the Reverend MA Stofile. The first bullet reads -

"The initiative of the late Cde TT Nkobi, for which he proposed you to head, would not be pursued or authorised". 25

How did you understand this letter? --- M'Lord, prior to this letter,

as I alluded to, Mr Mandela requested that I provide him a report of our full programme of works in Malaysia, both Thomas Nkobi and I. I did so, M'Lord, and did this presentation to Mr Mandela verbally and Mandela requested this in an official report, which was adopted by the ANC. Following the instructions of Mr Mandela to halt my work, this report was then forwarded, M'Lord, to the new incoming Treasurer-General, Mr Arnold Stofile. Mr Stofile then requested a meeting with me in Cape Town, as he was then Chief Whip of the ANC as well. I travelled to Cape Town and met with him at his offices - met with him at his offices and he was clearly happy to receive the report and glad by its contents and requested of me to arrange meetings in Malaysia on his behalf, with the view of introducing Mr Stofile to the various contacts that I had established in Malaysia that would no be introduced to Mr Stofile.

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SQUIRES J But did this all take place after receipt of this letter of the 9th of May or before? --- M'Lord, it was - what took place, M'Lord? I beg - I beg your pardon?

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Your visit to Cape Town to discuss your situation with Mr Stofile, did that take place after you received this letter of the 9th of May or before? --- Before, M'Lord.

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Before? --- Yes.

Right. But I think the question Mr Van Zyl asked you was what was the effect of the first bullet in the decision that's reflected in the first bullet? Did that bring all these plans to a halt? In fact, the suspension ...[intervention] --- Yes.

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... that you were advised of by President Mandela previously,

now became permanent? --- M'Lord, the effect of this, as I understand it, M'Lord, is that I was not to pursue those projects any more on behalf of the ANC. If I may ask my - my ...[intervention]

It says a bit more than that. It says Nkobi's initiative would not be pursued or authorised. --- M'Lord, I refer to, if I may, a report that I had given to Mr Mandela prior to this - this communication which, I believe, lends credence to this. 5

Yes? --- In that report I indicate Nkobi and I's view of institutionalising the ANC as a shareholder within the business framework that we were - that we were suggesting to the ANC. 10

No, I understand that, but you said that because Thomas Nkobi had died, President Mandela advised you to put everything on hold until a new Treasurer-General - that took place and Mr Stofile was the Treasurer-General. Then it seems, from this letter, he had a meeting with other officials of the ANC? --- Quite correct. 15

And this letter was the result? --- Quite correct.

Right. Now what did you understand the first bullet, the effect of the first bullet was? That all your plans that had been arranged with the late Mr Nkobi would be abandoned? --- Quite correct.

That's it? --- Quite correct. 20

MR VAN ZYL And you were saying that prior to this letter, Mr Stofile was fully informed as to what those plans were? --- Yes, M'Lord.

Also the report which you had written? --- Yes, M'Lord.

So the position then changed, where previously Mr Nkobi and yourself held the view that the ANC will take equity in companies. 25

This letter effectively stopped that and that would thereafter no longer

be the position? --- Quite correct.

Now you did say that Mr Stofile asked you to introduce him to various parties in Malaysia that you have met in the time that you have spent with them? --- Quite correct, M'Lord.

And did you do **so**? --- No, M'Lord.

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Not. Now to just step away from this position, Mr Shaik, in that period, we know that accused No 9, Clegton (Pty) Limited was - and this is common cause - incorporated on the 24th of June 1994 and that accused No 10, Florn Investments (Pty) Limited was incorporated on the 15th of June 1994. Can you give the Court some background as to why you incorporated these two entities, Clegton and Florn? --- M'Lord, I take you back to the point where I had to remain in Malaysia and work with Renong and Landmarks and one of the key objectives Renong had to fulfil within the Malaysian economy, was developing business contacts in South Africa that would enable it to have the necessary technical capacities to deliver on its own projects in Malaysia and as such our relationship with Renong developed particularly to the point of me having to lead certain companies from South Africa into Malaysia, as a result of which, M'Lord, there were certain acquisitions that occurred between Renong subsidiaries and the South African entities. That earned me, M'Lord, a substantial income and I would then - and the formation of these companies really housed those incomes, Clegton and - and the other company.

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You referred to Renong ...[intervention]

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SQUIRES J May I just understand something a little better. You say

you earned a substantial income from? --- From ...[intervention]

Introducing the South African companies to the Malaysian ones?

--- Indeed, M'Lord.

Is that - that ...[intervention]? --- Indeed, M'Lord.

And you housed that in Clegton and Floryn? --- Quite correct,  
M'Lord. 5

Yes. Sorry, Mr Van Zyl.

MR VAN ZYL You referred to Renong. Can you tell the Court a bit  
more about Renong, the people you met at that time and the role  
players in these companies, or the introduction of companies to  
Renong and Malaysia? --- M'Lord, my introduction to the Renong  
chairman, Mr Halim Saad, was on the basis that he was to adopt me  
as his protege - as his ...[intervention] 10

SQUIRES J I didn't hear that.

MR VAN ZYL To adopt you as? --- To adopt me as his protege as,  
M'Lord, I certainly did not confess to understanding the Bumiputera  
model of empowerment. M'Lord, during my various travels to  
Malaysia, working with Renong, I was introduced to various senior  
management within the group as they began to express to me their  
interest in acquiring South African companies, for example the  
Telecommunications Division of Renong called then Time Telecom,  
required a contract to deliver GSM networks on the North/South  
expressway. 20

That's in Malaysia? --- Yes, M'Lord, the North/South  
expressway is very much like the N3 or the Maputo Corridor with a  
toll road that extended in the south to Singapore and in the north to 25

Thailand, so it criss-crossed Malaysia, M'Lord and Renong had won that concession and as such had to develop these parallel business units. M'Lord, I then was requested to introduce Time Telecom ...[intervention]

SQUIRES J Is that also a toll road? --- That's also a toll road, M'Lord, 884 kilometres. 5

Yes. --- So - and as the concession model of Malaysia was that as the concessionaire would win those large scale road infrastructure, the vision of Renong was to then develop subsidiary business units that would impact positively in the delivery of the - of 10 the road project, in addition to earning the necessary revenues that the road would generate, the toll road would generate. So I introduced Time Telecom to Plessey and contacted Dr John Temple, who was then the managing director of - or the chairperson, M'Lord, I stand to be corrected, of Plessey South Africa and flew with 15 Dr Temple to - travelled with Dr Temple to Malaysia, did the necessary introductions which, M'Lord, shortly resulted in a joint venture between Time Telecommunication and Plessey. I believe, M'Lord, that subsidiary was called Plessey Time or some combination of these two names. 20

MR VAN ZYL If I can ask you to, in the same file, Court file, go to P.96. This is a letter signed by one Rob Shaw addressed to yourself from Plessey Telummat, Plessey Communication Systems (Pty) Limited. It's dated 10 January 1994, but that date is, if you look at the letter itself, it should have been '95 ...[intervention]. --- I beg your pardon, 25 M'Lord. Are you saying P.97?

96. --- 96?

It's also P.97, it's exactly the same letter. --- Okay - all right.

But let's look at P.96. --- Right.

It reads - it's addressed to you -

"Executive Director, Clighton Investments .."

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I suppose that's should have read "Clegton Investments": --- Quite right.

"Dear Schabir

Thank you for the telephone call today concerning the visit from Time Telekom of Malaysia.

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To confirm, we would welcome a delegation from Time in Johannesburg to discuss possible mutual further co-operation in the Engineering/Project Management area.

A suitable date would be Thursday 19 January 1995 at our Johannesburg offices, Lakeside Two, Ernest Oppenheimer Avenue, Bruma Lake, Johannesburg. **If** the date and time are unsuitable I **will** adjust to find a better mutually acceptable time.

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Looking forward to meeting you with the delegation".

And is that your handwriting on the document? --- Yes, M'Lord.

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"Copy to: Time c/o: Mohed(?) Jaffar. Kindly advice when your teams comes in".

And also -

"c/o Cassim Jadwat".

At the time, what role did Cassim Jadwat play? --- M'Lord, Cassim

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Jadwat is a chartered accountant, a senior accountant at Desai,

Jadwat and Salejee(?) and his role was to assist me in the incorporation of companies in South Africa on behalf of Renong.

Did this meeting then finally develop into the joint venture that Plessey Tellumat did with Renong in the - the engineering division of Renong in Malaysia? --- Yes, M'Lord.

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And were you remunerated for your part in this and if so, in what way? --- M'Lord, Dr Temple expressed to me it was rather difficult for him to make - to make payment to me directly from the company, for whatever the reasons he expressed at that time, but felt it prudent, M'Lord, to offer me shares in Plessey, as it was being listed at that time, so I received 2 million shares for a - I recall roundabout 2 million shares for a nominal figure of - of - it was really a - as you would say, M'Lord, a preferential price. I then approached Nedbank Investment Bank, Dr Isak Botha, who funded that - who funded that share acquisition for me and upon the listing of the company I, with the understanding of Dr Temple, I immediately traded my shares into Nedbank who wanted to hold those shares, M'Lord, and I was cashed - I was paid out the cash value for approximately a million rand or so, M'Lord. That's how I derived the remuneration for this introduction.

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Can I ask you to go in the same Court file 3, to P.88. P.88 is a document under the heading of, "Standard Merchant Bank Limited" dated 23 November 1994, addressed to yourself and also to "Dato Wira Halim Saad". Is this Mr Saad of Renong, the chairman of Renong? --- That's quite right, M'Lord.

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And company Renong from Chris Vosloo and it says -

"Press announcement for SA Press".

If you turn over the page, P.89, that is a document headed -

"Acquisition of a minority interest in the Africon Group by Kinta Kellas".

And the second paragraph reads -

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"Kinta Kellas, a company listed on the Kuala Lumpur Stock Exchange and the London Stock Exchange, is an associate company of Renong ..."

and **so** it carries on. Can you just very briefly tell the Court what was this all about and why was this addressed to you? --- M'Lord, as I earlier indicated, that Renong had to fulfil some of its macro(?) infrastructure projects, that as a Bumiputera, it was given the opportunity to perform, and as such it lacked the necessary multi-disciplinary skills in civil, mechanical, electrical, structural engineering. As M'Lord would understand that Malaysia, a population of 15/30 million of which the actual Bumiputeras form 12 million, and therefore there was an - there was a tremendous shortage of skilled labour. Kinta Kellas being a subsidiary of Renong, was a multi-disciplinary company, but did not have sufficient skills, M'Lord, or capacity within the company to deliver on the various projects that Renong had - had acquired at that date. The second crossing of - of Malaysia to Singapore, the light(?) rail transport, the road infrastructure and many other such projects, **so** they required this capacity in Malaysia. I then identified a company called Africon who, at that time, had a shareholder of Murray and Roberts in it and introduced the managing director of Kinta Kellas under Halim Saad's

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instruction to the managing director or the chairman of Africon, Dr Thys Cilliers. That led to the acquisition of Kinta Kellas acquiring a substantial share of Africon in South Africa and they formed a joint venture in Malaysia with Kinta Kellas and Africon.

Were you remunerated in any way for this assistance? --- Yes, M'Lord, I was to acquire a shareholding in Malaysia, both with the Plessey deal as well as the Africon deal, but that did not realise, for other reasons, and I received a financial contribution from Dr Thys Cilliers in the order of three-quarter - three-quarter million, M'Lord.

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And then if I can ask you to go in the same Court file 3 to P.87.

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SQUIRES J What's the number, Mr Van Zyl?

MR VAN ZYL P.87, M'Lord.

SQUIRES J P.87.

MR VAN ZYL I can perhaps deal with this just before tea time. It won't be long. This is a document - unfortunately we only have the first page, but it's clear that it's from you, Schabir Shaik, addressed to Renong Berhad, the Executive Chairman, Dato Halim Wira Saad, 1 December 1994, "Feedback Remaining Land Johannesburg".

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"Dear Dato Halim

We have already secured the front two sections of the land which faces Rivonia Road opposite the Holiday Inns.

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I understand that the remaining two sections of the land shall be coming through by early next week. In terms of the Sale of Agreement signed by the two land owners, we are required to effect the necessary deposits accordingly which would secure the said properties.

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Listed below are the respective details of the acquired land. I kindly draw to your attention the column that reflects the deposits required and the respective due dates".

And then we see -

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"Sale value of 14,575 million rand. Deposit required 1,447 million rand. This morning the sale agreement documents have been faxed to Peter Lee".

Unfortunately we only have this document, but can you tell us what was this all about? --- M'Lord, the business relationship between Renong and I had developed to a point where, after fulfilling the business objectives of Renong in Malaysia, by way of introduction of these various companies, it was now the turn of Renong to start making their counter investments in South Africa in line with the political understanding. Renong's first acquisition was this extent of land in Sandton where they would establish their head offices. I had approached Seeff Properties and on behalf of Renong, which culminated, M'Lord, in Renong acquiring the land. The funds that flowed, M'Lord, if I may, links to Cassim Jadwat. This was the auditor that I introduced to Renong, who later became the auditors of Renong Overseas Corporation. These funds were transferred into Mr Cassim Jadwat's trust account at Nedbank.

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Did they eventually purchase the land? --- Yes, M'Lord, this land was purchased.

And did you receive any commission or remuneration? ---

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M'Lord, the understanding I had with Mr Saad was in the reduction of

price from the owner, if I could negotiate a reduction in price, I would pick up the upside of that in addition to a share in the commission from the Seeff commissions, so in short, M'Lord, I - I received a substantial payment on these - on this transaction.

What was your position in this country *vis-a-vis* Renong? Were you employed by them, did you play any role for them? What was your position here? --- M'Lord, I was clearly the only representative of Renong in South Africa. I had received at least three or four monthly contributions from Halim Saad in setting up my - my own infrastructure which he was happy to accept in Durban. I received these funds through Clegton Investment, or at times it would come through Mr Jadwat's trust account. I would raise the necessary invoice from Mr Jadwat's offices and as such, M'Lord, I was to pursue the objectives of Renong in South Africa.

SQUIRES J Now were you formally an agent or simply working for them on commission, or ...[intervention]? --- M'Lord, the understanding I had that I was their shareholding in South Africa. **We** later formed the company called Edgcot Investments before Renong was formally registered as Renong Overseas Corporation, Mr Jadwat took an off the shelf company called Edgcot and I was a shareholder and director in that company, M'Lord.

MR VAN ZYL And what was your shareholding in Edgcot? --- 20 percent.

And the other shareholder, who was that? --- M'Lord, I believe I had introduced Mr Beka Shezi, who was a director, but I can't recall being a shareholder. The other shareholder being Renong

itself, M'Lord. It was just Renong and myself as the initial two shareholders.

And you had 20 percent and Renong had 80? --- That's quite right, M'Lord.

M'Lord, may this be a convenient moment?

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SQUIRES J Yes. I'll take the short break now for a quarter of an hour.

MR VAN ZYL Thank you.

SHORT ADJOURNMENT

.....

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ON RESUMPTION

SCHABIR SHAIK (under former oath)

CONTINUATION OF EXAMINATION BY MR VAN ZYL Mr Shaik, just before the tea adjournment you told the Court that you had 20 percent in Edgcot Investment and Renong had the other 80 percent and the idea was that the business in this country at that time, would be done through Edgcot. Is that correct? --- That's quite correct, M'Lord, that's how I understood.

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With reference to P.87, that is the document we looked at just before the tea adjournment, which refers to the land purchased by Renong in Johannesburg and you reporting to Mr Saad on 1 December 1994. --- Yes, M'Lord.

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The Point Development, at that time, roundabout December 1994, what was the position with that? --- M'Lord, I recall that the -Renong had already had visited the Point Development and had viewed the site and showed a keen interest to acquire the site.

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How was that arranged and who was here? Can you just give us some background? --- M'Lord, I recall having contacted Minister Jeff Hadebe, to introduce me to Mr Mzi Khumalo, who I had not -who I had not really worked with, but I knew of him, as Mr Hadebe, I understand, recommended Mr Mzi Khumalo as the co-chairperson of the Point Development Company.

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At the time Mr Hadebe, what was his position? --- M'Lord, he had just been appointed, as I recall, Minister of Public Works.

And what was Public Works' interest in the Point Development? --- M'Lord, as I was aware, there were several shareholders of the Point and one of the shareholders being the Public Works' land. There were several other shareholders.

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If you say "shareholders", are you talking about the individual properties that would eventually make up the pool(?) of the Point Development? --- Yes, M'Lord, as I understood it then - and it was the facts then - that the entire Point land mass was broken up between ownership of Portnet and Transnet, the City Council, Public Works, which included the pump station and the correctional service facility and lastly, M'Lord, independent ownership of - of land.

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So you contacted Mr Hadebe, he introduced you to Mr Khumalo, who was the joint chairperson of the Point Development Company? --- That's quite right, M'Lord.

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And can you tell us from there what happened? --- M'Lord, as I had no, if not very little, understanding of what the Point Development was to be in terms of the objectives and goals of the Point Development Company, other than the fact that this land was

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available for private investment, I then contacted Mr Mzi Khumalo who, I believe, M'Lord, was returning from the States. I formally introduced Mr Mzi Khumalo to the chairperson, Mr Halim Saad of Renong, who was accompanied by several of his senior executives.

So was Mr Halim Saad and his senior executives actually here in Durban? --- Yes, M'Lord, they had - I had provided an itinerary and a programme for them to travel to Durban to view several projects in Durban, as I had provided such programmes for Cape Town and Johannesburg. 5

So you actually introduced Mr Saad to the Point Development? 10

--- Indeed, M'Lord, I recall very specifically Mr Mzi Khumalo was leading our delegation in the car in front of us and we stopped at the Point - we stopped at the Hilton Hotel site first, it was in the late afternoon, and at that time I recall, M'Lord, the Point - I mean, the Hilton site just had a wire fence around it, a lot of bush and trees and Mr Mzi Khumalo leaned over to me and said, "Schabir, Comrade Shaik, it will be important for you to try and sell to the Malaysian the acquisition of this site", because it's important from the City Council perspective as they had needed to attract an investor to build a hotel, a 5 star hotel, as the Council had utilised much of its funds for the ICC Centre and if we can get Halim Saad to buy the Hilton Hotel site, we would certainly be able to assist him on the Point Development site. We then proceeded to the Point Development site and Mr Saad and his team were delighted by what they saw and - and made a commitment to both Mzi Khumalo and myself and such was the nature of the man, Mr Saad, he would make these sort of 15 20 25

instantaneous decisions, almost like buying a house, "Yes, I would take it", or, "No, I won't take it", so such was the nature of his entrepreneurial mind.

Now at that time was the understanding, or your understanding that Renong would be interested in both the Hilton Hotel site to erect an hotel and the development of the Point, on the Point Development?  
--- Yes, M'Lord, indeed so, that was the condition we put on Halim Saad of Renong and that was my understanding.

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And would you have had any interest in this development at all?  
--- Indeed, M'Lord, as I expressed earlier, not only was I a - a partner, in a sense, to Renong in South Africa, but I was - I was party to an understanding between Mr Saad and myself of the equity I would hold through Edgcot Investments for their acquisitions in South Africa and this included the Point and the Hilton site.

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We'll return to the Point Development later in more detail. Let's carry on with the chronology. If I can ask you to take a step back to P.71 in Court file 3. This is a letter you wrote on 16 May 1994 addressed to Comrade Ismail Coovadia. Who, at that time, was Ismail Coovadia, what post did he have? --- M'Lord, Mr Coovadia was the Chief Representative of the ANC stationed in Kuala Lumpur, Malaysia.

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The heading of the letter reads -

"ANC's interests in joint venture business operations in South Africa with approved Malaysian companies".

And you start, you say -

"Dear Ismail

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Let me put on record the fact that I am indeed serious

about the business opportunities with Malaysian companies seeking to be involved in the South African business markets and the neighbouring African countries. As you are quite aware of the fact that we are seeking business involvements on a joint venture basis in these markets and firmly believe that our participation in these joint ventures will prove to be meaningful and successful".

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Where you refer to -

"... we are seeking business involvement ..."

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and -

"... that our participation ..."

who are you referring to? In '94, May? --- Well, clearly, M'Lord, it says -

"... the ANC's interests in joint ventures ..."

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so I'm referring to the ANC's structure that I would be involved in.

**SQUIRES J** That was still the ANC's business at that stage? --- **As** I understood, M'Lord.

**MR VAN ZYL** This is still this vision that Mr Nkobi had? --- That's quite correct, M'Lord.

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It's not necessary to look at the rest of the document for our purposes. If I can ask you to turn over a few pages to P.76. This is now in the next month, June the 2nd, **1994**. It is Mr Nkobi writing to Comrade Ismail Coovadia, Chief Representative on an ANC letterhead -

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"Dear Ismail

I intend to be in Kuala Lumpur on Monday, 6 June subject to prior confirmation and be there for about 3 days. Kindly set up appointments with the companies and government offices you discussed with Schabir Shaik".

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Is this also still to - with this vision of Mr Nkobi to be involved - get the ANC involved in business? --- Yes, M'Lord.

Then if you can just turn over the page to P.77 and this is addressed to yourself at your hotel in Bangkok. The date is 13 July 1994-

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"Please be informed that YB(?) Dato Wira Halim Saad of Renong Berhad would like to meet you as **soon** as possible, hopefully by tomorrow July 14, 1994, to discuss the South African projects. I shall appreciate if you could kindly contact me as soon as possible ..."

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and the telephone number is given, Karina Tsau(?). Can you tell the Court, was this your first meeting with Mr Saad or was this just a meeting that was set up with him in July 1994? --- M'Lord, I would recall that this be one **of** the continuous set of meetings I would have with Mr Saad, Karina Tsau being his personal assistant communicating with me. I recall, M'Lord, I was on holiday with my wife in Bangkok, **so** it was easy for me to come to Malaysia and meet with him.

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The point is this wasn't your first meeting with him? --- Not at all, it was one of several meetings.

Now we've looked earlier at the letter - maybe you should go there again - P.82 in Court file 3. And this is the letter which

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Mr Stofile, as Treasurer-General of the ANC wrote to you in May of '95 to tell you that the initiative of Mr Nkobi will not be pursued. ---

That's quite right, M'Lord.

I did not ask you at the time when we looked at this letter, but was this the first that you've heard of the decision that the ANC would not become involved in the business ventures as Mr Nkobi had foreseen? --- No, M'Lord, this was not the first.

Can you tell the Court, please, when was the first time that you heard about this decision and what were the circumstances? ---

M'Lord would recall my briefing to Mr Mandela at Shell House, in which I had to furnish him a - a report, detailing the activities of the late Thomas Nkobi and I in Malaysia, that report, M'Lord, I later understood, to be given to Mr Mbeki, who was then our Deputy President of the ANC and our country. Shortly before the December elections, M'Lord, I was requested to have a meeting with Mr Mbeki at his residence in Cape Town and the purpose of that meeting was to discuss the report that Mr Mandela had given to him. M'Lord, pursuant to that meeting, or before that, M'Lord, during that meeting, Mr Mbeki indicated that I ought not to pursue these projects within the finance division of the Treasury, as - as wished by Mr Nkobi. He indicated to me that he disagreed with Mr Nkobi's view, respectfully, and his advice to Mr Mandela was that - and his advice to me, was that I should pursue these projects independently and outside of the African National Congress' structure and the reason for that, M'Lord, as I understood from Mr Mbeki, was Mr Mbeki did not want to - did not want the perception created in a free market economy that he as

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trying to establish or - or create, that the ANC has shareholding in these kinds of businesses or projects, but however thanked me for the work I had done with Mr Nkobi and commended me to continue with these projects in my private capacity.

Now when did that meeting take place, if we bear in mind that Mr Stofile's letter is dated 9 May 1995? --- M'Lord, it would have occurred definitely before that meeting, before the letter from Mr Stofile. As M'Lord recalls, I indicated I met with Mr Stofile at his offices as Chief Whip of the ANC in Cape Town. It was a day or two before that meeting, M'Lord, or I - or - yes, definitely a day or two before that meeting, that I would have met Mr Mbeki.

And - but can you assist us. Was it January, February, March, April? --- M'Lord, I seem to recall some time in May, but I - I'm under correction, I cannot really recall.

In any case it was, I presume, after Mr Nkobi's death? --- Oh, indeed so, after his death.

And he passed away when? --- M'Lord, he passed away in October ...[intervention]

The previous year? --- ... of 1994, yes, the year of our first democratic election.

So it was between him passing away and the letter on the 9th of May that you had your discussion with Mr Mbeki? --- Indeed so.

Now, Mr Shaik, it is common cause that Nkobi Holdings was incorporated on 27 February 1995 and that Nkobi Investments was incorporated on 24 February 1995. Both these companies then were incorporated in 1995. At the time when these companies were

incorporated, what was your thinking? How would - why you're creating these companies, what are you going to use them for? ---

M'Lord, I was clearly impressed by the Malaysian model, whilst to some extent, M'Lord, I disagreed with certain aspects of the Malaysian Bumiputera model, but clearly there were some guidelines

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for me to pursue in setting up an empowerment company in South Africa and M'Lord must understand that during the 1994 period and much earlier, the concept of black economic empowerment, as we now understand it, M'Lord, was almost non-existent and there was no black book, or white book or green book for me to follow in finding out the guidelines for black economic empowerment as there is today.

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So I - I built Nkobi Holdings and Investments much on the lines of Renong, as I admired that business model and sought to pursue business opportunities within the road infrastructure, telecommunications and other sectors of our own growing economy, M'Lord.

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**SQUIRES J** But **these** were simply ordinary private limited companies? --- Yes M'Lord.

Shareholding of which you - and you were a director? --- Yes, M'Lord.

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There was no government or party participation? --- Oh, not at all, M'Lord. I was the only - I was the 100 percent shareholder of the company at that time.

But in anticipation of taking advantage of the black empowerment possibilities that were becoming available? --- Indeed so, M'Lord.

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Is that what you had in mind? --- Indeed **so**, M'Lord.

MR VAN ZYL Did you give any thoughts of perhaps getting the ANC, perhaps through a trust or some other method, equity in the company, or to at least give them some benefit in the company along the lines that Mr Nkobi had envisaged? --- M'Lord, I had to respect the view of our officials of the ANC, in particular Mr Mbeki, in not institutionalising the ANC's equity within our company and I clearly did not do that, but at the same time, M'Lord, I was acutely aware of the demands on our Treasury, particularly KZN, for the need of funds, as I'm a - as I ...[intervention]

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Before you proceed, Mr Shaik, can you perhaps look at Exhibit M.2. Towards the end of that document, the document number ...[intervention]

SQUIRES J [Indistinct]?

MR VAN ZYL M.2, M'Lord. Towards the end of that file, the last couple of pages, 010556- may I enquire from you, Mr Shaik, whether your 010556 looks like this? --- indeed **so**, M'Lord, I have such a copy before me.

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SQUIRES J That's **556**? Yes, thank you.

MR VAN ZYL If you can just look at that document and turn over the page to the next few documents, through to 010559 and can you tell the Court what was this all about? Firstly, whose handwriting is this? --- M'Lord, if I may get a moment to just reflect on these documents, with permission. M'Lord, if I may, this handwriting is indeed mine and it's a thought pattern that I might have been or I would have been going through in terms of, if I look at **010556**, those names below

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mine were directors, considering them to be shareholders, Mr Thulani Mthethwa, Mr Beka Shezi. I indicate an "ANC" there; I indicate a nominee document to be held by S(?) Shezi, J Zuma. Again, M'Lord, the thought processes was how do I enable the ANC in this province to become financially independent and having been involved with Mr Nkobi in fundraising. If I look at the second page, M'Lord, 557, it's largely a reflection of financial transactions.

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SQUIRES J These were various possibilities you were pulling around? --- Indeed so, M'Lord. 558, beginning - begin to see, M'Lord, my first thoughts being put to paper in terms of how the structure of Nkobi Holdings would come to reality. M'Lord would notice that below Nkobi Holdings there's no "Investments", that later was on the advice of auditors, and so it goes on, M'Lord, so on and so forth.

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Yes.

MR VAN ZYL Yes, if you look at 558 on the right-hand side, there's a heading, "ANC", it looks like 20 percent; and then 4 initials. The last one - I don't know what the first initial is, the second initial is a Z, 2,5 percent. Can you explain to us what was that all about? --- Yes, M'Lord, that's clearly my thinking again put to paper, enabling the ANC to acquire a 20 percent shareholding in the company. Thabo Mpakinyani(?), 2,5 percent; Beka Shezi, 2,5 percent; SS, 2,5 percent; JZ, 2,5 percent. I have the unions there at 20 percent.

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And then if I can ask you to go to 010559 and could you just ensure that yours looks like mine. --- No, M'Lord, I believe mine, that would be on the following page, 559 I just have Kobisec(?) as a heading there.

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Can you just tell us which page of yours looks like this?

**SQUIRES J** 560, I think.

**MR VAN ZYL** It seems to be 560.

**SQUIRES J** Yes, the next page. --- The next page, yes.

**MR VAN ZYL** Again, can you just explain to us what you've written here. --- M'Lord, we see the shareholding draft into Nkobi Holdings consist of Clegton Investments - I can't make out, M'Lord, the other, Luxco(?) or Nkobi Trust, it appears to me; again Nkobi Trust and then Workers' College; Nkobi - WL, I don't know what that would be, M'Lord, WL. Again it's a draft - a rough ...[indistinct], M'Lord, typical of a business person trying to work out the shareholding within the context of how do I begin to capacitate, empower and enjoy some kind of empowerment structure to - to the group. This would be typical of the rough thoughts that I would be doing, M'Lord.

Yes. Now ...[intervention]

**SQUIRES J** Presumably this was all superseded by the state of the shareholding which eventually you decided on? --- Indeed, M'Lord, this would have been definitely superseded by what really happened.

**MR VAN ZYL** The point is, Mr Shaik, that all this scribblings and thoughts of yours as to trying to enable the ANC, especially in this province, eventually as far as the shareholding of the companies in the group are concerned, didn't materialise? --- That's correct, M'Lord, it did not materialise.

Just one further point here on 558, in the right-hand column, you say, "ANC 20 percent", and then the 4th name there, "JZ, 2,5 percent". Was your thinking at the time of giving Mr Zuma a

personal stake of 2,5 percent in the company? --- That's quite correct, M'Lord.

Did that materialise at all? --- M'Lord, I can assure you it did not materialise.

Why did you consider giving him a personal stake in the company at the time? --- Well, M'Lord, he was my - my friend and I - I was not just being close to him, but I was acutely aware of his financial constraints and difficulties he experienced as a returning(?) -as a - as a comrade beginning to set his life out in South Africa, in Durban, so I was looking to find a way of financially empowering him so that he could become independent but, M'Lord, that did not come to fruition, unfortunately.

Incidentally, Mr Shaik, at that time, how old was Mr Zuma when he returned as - to this country, having been exiled? Roughly? --- Well, M'Lord, he's 70 now. We're talking about - I would put it in the late fifties, M'Lord, the late fifties.

And he spent his life outside the country? --- Well, M'Lord, the large majority of his life, to be quite exact, I understood it to be 33 years in exile.

And this was your thinking at the time, trying to assist him to give him a stake in the company, but that did not materialise? --- M'Lord must understand that as a young, very much young comrade, I was dealing with a senior comrade like Zuma and a close friend. M'Lord, I would have had the basic infrastructure around myself, having had a home and having had the cars and having a high - quite a good standard of living, M'Lord, and I would have to interact with

my comrades that way indeed in a much deprived position as a result of their exilement(?) and that affected my own psychosis as to consider how do I address or redress those - those needs.

Now as we've seen Nkobi Investments and Nkobi Holdings were then incorporated in February of 1995; the shareholding at the time is also common cause. Can I ask you to turn to P.70. First of all - that's Court file 3, M'Lord, P.70. Do you have it in front of you? --- Yes, indeed, M'Lord.

Whose handwriting is this? Well, let me ask you, is it your handwriting? --- No, M'Lord, it's not.

SQUIRES J Did you say P.7, Mr Van Zyl?

MR VAN ZYL P seven zero, M'Lord.

SQUIRES J Oh, seven zero? I'm sorry, Mr Shaik, you say that's not your writing? --- Indeed, M'Lord, it's not my handwriting.

MR VAN ZYL Do you recognise the handwriting? --- Yes, I do.

Whose is it? --- This is Anand Moodley of Ditz Incorporated and he was, at that time, the attorney for our company.

This is on the Ditz Incorporated letterhead? --- That's quite right, M'Lord.

It's dated 7 March '96. Now we know that Investments and Holding, Nkobi, were already incorporated in February of the previous year. This reads -

"S Shaik general ..."

and the heading is, "Nkobi" -

"...structures/shareholders, a new co, Schabir's personal

holding .."

and then there's written behind that -

"Floryn(?), B - Workers' College 10%; C - Nkobi Investments (Pty) Limited, various including Nkobi Education Trust, Nkobi Family Trust ..."

And then -

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"... Nkobi Education Trust, Nkobi Family Trust - shareholder ..."

and I cannot make out this second word opposite D. Can you make it out? In any case ..[intervention] --- Yes, there appears to be -

"... spouse and descendants of Thomas Titus Nkobi ..."

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and below that -

"... trustee SS ..."

and I can't make out the 3rd one and -

"... C, J Cassim Jadwat ..."

SQUIRES J No, I think Mr Van Zyl was asking you about the next

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item, "shareholders something".

MR VAN ZYL Yes, M'Lord. --- Or initially -

"... initially nominee Jurgen Arnold Boyd".

No, but opposite, or next to the word "shareholder", there's something I can't make and then it's a colon(?), it reads -

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"Nkobi INB P/L ..."

but what is that word? --- It seems to be an abbreviation, M'Lord, of some word I really can't recognise.

Could it be "agreements"? --- Well, it's Agmt, that's the abbreviation for "agreement", M'Lord, possibly .

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In any case, Mr Shaik, let's proceed. The last entry *is* one

...[indistinct] -

"Cession of entitled(?) to 20 percent of shareholding  
Nkobi H to Director-General of African National Congress  
for time being in office in capacity as such".

What was this all about? --- M'Lord, if I may please ask you to read  
that for me, I can't seem to be reading as clear ...[indistinct]. I read  
the first word is -

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"Cession of ...".

"Cession of entitle ..."

I can't make out the next word -

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"... to 20 percent of SH shareholding in Nkobi H ..."

Nkobi Holdings. --- Yes.

"... to Director-General of African National Congress for  
the time being in office in capacity as such".

--- M'Lord, it appears to me as my thinking to award 20 percent of  
the issue share capital of Nkobi to the African National Congress with  
the Treasurer-General being the nominated person to hold such  
shares.

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Did that take place? --- No, M'Lord, it did not take place.

Now, Mr Shaik, going through these notes of yours, also this  
last note, it seems that you were seriously thinking of giving the  
African National Congress some interest in your company - eventually  
that didn't take place - and you've said you wanted to make a  
contribution. What did you do about this? --- Well, M'Lord, it  
became quite clear and apparent that after Mr Mbeki's instruction that  
I was not to provide for the equity of the ANC in the form and shape

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that I intended to, I then - then formed the company or had a company called Floryn, M'Lord, at that time, in which it was my intention to address the contributions to the ANC via that structure and M'Lord would notice that, as evidence-in-chief was led, that financial contributions occurred from that structure to the ANC.

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So you used Floryn Investments as the vehicle through which you made your donations to the ANC? --- Yes, M'Lord.

Mr Shaik, why was it obviously so important to you to either give the ANC a stake in your business, in your companies, or at least to make donations to the ANC? --- M'Lord, this organisation belongs to all of us, and particularly I felt very endeared to this organisation that, in a sense, led to the realisation in my own mind and those of my family, of the need to think of others before yourself and this is an organisation that was indeed ours, M'Lord, and I felt almost duty bound to ensure that the well-being of this organisation be catered financially - catered for financially and particularly, M'Lord, in my experience with Thomas Nkobi, and prior to that in exile, having to raise those funds for the ANC. The ANC was always looking for funds to become financially independent and I thought, M'Lord, being a rising and growing, perhaps more humbly put, M'Lord, a growing entrepreneur, I could include this contribution as I began developing the group.

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Can I ask you to go to in Court file No 3, to P.84. --- Okay, I have ...[incomplete].

Are you familiar with this document? --- Yes, I am, M'Lord.

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It's headed -

"Nkobi Holdings (Pty) Limited - Payments made to Floryn Investments (Pty) Limited".

And then follows a description -

"Year ended 28/2/96; year ended 28/2/97. King Goodwill Zwelethini. Rent paid ..."

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and then a number of other entries. And it ends by the inscription -

"Further payments envisaged. Current year R1 million.

A total of 2,386 318".

Can you give us the background, who was responsible for this document and why was this drawn? --- M'Lord, this appears to be

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an accounting record within my company, within my group of companies. It seems to be or certainly appears to be a record of

Floryn Investments' outflow of funds to the African National Congress, or on behalf of them. This would have been composed and

recorded by our accounting department, M'Lord, recording the various transaction and - of payment.

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**SQUIRES J** To whom were these - who was the beneficiary of such amount? --- M'Lord, you would have - you have various beneficiaries.

Apart from King Goodwill Zwelethini. --- M'Lord, there's quite a good story behind that one, but anyway ...[intervention]

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Well, never mind, unless Mr Van Zyl wants you to explain it, but were these for the ANC? --- These were all for the ANC, including King Goodwill Zwelethini.

**MR VAN ZYL** Let's take for instance just below King Goodwill Zwelethini -

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"Rent paid R92 225,76".

Now would that be rent paid to the ANC or would it be rent paid elsewhere and you saw this as a donation to the ANC? What is this?

--- M'Lord, this is reflected as rent paid for and on behalf of the ANC and as such would be recorded as rent paid.

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SQUIRES J For their occupation or that body's occupation of the ...[intervention]? --- For a member of the ANC. M'Lord, I was called on many occasions to provide rental accommodation for ANC members or defectors from IFP to the ANC and without disclosing too much in our - our books as to who they were, accountingly(?), M'Lord, it appears that the accountants would record it as a rent paid on behalf of the ANC.

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All these payments were to the ANC organisation? --- That's quite right, M'Lord.

MR VAN ZYL Were these payments made to the ANC themselves or on their behalf? --- On their behalf. These were rents paid on behalf of the ANC.

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We see almost in the middle of the document - half the date has been cut off, unfortunately, but -

"6 November '98 Automarket Toyota purchase

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R26 674 ..."

for instance. What would that have been in aid of? Do you know?

--- Yes, M'Lord, that would be on an occasion of us having to acquire motor vehicles on behalf of the ANC and in this case it was acquired by - acquired for Minister Mike Mabuyakhulu(?), who was then a senior member of the ANC in KwaZulu-Natal and the purpose of this

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vehicle was to be used during the elections of the - regional elections of the ANC.

Can I ask you to just keep that document available, but look at Exhibit M.2, the very last page in that file. It's 010627. Now this document is dated 19 May '99. It's addressed to yourself as Executive Chairman of Nkobi Holdings (Pty) Limited -

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"Dear Mr Shaik

I wish to confirm receipt of ... and thank you for the following contributions made from your group to the ANC KZN. Actual disbursements R1 261 595,16; year end dividend R1 000 000; total contribution R2 261 595,16.

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Yours sincerely".

It's not signed, but it carries the name of Dr ZL Mkhize and we know, I think it's common cause, that he was at the time the Treasurer-General of the ANC in KwaZulu-Natal? --- That's quite right, M'Lord.

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Now if we compare 010627, which is dated 19 May 1999 with P.84 and the last entry in P.84 is dated in November of that year, a couple of months later, the cut off date for 19 May '99 would be just below 10 April '99 and above 19 June '99 on P.84. --- That's quite right.

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And if you add this, or rather, if you subtract the payments from 19/6/99 through to the end of the year, you will end up with about 2,261 million rand contribution. What was the purpose, Mr Shaik, of this letter that, under the name of Dr ZL Mkhize to you? Acknowledging the contributions? --- M'Lord, the reporting structures within the ANC in this province required that the local

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Treasurer-General of each province and certainly of this province, to inform the National Treasurer-General of the contributions made by various parties and this letter, 010627 confirms the contribution of my group to the ANC fund. M'Lord, we required such a confirmatory letter for our own accounting purposes as well.

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Now in this letter ...[intervention]

**SQUIRES J** Why wasn't it signed? --- M'Lord, I believe there ought to have been a signed copy, but perhaps, M'Lord, we could ask Dr Mkhize, if we do call him as a witness.

Yes. Sorry, Mr Van Zyl.

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**MR VAN ZYL** Mr Shaik, 010627 refers to a year end dividend of R1 million and the Court heard some evidence that that language might be used to infer that there were some shareholding, because only a shareholder gets a dividend, whereas on **P.84**, it reads -

"Further payments envisaged for current year ..."

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also refer to R1 million. Can you just set the record straight. Was there any indication or any sort of shareholding by the ANC in any shape or form in any of your companies? --- M'Lord, the ANC had no shareholding in any of my companies or subsidiaries and as such the reference to "dividend" in the word - use of the word, "Year end dividend" on 010627, M'Lord, is incorrect. I believe the accurate or the correct reflection ought to be in **P.84**, in which we(?) state -

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"Further payments envisaged for the current year

R1 million".

So as to why the word, "Year end dividend" was used, M'Lord, I - I

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have no - I would have no knowledge of that reason.

If I can ask you to turn one page back in Court file 3 to P.83. This is a fax transmission sheet for 3 December 1999 under cover of which the document P.84 we've just looked at, was faxed to Mr Msimang -

"Mr Schabir Shaik has asked me to fax to you the attached document which you discussed with him this afternoon. Kind regards, Colin Isaacs". 5

Why was payments made to Floryn Investments and the further(?) payment envisaged for the year faxed to Mr Msimang? --- M'Lord, Mr Msimang is the National Treasurer-General of the ANC and as such requested of me to report to him quite independently of the financial resources or contributions I made to the Regional Treasurer-General, Mr Zweli(?) Mkhize. M'Lord, he held that important because he wanted to avoid duplicity in payments from the National Treasurer to the Regional Treasurer-General. After my discussion with him, we agreed that such communication will ensue. 10 15

And you instructed Mr Isaacs to do it? --- Yes, indeed.

Can I ask you to turn to M - exhibit file M.4. We are still in 1995. 030010 and 0311 - 0011, pages 10 and 11 in this file. This is a letter addressed to Mr Jacob Zuma. It's unsigned. The name at the end thereof is Hamida Makhtar, Executive Director and it's a copy, it's not one on the letterhead. It reads - 20

"We believe that the region(?) of KwaZulu-Natal(?) heralds prosperous economic opportunities for international companies like ourselves seeking to invest in the New South Africa. Our group's activities is led by 25

the Executive Chairman, Dato Sumsuddin(?) Aboo(?) Hassan(?) has visited Durban on several occasions and is encouraged by the economic opportunities in the region. Many opportunities already existing in the region, we are particularly interested in the Point Development Project, the proposed new international airport at La Mercy and hotel sites have a distinct(?) advantage of acquiring a casino and gaming licence. Mr Shaik and the late Treasurer-General, Mr Thomas Nkobi, were both helpful and supportive of our investment drive in South Africa and as such we had worked closely with Mr Shaik up until the demise of Mr Nkobi. We would also very much like reacquaint ourselves to the new Treasurer-General and Mr Shaik. To this regard we wish to extend to you, the new Treasurer-General and Mr Shaik, an invitation to meet with our group in Malaysia and to explore meaningful investment and mutually beneficial opportunities in Natal KwaZulu. We wish to propose this trip be scheduled at your earliest convenience. Upon acceptance of this invitation kindly contact Mr Brandt Visagie who would be responsible for co-ordinating and facilitating the arrangement for this trip ..."

and his telephone number is given. Now can you tell the Court who is Hamida Makhtar - and for the record, M'Lord, it is spelt H-a-m-i-d-a and M-a-k-h-t-a-r. --- M'Lord, Ms Hamida Makhtar was the person responsible for projects in South African on behalf of Landmarks, the

Malaysian company which I spoke earlier of, M'Lord.

Was there any connection between Landmarks and Renong?

--- M'Lord would recall I earlier indicated my meetings with the Treasurer-General in Malaysia led to the introduction to two companies that I - that I ought to - that I would be working with, Renong and Landmarks and both these companies were to pursue projects with me in South Africa.

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SQUIRES J But they weren't related? --- They were independently listed companies on the Kuala Lumpur Stock Exchange. They were related to the extent, M'Lord, they were both funded by the Bumiputera fund.

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MR VAN ZYL So in South African language, they would both be **BEE** companies? --- Indeed **so**, M'Lord.

Now Mr Van der Walt ...[intervention]

SQUIRES J [Indistinct - speaking simultaneously]... you were acting for both of them in this country, were you? --- Yes, M'Lord.

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Yes.

MR VAN ZYL Mr Van der Walt pointed out that if you look at the document we just looked at, the letter from Hamida Makhtar and you look at the next one and also the previous one, but especially the next under the Nkobi Holdings' letterhead, it seems that the same typist was used, because the layout and the words - the way the letter is typed is similar. Can you perhaps explain this? --- M'Lord, we are talking about a period when the offices of Landmarks were not established. Their physical presence in terms of office infrastructure were not established in South Africa and as such I was requested by

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both the chairmen to use my own infrastructure, in particular Landmarks, to use my infrastructure and this was done so by Hamida Makhtar and the other executives, so, M'Lord, it's not strange that I would find my - much of this typeface and print on my own computers because, as I indicated, M'Lord, we had a common business understanding in the pursuit of common projects together.

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So Makhtar made use of your facilities? --- That's quite right, M'Lord.

Now she ...[intervention]

SQUIRES J Just pause there. Did Mr Stofile also - Mr Van Zyl said and the previous document, I've just looked at, which is a letter to Mr Saad apparently from Mr Stofile. Who wrote that? --- M'Lord, this is a letter which I had drafted on behalf of Mr Stofile and forwarded to his offices, I recall, for him to put this on to his letterhead and forward it on to Halim Saad.

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Well, this was his request for you to brief him about the contacts you'd make? --- Indeed so, M'Lord.

MR VAN ZYL The signed version of this document by the Reverend Arnold(?) Stofile, was handed in. Unfortunately I do not have it at hand, but I'll refer the Court to that after the lunch adjournment. It's the in P-series of exhibits. Mr Shaik, we looked at the letter that Mr Stofile wrote to you on 9 May '95, P.81, in which he told you that Mr Nkobi's vision will no longer be pursued by the ANC. Now this letter Your Lordship just referred to at 030008 is - carries the same date, 9 May 1995. You say this was drafted by you, sent to him to be signed and it was faxed back to you? --- Yes, M'Lord, I clearly

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drafted this letter. I clearly did so in consultation with Mr Stofile. I clearly was aware of the facts and who the relevant contacts that Mr Stofile were to meet. This letter was approved by Mr Stofile and transposed on to his letterhead as Treasurer-General of the ANC.

Maybe we should look at that document, M'Lord. It's in Court file 3 at P.85. 5

SQUIRES J P.80?

MR VAN ZYL P.85.

SQUIRES J Yes. You say it was sent to Mr Stofile for signature and faxed back? 10

MR VAN ZYL M'Lord, yes, that is my - I was just thinking about it, my words I placed in the witness' mouth.

SQUIRES J Yes.

MR VAN ZYL I should have enquired from the witness himself. This document that you drafted at 030008 and 9. We see now the same wording and it's signed by the Reverend Arnold Stofile. Can you tell us how it got to him and what happened to it, what was the history of that? --- Well, M'Lord would clearly remember I indicated a meeting with the Reverend Stofile in Cape Town at his chambers in Parliament, the then Chief Whip, and pursuant to that meeting, I had -I was advised by him to draft such a letter on his behalf, which then transpired in that letter being forwarded to Mr Stofile for his transposing it on to the ANC letterhead, which he has done and signed by him, M'Lord, and, M'Lord, whether it was faxed from my offices or from Cape Town where he was based or from Shell House, I cannot recall clearly, M'Lord. 15 20 25

Anyway, this letter P.85 and P.86 is the letter that you're referring to? --- That's quite correct.

it says -

"Dear Dato Halim Saad

I shall be in Kuala Lumpur from 11 to 14 May 1995, 5  
departing from South Africa on 10 May. The purpose of  
my trip to Malaysia is to introduce myself to you as the  
Treasurer-General of the African National Congress, a  
position I was recently elected to. I am also a Member of  
Parliament and the Chief Whip for the ANC in the House 10  
of National Assembly. I have been briefed by Mr Schabir  
Shaik with regards to your company's present and future  
business investments in South and Southern Africa and  
it is in this regard that I wish to fully acquaint myself  
thereof. I am also keen to understand precisely your 15  
investment requirements and how best I could be of  
assistance to you in this region. I would appreciate it if  
you would facilitate meetings with the following persons  
and companies whom I understand you are indeed well  
acquainted with. The Prime Minister, Dr Mohamed 20  
Mahathir, Deputy ..."

and so it goes on, ending with Time Engineering, Mr Jaffar Ismail -

"Your assistance in this regard will be appreciated".

Now these names listed from 1 to 8, did you meet these people during  
your time in Malaysia? --- M'Lord, during my time with the - with 25  
Thomas Titus Nkobi and subsequent to that, I did not meet with Prime

Minister, Dr Mahathir. I met with the Deputy Minister in Finance, Anwar Ebrahim. I had met with the Defence Minister, both in South Africa and in Malaysia. I met with the Treasurer-General, both in South Africa and in Malaysia and obviously, M'Lord, 5, 6, 7 and 8, I met with these chairmen in Malaysia and in South Africa.

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Now ...[intervention]

SQUIRES J You may not be able to answer it, but why was Mr Stofile pursuing this if the ANC decided not to continue Mr Nkobi's contacts? --- Well, M'Lord would recall that I would have received a letter also on the 9th of May or shortly thereafter, in which Mr Stofile refers to his consultations with the officials.

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Yes? --- And bringing to a halt what he had proposed in this.

Yes. That's why I said you may well not know? --- I may not well know, M'Lord.

You don't know. --- I was simply informed in writing from Mr Stofile.

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MR VAN ZYL You read the letter. Apart from introducing himself as the Treasurer-General of the ANC, he also introduced himself as a Member of Parliament and the Chief Whip for the ANC in the House of National Assembly. And then in the second paragraph he goes on -

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"I am also keen to understand precisely your investment requirements and how best I could be of assistance to you in this region".

But you don't know whether he intended to be of assistance as Treasurer-General, or be of assistance as a Member of Parliament. ---

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I know of no knowledge of how that would transact, M'Lord.

MR VAN ZYL And did you accompany him on this trip? --- M'Lord, I later understood that Mr Stofile did go to Malaysia; he did meet with several parties, including Renong and ...[intervention]

SQUIRES J But you didn't go with him? --- I was not - I was not -I did not accompany him, M'Lord.

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MR VAN ZYL This is now May of '95. Can I refer you to the Court file M.4 - not Court file, Exhibit file M.4, 030012 and 13 through to **14**. 12, 13 and 14, 030012. Do you have this in front of you? --- Indeed, M'Lord.

You write to the South African High Commissioner under a letter head of Nkobi Holdings, signed by yourself on **8** August 1995 -

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"Dear Mr Mohale

Firstly let me thank you for all your assistance and guidance during my trip with Comrade Zuma last month.

[Indistinct]... Malaysian assures companies like ourselves

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of being represented where it matters. In following up

some of our promises to the Malaysians in terms of black

business empowerment and joint ventures, I wish to

inform you, as Executive Chairman of Nkobi Holdings,

that our company has acquired a major interest in terms

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of share ownership in the defence related companies in

South Africa. **To** this regard I understand the Malaysians

are very keen in obtaining these ...[indistinct]... for their

defence capabilities, thus Nkobi Holdings is in a position

to meet and secure joint venture agreement with

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Malaysian companies in the defence related business. In

terms of our understanding, certain companies in Malaysia will be nominated by either the Minister or Deputy Minister of Defence or the Finance Minister, Mr Tun Diam Zainnuddin. You will recall that both Tun Diam Zainnuddin as well as the Deputy Minister of Defence Dato Dr Abdullah Fadzil, promised Mr Zuma and I that they will nominate the Malaysian companies for us to meet, given our readiness to engage. The specific areas of our defence technologies are ..."

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and you set them out.

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"... I would therefore appreciate it if you could arrange appointments with the following persons which will be helpful to our companies' activities in Malaysia and for the inward investments in South Africa ..."

and you set that out -

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"... I shall be leaving for Paris, France on the 9th, Tuesday evening and shall be departing for Kuala Lumpur from Paris on Friday evening to arrive in Malaysia on Saturday. I shall nevertheless telephone you from Paris to confirm my arrival times. Kindly arrange for the above meetings to occur, if possible, on Monday, the 14th and Tuesday, the 15th. I would imagine some arrangements would have to be made by the Defence Minister for ...[indistinct]... for us to meet with the nominated Malaysian companies. We are flexible and ready to adjust our programme to achieve the maximum business

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benefit from this trip. I shall be accompanied by our Group Financial Director, Mr Thulani Mthethwa. Besides being a chartered accountant, he is also a swell guy. Incidentally, I heard from Comrade JZ ..."

and I presume that is for Zuma -

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"... that Mzi Khumalo is in Malaysia. He is meeting with the Renong Group or one of its subsidiaries. I would provide you with a dossier of his activities with the said Malaysians when we meet. I am looking forward to meeting you once again".

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You wrote this letter on the 8th of August? --- Yes, M'Lord.

Now in the first paragraph you refer to a trip you had with Comrade Zuma "last month". Now can you tell us about that? "Last month" would have been July '95. --- M'Lord, I was requested by Deputy President Zuma to accompany him to Malaysia, as he was on a trip to meet the - his counterpart of the UMNO Party, the National Chairperson of the UMNO Party, as Deputy President Zuma was then National Chairperson of the ANC, so as such, M'Lord, this was a party to party meeting.

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At the time, in what capacity did you accompany Mr Zuma?

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--- M'Lord, then as his economic adviser for KZN.

And when did you become his economic adviser for KZN? ---

I beg your pardon, M'Lord?

When and how did you become his economic adviser for KZN?

--- M'Lord, the Deputy President Zuma at that time, Minister of

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Economic Affairs or MEC for Economic Affairs and Tourism, was

trying to deal with issues of - of the understanding of the role of business in KwaZulu-Natal, how to promote the economic development and prosperity of KwaZulu-Natal and as such, was looking to develop his own capacity in this field and understanding some of the basic ideas and issues of business and, M'Lord, as his friend and confidant, he felt it acceptable that he could appoint me as his economic adviser to assist him in understanding particularly the ...[indistinct]... economic co-operation that Mr Mandela was trying to perceive(?) ...[intervention].

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Was that a position for which you received any remuneration?

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--- No, M'Lord, I was not remunerated for that.

SQUIRES J Why did you go with him as his economic adviser for the provincial government, when he was going as the party chairman to see the party chairman in Malaysia? --- Well, M'Lord, he went as a party chairperson and not an economic adviser, but at that time, the question I believe M'Lord was asking me, what was my - what was my title and role with the Deputy President, I said I was ...[intervention]

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No, I understand that. --- Ja.

I just wanted to know why he had to take his financial adviser if he was going ...[intervention] --- Economic adviser, M'Lord.

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... economic adviser, when he was going just to see the party chairman? --- M'Lord, I was quite involved with the Deputy President at that time, in understanding some of the party politics in this province and I had a keen understanding and - of those issues and as such we discussed many such issues in this province, M'Lord, and

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he felt it therefore comfortable and confident to take me in that capacity.

Yes, thank you.

MR VAN ZYL Now in this letter you referred to interest in defence related companies in South Africa. What did you have in mind? The date, the 8th of August '95 is of importance. --- What page are you referring to there, M'Lord?

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030012, the first page of the letter, the second paragraph. You say -

"I am following up some of our promises to the Malaysians in terms of black business empowerment, ...[indistinct]... I wish to inform you, as Executive Chairman of Nkobi Holdings, that our company has acquired a major interest in terms of share ownership in defence related companies in South Africa. To this regard ..."

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etcetera, etcetera. --- All right. M'Lord, here I am referring to or trying to portray a picture to Mrs Mohale, or convey to her that our company had acquired an equity or a shareholding in Thales or Thomson's at that time and, M'Lord, I certainly considered the shareholding I had at that time as major. I'm again trying to - sorry.

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Now your involvement with Thomson's, are you referring to the French company, Thomson's of France? --- That's quite correct.

And you say this paragraph refers to that involvement? --- That's quite correct.

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We'll get back to that. On the next page, 030013, the last

paragraph, you say that -

"I shall be leaving for Paris, France, on the 9th,  
Tuesday ..."

and you'll travel from there on Friday or the Saturday. Can you recall  
why you went to Paris in August of 1995? --- Well, M'Lord, it was  
to meet with senior executives of the Thales Group in Paris.

SQUIRES J Of Thomson's? --- Or with Thomson's, M'Lord, quite  
correct.

MR VAN ZYL Who in particular? --- M'Lord, I met the then  
Executive Chairman of Thomson's, Mr Alain Gomez and Mr Jean-Paul  
Perrier, who was the Vice-chairman of International Business  
Development.

SQUIRES J Was this before your - was this your first visit or second  
visit to them? --- M'Lord, strangely enough it was my first visit in  
1995 ...[intervention]

This is when you reached the broad agreement about your joint  
ventures that Thomson's would act with Nkobi in pursuing business  
in South Africa? --- That's right, M'Lord, led to the letter that  
...[incomplete].

MR VAN ZYL That was the initiation of that? --- That's quite  
correct, M'Lord.

If I can ask you just to keep this letter open, but go to M.3,  
Court file M.3. 020003, that's page 3 in exhibit file M.3. This is a  
letter under Thomson-CSF Southern Africa letterhead dated 6 August  
1995, from Mr Pierre Moynot to yourself. There are 3 pages including  
this page. It reads -

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"Schabir

You will find attached a letter confirming the discussions that we have had within the last few days. I now need your agreement to go to Paris together with me. I intend to organise a meeting with our chairman and CEO, Alain Gomez and I may not change it at the last minute. Besides any problem of mutual respect, this is a question of credibility. Indeed this will be the second time that I have announced your coming to Paris. A cancellation would not give a good image and would not help to achieve what we are aiming at. Thank you to answer me as soon as possible. Sincerely, Pierre Moynot".

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And then follows the letter dated 6 August 1995 at Court file M.3, 020004 and 5. That's addressed to Nkobi Holdings for your attention from Thomson-CSF SA.

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"Dear sir

I would like to confirm hereby the content of our previous discussions relating to a corporation(?) between Thomson-CSF and Nkobi Holdings primarily in the Republic of South Africa and possibly abroad in any country where we could decide together to co-operate further. The following has been discussed and agreed in principle, pending the final approval by Thomson-CSF's general management.

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1. Thomson-CSF agrees to let Nkobi take a share in the company. They are(?) decided to set(?) in South Africa

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which share may vary from 30 to 35%, pending a final agreement with the other potential shareholders. Furthermore, Thomson-CSF would be ready to consider letting Malaysian investors take an equity into the share capital of the share company, thus reducing its share to under 50%. The company's name would have to be decided in common and would reflect a link with the two main shareholders, i.e. Thomson-CSF and Nkobi. The two main shareholders would have a joint management control of the company as per a scheme to be agreed upon mutually. With regard to the capitalisation of the company, Thomson-CSF would be ready to sign(?) an agreement with Nkobi, allowing for an initial capital brought in by Thomson-CSF alone, with a clause providing the refund by Nkobi to Thomson-CSF of the value of the Nkobi share as per the scheme to be agreed upon mutually. In case Malaysian investors enter the share capital *of* the company, a new funding scheme would have to be set up and agreed in common. The company would then enter into agreements with existing South African companies such as, but not limited to, Altech, UEC, Plessey, Reutech, ATE, etcetera, inasfar as needed for the incoming programmes as already initiated by Thomson-CSF in the past two years. This provisional agreement would stay confidential until when the final agreement is formally signed between both parties. No

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mention of it should be made by either party without the previous consent of the other party. Should you agree that the above is a true reflection of our discussions, I would suggest that we go together to Thomson-CSF Paris head office to finalise our agreement and from there to Malaysia. As per today's telephone conversation, we could fly to Paris on Tuesday night".

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Now to return to Court file M.4 at 030013, it's the second letter of your letter to Ms Mohale of 8 August '95. You say, the last paragraph there -

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"I shall be leaving for Paris, France on the 9th, Tuesday evening. I shall departing to Kuala Lumpur from Paris on Friday evening to arrive in Malaysia on Saturday".

Does that coincide with what Mr Moynot is referring to in his letter?

--- That's quite correct, M'Lord.

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At M.3, 020005. M'Lord, I've just spilled a lot of water. It is one o'clock. This normally happens to me in the SCA, I don't know why it happens here.

SQUIRES J Yes, very well, until 2.15?

MR VAN ZYL As the Court pleases.

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SQUIRES J I'll take the long adjournment.

LONG ADJOURNMENT

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ON RESUMPTIONSCHABIR SHAIK (Still under former oath)

MR VAN ZYL M'Lord, I'm sorry. That's one of the piles[?] I spilt water on. I am sorry.

EXAMINED BY MR VAN ZYL [CONTINUED]

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Mr Shaik, just before the lunch adjournment, we were looking at the letter that Mr Moynot wrote to you on 6 August 1995 preceding your trip to Paris to meet with Mr Gomez, the Chairman of the Thomson Group. Do you recall that? --- Yes, M'Lord.

That is at N3, page 020004, 4 and 5. Did you then meet with Chairman Gomez? --- Yes, M'Lord, I did.

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And what transpired at this meeting? --- I expressed to Chairman Gomez and Vice-Chairperson Perrier the interest that our Group shows in Thales South Africa and the need for us to acquire - to be their partner in Southern Africa.

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SQUIRES J That was the essential Shareholders' Agreement that you described, or was described? Yes, the agreement. That was the original Shareholders' Agreement? --- [Intervention]

MR VAN ZYL M'Lord, that came a little bit later.

SQUIRES J Yes, but this was the basis of it?

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MR VAN ZYL This is the genesis of it, yes. Let perhaps Mr Shaik show you this letter. M'Lord, I intend handing in this document after the witness identified it. AAA I believe is the next exhibit number. AAA1 and AAA2.

SQUIRES J Thank you.

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MR VAN ZYL M'Lord, and may I suggest that we would do this after

the adjournment to file it in Court File 7?

SQUIRES J Yes, thank you.

LETTER DATED 10 AUGUST 1995 HANDED UP AS EXHIBIT AAA1  
AND AAA2

MR VAN ZYL Mr Shaik, this is a letter ...[intervention]

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SQUIRES J Isn't this already in the papers?

MR VAN ZYL No, M'Lord, it is not.

SQUIRES J Not?

MR VAN ZYL We have the 6 August letter we have just looked at.

We do not have this letter, unless I am mistaken. But not what I can

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recall. Mr Shaik AAA1 is a letter dated 10 August 1995. It is signed

by Mr J P Perrier, Executive and Vice-president International Business

Thomson-CSF and yourself. It reads:

MR VAN ZYL READS LETTER DATED 10 AUGUST 1995 INTO THE  
RECORD

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MR VAN ZYL And you signed it and Mr Perrier signed it. Can you  
confirm that this is the letter that you received and that you signed?

--- Yes, M'Lord, I confirm this letter to be a true and accurate  
reflection of our meeting and that on page AAA2 it is my signature,  
M'Lord.

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Now in paragraph 2 on AAA1, it says, "The object[?] of the  
company would primarily be to participate in a number of civilian and  
military projects which are due to be implemented in the Republic of  
South Africa." What does that refer to? --- Well, we largely defined  
the purpose of the company that we would establish in South Africa  
to be a company involved in military projects within the South African

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Defence Force and as Thompson was the leading - the second leading defence company in the world and ...[intervention]

SQUIRES J That was already a possibility in the middle of '95? ---  
M'Lord, I can't recall if it was at all, but we merely ~coped[?] out the activities of our business to reflect the technology value of Thompson in both military and civilian side. So thus the projection of our scope of activities, M'Lord. 5

And the civilian was going to be airports, roads? --- Airports, roads, biometrics application like driver's licence cards, ID cards, those are the non-defence related activities. 10

MR VAN ZYL At that time, August 1995, was their talk, did you hear, were you aware that there might be an order placed by the Government for military hardware, more particularly Corvettes? ---  
M'Lord, I cannot recall if at all I was aware of such a requirement.

Can I then ask you to go to M3, and this is from ...[indistinct] 15  
020023. --- [Intervention]

SQUIRES J 23 did you say?

MR VAN ZYL 23 yes, M'Lord, in Court File M3.

SQUIRES J Yes, thank you.

MR VAN ZYL This is just a Certificate of Incorporation of Thomson-CSF Holding Southern Africa (Pty) Limited on 21 May 1996. This was the company that was formed as a result of your negotiations with Mr Gomez, Mr Moynot and Mr Perrier? --- That is quite correct, M'Lord. 20

And it is also common cause, we don't need to go there, that Thomson-CSF (Proprietary) Limited was incorporated on 16 July 25

1996. Can I ask you to go, in the same file M3, to 020103, and that is the Shareholder's Agreement that was entered into between Thomson-CSF France and Nkobi Investments and Gestilac SA with regard to Thomson-CSF Holdings, and it was signed on 22 May 1996. You see that at 020144. And if I can take you to 020111 in this document, paragraph 3 of the Agreement, clause 3 of the Agreement. It says, "Background." Do you have it? Mr Shaik, do you have it? --- Yes, I am with you, M'Lord.

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3.1 Thomson-CSF has, for a number of years, conducted business in South Africa through its external ...[indistinct] company acting as a representative office for the whole Thomson Group. Thomson-CSF now wishes to expand its activities and joint ventures with South African partners through the company and the company and its holdings to exploit Thomson-CSF and its partners' technology and products. In addition to the objects set out in 3.2, the partners accept that the support for the reconstruction and development programme of the Government of the Republic of South Africa, the RDP, would probably best be promoted by the occasion of entities probably in the form of companies registered in terms of section 21 of the Act and/or of trust to promote such endeavours."

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Mr Shaik, your thinking at the time when this Shareholder's Agreement was signed ...[indistinct], how did you envisage at the time would Thompson conduct its business in

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South Africa and where would your company fit in that picture? ---

M'Lord, it was quite clear to me then, as it is now, that the need for foreign and local established companies, like that of Thales, then known as Thompson, would require to develop local partnerships with previously disadvantaged businesses and individuals. **As** such, I expressed an interest to be such a partner with Thales and clearly began to share with Thales Management our own desire and intent to develop and build our capacities in the field of defence-related activities. And, M'Lord, you will find that ethos of developing our capacities in the sectors that we are busy operationally in, is true to, if not all, but most of our businesses.

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And, Mr Shaik, at that time in May of 1996, middle of 1996, what capacity did you have within the Nkobi Group of companies for this sort of venture? --- M'Lord, none at all.

And how did you see yourself, your Group, taking part in this sort of venture? --- As we have done in our successive businesses, we came to have input in terms of the human resourcing and we do **so**, M'Lord, by insisting within our joint venture companies the need to employ previously disadvantaged individuals and professionals from disadvantaged backgrounds. So this is how we would go about ensuring that there is participation, not just at the equity level, but at the management and operational aspects of the business.

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SQUIRES J Yes. So your contribution to BEE, quotient of every venture, would be persons who didn't have this sort of opportunity before? --- That is quite correct, M'Lord.

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Just tell me while I am on the subject. Were there, in fact, any

section 21 companies formed or trusts to take part in the ventures with Thompson or was it all through your Nkobi Group? --- M'Lord, to the best of my knowledge, it was all through our Nkobi Group.

Nkobi Group. And just while Mr Van Zyl is allowing me, do you know anything about Gestilac? --- M'Lord, I had just one encounter with Gestilac and that was in the formative years of the relationship being put together with Thompson and ourselves.

Who was it and why was ...[inaudible] ...[speaking simultaneously]? --- M'Lord, I believe it was a French person residing in South Africa who had assisted Thompson in developing some of its own business and economic intelligentsia and as such, this was a form of remuneration for that person in the form of shares

Yes.

MR VAN ZYL So that was your understanding? --- That was my understanding.

And this understanding, where did you gain it from? Who told you this? --- I gained this from Pierre Moynot who was the representative of Thales in South Africa and my counter-part in holdings and (Pty).

And do you know who this person is? --- [Intervention]

SQUIRES J That's not necessary, Mr Van Zyl.

MR VAN ZYL As the Court pleases.

SQUIRES J [Inaudible] out of interest while I had the opportunity.

MR VAN ZYL Thank you, M'Lord. Then if I can ask you, in the same M3 document or file of exhibits, to go to 020056. --- [Intervention]

SQUIRES J 020?

MR VAN ZYL 020056, page 56 in this file, M'Lord.

SQUIRES J Yes.

MR VAN ZYL This is the Shareholder's Agreement for Thomson-CSF (Pty) Limited between Thomson-CSF Holding and Nkobi Investments.

--- Quite right, M'Lord.

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We have seen that this company, this (Pty) company was - or Thompson (Pty) was incorporated on 16 July '96 and now we have a Shareholder's Agreement here which was signed even before the company was incorporated on 17 June '96. --- Quite right, M'Lord.

And at 020060 page 60, paragraph 2.1.3, we see the registration number of the company was obviously not available and was subsequently filled in by hand. --- That is quite right, M'Lord.

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And on page 64, 020064, we find more or less the same wording as we've just looked at in the Shareholder's Agreement of the holding company. --- With reference to RDP, M'Lord.

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Yes, and the previous one, "[Inaudible] wishes to expand its activities and joint ventures with South African partners through the company ". --- That is quite right.

Now, Mr Shaik, you are now involved in Nkobi Holdings and you are involved in Thomson-CSF (Pty) Limited, the local companies.

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Did you get involved through these two companies in any South African projects, either holdings or (Pty)? --- Yes, M'Lord, we did and perhaps I think it's important and prudent to say that the first project that we were involved in was the driver's licence project and that was in (Pty) - in holdings, M'Lord, Thompson Holdings.

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If I can ask you, in the same file ...[intervention]

SQUIRES J That was eventually Kobitech, wasn't it? Was the ...[intervention] --- Eventual shareholder and workshare right, M'Lord.

[Inaudible] ...[speaking simultaneously]. --- Ja, it was the sub-contractor to Nkobi Holdings. 5

Was it?

MR VAN ZYL Can I ask you, in the same file, exhibit file M3, to go to 020048. This is - 020048. This is the minutes of the meeting of the Directors and Shareholders of Thomson-CSF Holding Southern Africa (Pty) Limited held on 22 November 1996. If you look at those present, we see that the members are Thomson-CSF France, represented by Mr Moynot, Gestilac SA, also represented by him and Nkobi Investments, represented by yourself. If I can ask you to turn over the page to 020049 to paragraph 4.2. This is now on 22 November '96. "The Chairman informed the meeting the company is to represent the Admatics[?] interest in the contract with the South African Government for the production of driver's licence documents. The South African Government has conditionally accepted the tender by the company and its two partners, therefore, subject to the fulfilment of the condition within 60 days which should present no difficulties. The contract will have to be financed in the approximate amount of R40 million. In order to do so, a new company, Prodiba (Pty) Limited, is to be formed by the three partners to this venture, in which Thomson-CSF will have one-third interest through its subsidiary Thomson-CSF Holding Southern Africa (Pty) Limited. Each shareholder will contribute 10 15 20 25

R13.3 million to capitalise Prodiba and the company[?] had to provide the entire R13.3 million at once since the rate of" - etcetera, etcetera, etcetera. Now this what is set out in the minute, do you confirm that that was correct? --- Yes, indeed.

So by the end of that year '96, through your company's involvement in holdings, you became part of the driver's licence contract through Prodiba? --- That is quite right.

The contract itself was only finalised in February of 1997. --- That's quite correct.

If I can ask you to go, in the same minutes still, to 020052. At paragraph 8.2.5, it is noted that, "Mr Moynot responded that the criteria for business contracts/involvements had still to be decided by the Board, but there would be a 40% or 30%[?] shareholding by the company in UEC via ADS. As yet the company has no overall business plan in place. The company does not yet have active marketing and market research, etcetera." Then you say - you're minuted as having said, "Mr Shaik has stated that the establishment of criteria for company contracts is of major importance and since Nkobi led the acquisition of UEC, they must be kept informed at all times and be consulted prior to any approach to ADS, to which Mr Moynot agreed. It be recorded that he is unhappy and dissatisfied with the fact that insufficient thought has been given to marketing and that no overall marketing business plans have been formalised. Since Nkobi wishes to proceed with active marketing, that he requires the matter be rectified as soon as possible. Mr Moynot questioned whether the company has sufficient funds for an all-out marketing

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effort and said that people from Thomson-CSF France were constantly visiting South Africa and promoting the company and its products. Mr Shaik responded that if necessary additional finance must be arranged and additional person appointed since the effort of the French visitors are inadequate because they know neither the local people nor the enterprises to approach and the company needs to conduct its marketing within a specialised community." First of all, these notes, were they more or less correct as to what was discussed at this meeting? --- Yes, M'Lord, I would confirm that.

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Can you explain to the Court what this was all about? --- Are you referring to which paragraph there, M'Lord?

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First and foremost, your reference to, "Since Nkobi left the acquisition of UEC". --- [Intervention]

SQUIRES J Well, just remind me, what was UEC? --- M'Lord, UEC was the initial name given to the Altech Defence Company that later came to be African Defence Systems.

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MR VAN ZYL And we know it as **ADS**? --- That we know now as ADS, abbreviated for African Defence Systems.

But at that time November **1996**, had ADS, or a portion of that, already been acquired or was it still just ...[inaudible] ...[speaking simultaneously]? --- M'Lord, the question with regards to 8.2.9 refers to the acquisition of UEC and if I may say then it was **100%** owned by the Altech - Altron Group. And my reference here to Nkobi leading the acquisition of the UEC points[?] to the fact that it was myself - it was the efforts that I had put into the introduction of Thales to Doctor Bill Venter and the management, like Peter Watt of

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UEC, that led to the acquisition and the entire awareness of the capability of UEC, M'Lord, to the French who, at that time I can assure M'Lord, was not aware of that capability.

SQUIRES J So you had been advocating this step well before 1997?

--- Indeed so, M'Lord. Indeed so.

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Yes.

MR VAN ZYL And if you can refer to paragraph 8.2.5 where Mr Moynot was minuted as having said that, "The criteria for business contracts' involvements had still to be decided by the Board, but there would be a 40% or 30% shareholding by the company in UEC via ADS." Does that mean that at that time it was foreseen that holding would take a shareholding in UEC? --- Well, M'Lord, one must understand that the negotiations and the discussions were rather loose, were still being firmed up and Doctor Venter, Doctor Bill Venter of Altech really hadn't decided whether he was going to exit totally from the shareholding structure of the defence entity UEC/ADS and, therefore, in terms of the French interest, they were expressing a 40% to 50% shareholding in the company. That's how I understand that to be, M'Lord.

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Mr Shaik, the previous year in August, when you visited with Mr Moynot in Paris to see Chairman Gomez of Thomson-CSF, at that stage was there any discussion about UEC or ADS of getting an interest in that company, anything of the sort? --- M'Lord, those discussions were largely, what I would refer to respectfully, at a strategic level of our participation in both the defence and commercial sectors.

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SQUIRES J But nothing in particular? --- I cannot really recall if as such I had discussed that with Mr Gomez and Mr Perrier, but I do believe subsequent to that in my discussions with Mr Perrier, I raised the issue of ADS's capability as the defence contracts in South Africa became more commonly known in the market place. 5

Did you know that it was a leader in its field? --- I beg yours.

Did you know that ADS was a leader in its field of ...[inaudible]?

--- M'Lord, I had a very good understanding of ADS's capability as quite a few of my friends and a family member worked at ADS.

MR VAN ZYL You cannot remember exactly when you raised this, but you say you did discuss this with Mr Perrier? --- Yes, indeed. 10

And also with Mr Moynot? --- Indeed **so**, particularly with Mr Moynot because he was the original representative of Thales in South Africa.

And what was your view at the time concerning ADS, with reference to paragraph 8.2.9 where you say, "Since Nkobi led the acquisition of UEC"? --- M'Lord, one must see this with the backdrop of the defence sector was spending very little, if none at all, on defence on the sub-contractors like UEC and there was a negative perception about foreign companies making acquisition of South African companies. This was clearly a sentiment expressed by the UEC, by the then UEC Management, and it was within this framework that I approached Mr Perrier and Pierre Moynot with the view of Nkobi leading this initiative and making the necessary introductions of the French to Doctor Venter and company. 15 20 25

SQUIRES J So where it is noted in 8.2.9, "The establishment of

criteria for company contracts is of major importance and since Nkobi led the acquisition of UEC", you had not done that at that stage? --- I believe, M'Lord, we had.

You had done it? --- Yes, I believe we would have led that. We would have led that initiative, M'Lord. 5

So it was just an initiative? --- Yes.

You had led it? --- Oh, yes, indeed so, M'Lord.

MR VAN ZYL Mr Shaik, at that point in time, holdings or the French or whoever in Thompson had not yet acquired any shareholding in ADS? --- Oh, no, not at all, they had not. 10

SQUIRES J Yes. So that should really read[?], "Since Nkobi led the initiative for the acquisition of UEC"? --- That is quite correct, M'Lord.

SQUIRES J And you wanted to be informed of any approach to ADS that might be made? --- Indeed so, M'Lord. 15

As they say, you wanted to be in the loop. --- That is quite correct.

SQUIRES J Yes, thank you.

MR VAN ZYL Mr Shaik, as it turned out later as we've seen, the French bought the shares directly in France and you weren't informed of that until a later stage? I think that is common cause that ...[inaudible]. --- That is quite correct. 20

But we'll come back to that. The last paragraph on page 52 020051, you or Mr Moynot referred to marketing, which you've raised, and you said that, "The efforts of the French visitors are inadequate because they know neither the local people nor the 25

enterprises to approach. The company needs to conduct its marketing within a specialised community." What were you about there? What was the problem with marketing and did you raise there? What did you have in mind? --- Well, M'Lord, I really in a sense was very fortunate to have stumbled on a company like Thales International, then Thompson. Not just being the second largest defence company in the world, but was a leader in biometrics application in airport design and development and in a range of other fields, M'Lord. And, as such, I found the infrastructure of Thales, or then Thompson, in South Africa merely represented by Mr Moynot and a secretary, and I could hardly believe, looking at the potential of this company and what efforts were being put in to market this entity, I couldn't form the correlation between those two and I said to Mr Moynot, "I believe there are huge opportunities unfolding in South Africa and in KZN and I think it is important to start bringing in some of your marketing divisions with the view of taking up some of those opportunities", or at least marketing themselves effectively. This is what I believe I referred to there.

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In this regard, you referred to, "They know neither the local people nor the enterprises to approach." Now exactly what did you have in mind? Which local people are you referring to in the marketing sense? --- Ja. Well, M'Lord, for example, if one is not aware that within the Department of Transport there was a specialised unit called the Airports Company and that within the Airports Company, there are particular rules that govern how that entity ought to operate. You would go and see the Minister of

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Transport or the Director-General, but really the line competency[?] would be within the Airports Company. If you were to market your expertise on products, that is the area you would go to. That would be true to the Toll Roads. So really I was saying to Pierre and to the French, "I think you need to understand that the terrain in South Africa is changing; that you need to be very focused as to where you market your products and activities", and as we were beginning to get involved in that sector in South Africa, we knew the relative contacts and the relative people and entities we would need to pursue those opportunities with.

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Mr Shaik, why would it be necessary to know the local people or, as you say, those in the line function? Why couldn't you just put in your tender and sit back and relax? Why was it necessary to market your product, to know the people involved, etcetera? --- M'Lord, several reasons, but perhaps the one that sticks out most in my mind would be that foreign companies coming into South Africa, and we must understand, M'Lord, in the early period, 1994 and onwards, the issue of Black Economic Empowerment was really an untested territory in the South African business sector and you could imagine the lack of understanding by international companies. And therefore, the need to impress upon the companies for local participation was important for them to be in compliance with National procurement rules, whilst then not legislated as today, was still a requirement. **So** if an International company merely submitted a tender based on the best price and technology, I hardly believe, M'Lord, that would have been sufficient for a company to be

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successful in its efforts, in its marketing efforts.

But it was getting to know the market in which you operate?

--- Indeed so.

Now we have seen in this minute of 22 November 1996 that a new company, Prodiba, was to be formed. It is common cause that the Prodiba contract with the Department of Transport was signed early in '97. Not to blow the point further at this stage, can you tell the Court, at that juncture, beginning of '97, what did you foresee? When will your company or your Group benefit from any income from Prodiba? --- M'Lord, round about this time it was important for me to begin defining my own business model, as it later evolved to be, a highly successful one, and I saw very early in my business life the need not just to be a passive shareholder in these business opportunities, but to take an active role and, therefore, to negotiate what we later refer to as workshare, a workshare opportunity. Now clearly, M'Lord, at that foetal stage of our development, we were unable to provide the relative technologies, the relative expertise necessary to deliver such a project because we really just had come from the periphery of our skills development in South Africa, had not exposed to such capacities, we could really just supply, M'Lord, certain skilled and semi-skilled. So we derive the income as a result of the workshare supplying such human[?] skills.

SQUIRES J I think Mr Van Zyl may have meant from dividends or ...[inaudible] from Prodiba? --- And, M'Lord, then you were ...[inaudible] ...[speaking simultaneously].

[Inaudible] you got the workshare payments almost immediately

work started. Would you? --- No, M'Lord. The year zero, as evidence-in-chief was led here, was the year in which we had to set up the plant ...[intervention]

Yes. --- ... M'Lord, Denel, Thompson, Prodiba[?] and ourselves. 5

And you got reimbursed for that? --- We got reimbursed later for that.

Then once operations started, you could sub-contract for the workshare and Kobitech I think was awarded one of those. --- Quite correct, M'Lord. 10

Now you got paid for that? --- Quite correct.

And then I think the question was, at least I understood it as so, when did you expect to start receiving the additional income from the dividends? Is that what you mean?

MR VAN ZYL Yes, M'Lord. --- The business plan, M'Lord, 15 indicated, which was just an indicative value of some of the assumptions made that in year - three years later, or three and a half years - between three and three and a half years into the project, we would have a positive dividend flow into our company.

SQUIRES J Yes, because you had to pay back a loan I think. --- 20 We had to service the loan in the first three years, M'Lord.

The first three years? --- That is correct.

So it wouldn't have been until then that you would have expected ...[inaudible] ...[speaking simultaneously]? --- Then we would have, what we refer to as, positive dividend flow that we could 25 utilise in our Group.

MR VAN ZYL And we'll go to the exact figures later, but at this juncture in '96 and after the signing of the Agreement in early '97, you foresaw positive dividend flow into your Group by three years from that? --- That is quite correct. I could say three or three and a half years. I don't have the business plan before me, but at a strategic level, this is the decisions we take, that dividends will first serve as debt and thereafter, you would have the advantage of free cash-flow.

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At this juncture, Mr Shaik, the Prodiba contract was signed ...[inaudible] as I have said, that was a certainty. What other projects were you pursuing at the time? --- M'Lord, I ...[intervention]

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[Inaudible]. --- Ja.

SQUIRES J 1997?

MR VAN ZYL 1996/1997. --- M'Lord, we had a company called Procon Africa Consultants. I recall, Proconsultant. These were operational entities that had the capacity to deliver on project management with regards to the housing programme in KwaZulu-Natal, in addition to the multi-skilled engineers and technicians that we employed at various projects throughout the country. So we really had two operational companies at that time, if I may recall correctly.

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Mr Phambile Gama, where did he fit in? --- Mr Gama was at first a Consulting Engineer heading the Electrical Engineering Division of Procon Africa, was, M'Lord, I indicated the multi-disciplinary entity in the Group, and later became the Managing Director of Procon Africa.

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SQUIRES J When you say the multi-disciplinary part, what disciplines did it embrace? --- M'Lord, it embraced Civil Engineering, Structural Engineering, Mechanical, Electrical, Project Management.

These were individuals with those skills who worked for that - or were employed by that company and were deployed elsewhere? 5

--- That is quite correct, M'Lord. If I may please qualify that, M'Lord? These were individuals we would bring in from the market place and deploy their skills on a project to project basis and would be remunerated accordingly.

By Nkobi or by their then employer? --- The company 10  
Procon Africa would contract to the client, be the Airports Company or ...[intervention]

I see. --- ... and in turn will share their income with the professionals and itself.

MR VAN ZYL Procon Africa is accused 7 before this Court? --- 15

That is quite correct, M'Lord.

Whilst on the topic of Mr Gama, can I ask you to go to Exhibit file M2 at page 501,010501. Do you have it? Do you have the document in front of you, Mr Shaik? --- Yes, M'Lord.

This is a CM42 for a Transfer Form for Sheldon[?] and Clanwest 20  
Investments (Pty) Limited, 20 Ordinary Shares. Transfer from Mr Gama and signed by him in black. If you can just turn over the page. It's a Deed of Acknowledgement and Renunciation[?] Special Power of Attorney again by Mr Gama for the 20 shares in Clanwest, and also signed by him in black. Now this Court heard the evidence 25

from Mr Van Der Walt, but looking at these two documents, it seems

that Mr Gama was holding these shares as a nominee for somebody else. Can you give the Court the background to these two documents and tell the Court what the actual position was? --- M'Lord, I was seeking to build a meaningful Black Economic Empowerment company, but trying to attract well qualified, experienced and committed previously disadvantaged individuals to the company, the company being Nkobi Holdings and Investments. Mr Gama was one such individual and there were several others, M'Lord. And in terms of structuring the equity into Nkobi Holdings, he had the option of either doing it directly in his name, and in this case, M'Lord, I believe he would have been advised to hold it through a management company called Clanwest.

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SQUIRES J So was he only holding these shares as a nominee? --- M'Lord, he was holding these shares in his own capacity and not a nominee for anyone.

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MR VAN ZYL So why was that then - this share price, the form signed in blank and the document that accompanies it, 01/05/02 also signed? --- M'Lord, I was really at a point in time where I had some bad experiences or rather unfortunate experiences with colleagues that would be attracted to the company for fame, name and gain, M'Lord, without the necessary commitment they would make and I would find that to have them removed as a shareholder or as a director caused immense frustration.

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SQUIRES J So was this a sort of probationary period? --- So this indeed, M'Lord, was a probationary period until such time the individual showed his commitment, as Mr Gama has. He is still with

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the company and his equity has grown, M'Lord. I have issued instructions to my auditors, M'Lord, to remove any documents that would create any doubt in Mr Gama's mind or in anyone else's mind, if at all, merely holds these shares in someone's name.

MR VAN ZYL So if I understand you correctly, that this should not be seen as if Mr Gama signed these documents as if he's holding as a nominee for nominee for somebody else? --- That's quite correct.

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That was your insurance? --- That's quite correct.

Workers College. Now we've heard a lot about Workers College in this court already. Can I ask you to go to M1 - is it M1? To page 43 in file Exhibit M1, 010043. Do you have that in front of you? --- Yes, M'Lord.

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Now we know that Nkobi Holdings was incorporated on the 27th of February 1995. This is minutes of a meeting of the directors and shareholder of Nkobi Holdings on the 3rd of June 1996 and present is indicated Mr Yunus Shaik, representing Workers College. First of all, can you tell the Court who is Mr Yunus Shaik? --- M'Lord, Yunus Shaik is my brother.

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And what was his involvement with Workers College? --- M'Lord, he was a founding member of the Workers College and a director of the college.

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At that time, 1996, what was your understanding? What was Workers College? --- M'Lord, my understanding, as I recall, my brother Yunus Shaik was trying to provide an upgrading of skills, provide an accreditation[?] of skills for members of the Clothing and Textile Workers Union. It was a form -the stages of this college being

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formed in which to train and upgrade the skills of workers within that union, the South African Clothing and Textile Workers Union.

Now, you transferred, according to this minutes of this meeting, some 200 shares in Nkobi Holdings to Workers College from yourself?

--- That's quite correct, M'Lord.

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Was that - what was the intention behind this? --- Well, M'Lord, I found out that my brother Yunus would be travelling internationally, besides domestically, in search for funds for this college. In my own structuring of an empowerment entity it was my mindset at that time, M'Lord, to include an educational component to the shareholding of our group and therefore, in discussing with my brother the difficulties he was experiencing in raising capital abroad, it was my desire then to share with him the need to contribute funds to his college as I believed he was contributing to the bigger picture within the RDP.

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Was it then your idea that if and when dividends become payable in Nkobi Holdings, they being a shareholder in the company, would then receive a dividend and so contribute to Workers College? Was that the idea? --- Yes, M'Lord, that clearly was my intention.

If I can ask you to turn two pages back, to 010041? This is a last page of a deed of suretyship in which the various companies and trusts bind themselves as sureties to the bank. The last line reads:

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"On the 18th of July '97. Workers College of South Africa."

And it's your signature appearing next to it. --- That's quite right, M'Lord.

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Purporting to bind Workers College as a surety? --- Quite right, M'Lord.

Were you a member or director or shareholder or anything in Workers College? --- No, M'Lord, I was not.

On what authority did you sign this document? --- M'Lord, 5  
when I would find myself in such positions I would communicate to my brother Yunus Shaik who, inadvertently, would be outside of Durban and out of the country in search of funds for the college and therefore I had an oral understanding with my brother that he had authorised me on behalf of the college to sign such sureties, M'Lord. 10  
I certainly don't believe that if it was not signed, the bank would not advance me the facilities but, in compliance with the bank's regulations, I signed this.

SQUIRES J Did you have some formal power of attorney, or was it just an oral authority? --- M'Lord, it was an oral authority. 15

MR VAN ZYL Now that time when the transfer of the shares to Workers College was minuted on the 3rd of June 1996, apart from your brother Yunus Shaik, did you discuss this issue with anybody else involved in Workers College? Directors, shareholders, whatever they may be? --- Could you perhaps repeat that question, M'Lord? 20

I say - if you can just turn over again two pages to 43? On the 3rd of June it's minuted that a resolution was taken to transfer shares to Workers College from yourself? --- Quite correct.

And Yunus Shaik is indicated as present, representing Workers College. Now at this stage, did you discuss this issue about the 25  
transfer of shares to Workers College with anybody else from Workers

College's side except your brother Yunus? --- M'Lord, I only discussed this with Yunus Shaik.

Can I then ask you to go to 100042? That's just the previous page. This is a letter from Workers College addressed to yourself dated - it's undated but in the first paragraph under the heading 'Withdrawal of Workers College' it says:

"At a board of trustees meeting of the college held on the 1st of November 2000 the college's association with Nkobi Holdings came under review. It was found that the college has played very little, if any, role in the affairs of Nkobi Holdings, both at board level and in terms of the activities and business of Nkobi Holdings. In addition, the college has received no benefit from this association. In view of the above, the board of trustees of the college has decided to withdraw from the board of Nkobi Holdings and from its association with Nkobi Holdings forthwith. Thank you. Sincerely, Kessie Moodley."

Can you remember having seen this document at the time? --- Yes, M'Lord, I have. It's been addressed to me.

This reference to 'withdraw from the board of Nkobi Holdings, was anybody from the Workers College on the board of Nkobi Holdings? --- M'Lord, I recall a gentleman from the Workers College being nominated on behalf of the Workers College.

And who was he? --- Mr Ngcobo.

A previous witness? --- I witness that appeared in this trial, M'Lord.

Mm-hm. And do you know whether he withdrew from the board of Nkobi Holding in any way? --- Well, M'Lord, I believe - I cannot really recall, M'Lord.

SQUIRES J You can't remember any formal withdrawal or letter ...[intervention] --- That's quite correct, M'Lord, I cannot recall any formal withdrawal. That's what I was trying to reflect.

MR VAN ZYL This note that the College has decided to withdraw from the board of Nkobi Holdings, could it have referred to anybody else but Mr Ngcobo? --- Oh, no, it could not refer to anybody else because, as I understood, Mr Ngcobo was the only representative on the board and I don't see how this would refer to anybody else, M'Lord.

And how did you understand the second part of that sentence, that they want to 'withdraw from its association with Nkobi Holdings forthwith.' --- Well, M'Lord, there was very little association between our two entities and therefore it had not come to any great surprise, their intention to withdraw, and I understood this letter to mean, in my business mind, M'Lord, a break of relationships between our two entities - a relationship no longer to continue or exist.

What relationship was that up to that point? --- Well, M'Lord, the relationship that they were a shareholder; in my mind the intention that defined between my brother and I that they ought to have been a shareholder, they were a shareholder, and they were to derive revenue once our company becomes financially independent.

So this break of association, M'Lord, really refers to that break of an

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understanding I had in my mind so far as they are concerned.

SQUIRES J Was your brother still involved with the Workers College when you received this letter? --- No, M'Lord, I don't believe he was.

He was really the link with it? --- Indeed he was, M'Lord, the link between our two entities. 5

MR VAN ZYL And how did you understand this letter, and especially withdrawing from the association with Nkobi Holding? How would that impact on any possible shareholding? --- Well, the point is, M'Lord, I see this as a withdrawal - I saw this as a withdrawal, as I still do now, of their shareholding and rights and obligations - all liabilities to the company. 10

Of all the thousands of documents here, M'Lord, the one that I'm looking for is not in this file.

SQUIRES J Call it Murphy's law. 15

MR VAN ZYL Mr Shaik, if I can ask you then to go to court file 5, at page - well, Exhibit NN 16. --- Did you say, M'Lord, NN?

NN 16 - N for November.

SQUIRES J My court file 5 only goes to KK. Can we try court file 6? 20

MR VAN ZYL Then it must be court file 6. I'm sorry, M'Lord.

SQUIRES J Anyway, is it NN or MM.

MR VAN ZYL Double N, M'Lord, for November.

SQUIRES J Yes, it's court file 6. Workers College?

MR VAN ZYL That's correct, M'Lord. Okay, can I ask you to go to 25

NN 16? That is a photograph to which Mr Ngcobo referred on which he also appears. As I understood his evidence, he was not aware of the fact that he was a director, he says, of Nkobi Holdings. What do you say about that? --- I believe that's misrepresentative, M'Lord. I believe he was aware of the fact that he was a director.

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If you can turn back two pages to NN 14, that is from the Registrar of Companies. We see a CM 29 that shows that Mr Ngcobo resigned as a director of the company on the 2nd of January 2002. --- That's quite correct, M'Lord.

Can you give us any background as to how this came about, Mr Shaik, or not? --- ...[intervention]

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SQUIRES J Just ...[intervention]

MR VAN ZYL I'm sorry, M'Lord.

SQUIRES J What page?

MR VAN ZYL NN 14, one four, M'Lord.

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SQUIRES J 14, thank you. Oh, I see.

MR VAN ZYL In the right-hand column, top.

SQUIRES J Yes, thank you.

MR VAN ZYL We see that Jabulani Jeffrey Ngcobo resigned as a director on the 2nd of January 2002.

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SQUIRES J Yes, thank you. What was the question?

MR VAN ZYL Can you give us some background as to how this came about, Mr Shaik? --- No, M'Lord, I can't, simply because this function would have been between Mr Gama, Mr Isaacs and the auditors that would be in charge of this, M'Lord.

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But as we've seen earlier in Exhibit file MI at 100042, that letter in which you were informed that the college has decided to withdraw from the board of Nkobi Holdings, the only person from Workers College who could possibly withdraw from the board of Nkobi Holdings would have been Mr Ngcobo. --- That's quite correct, M'Lord.

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There was nobody else? --- As I understood it, M'Lord, there was nobody else.

Can I ask you to go to - in court file MI page 45 - 010045?

SQUIRES J MI?

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MR VAN ZYL MI, M'Lord. I must apologise for jumping around but the documents are in two files. This is 10045, this is a letter signed on behalf of Mr Ngcobo as Workers College chairperson, addressed to the managing director, Nkobi Holdings, attention yourself;

"Request for a meeting, Workers College and Nkobi Holdings

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At the informal meeting held on the 16th September 2001, attended by our Mr Jabu Ngcobo and his vice-chairperson for Workers College, and Mr Gama ...[indistinct] from Nkobi Holdings, we were advised that

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you are out of the country. Therefore we hereby request a meeting with yourselves at a suitable date when you are available. The purpose of the meeting is to discuss the relationship with Workers College as one of the shareholders of Nkobi Holdings. The possible dates to us

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are after the 18th of October 2001."

Now we looked at the letter earlier in which they, on 1 November 2000 decided to withdraw from their association with Nkobi Holdings.

You told the Court that that could only mean from shareholding as well. Now in 21 September 2001 ,almost a year later, they want to

discuss the relationship with Workers College as one of the shareholders of Nkobi Holdings. Firstly, can you remember whether

such a meeting took place with yourselves? --- M'Lord, I cannot confirm or deny if such a meeting occurred. I simply cannot recall,

M'Lord.

If I can then ask you to go - this will then be Exhibit file 6,

M'Lord - to NN 41.

SQUIRES J Page?

MR VAN ZYL Page NN 41, M'Lord, Court file ...[intervention]

SQUIRES J 6?

MR VAN ZYL Yes. This is a letter dated the 28th of March 2003

from your present attorney, Mr Reeves Parsee, to Workers College:

"Your previous correspondence to our client refers. As requested, please find enclosed CM 42 forms for your completion and return to us as a matter of urgency.

- CM 42 is of course a share transfer form. -

Should you have changed your desire to relinquish your shares and wish to continue participation in the company,

then a number of outstanding obligations in respect of your shareholding needs to be finalised. Accordingly,

kindly call us immediately so that a meeting of the shareholders can take place to resolve your outstanding obligations to the company. Please forward to us complete details of the individual who would be tasked to resolve the foregoing issues. Yours faithfully, Reeves Parsee."

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Now, this letter, was this written on your instructions? --- M'Lord, I cannot recall but ...[intervention]

I suppose we can assume that Mr Reeves Parsee wouldn't write a letter of his back? --- No, I'm trying to place it within the organisational structure of my company.

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SQUIRES J Like Mr Isaacs and ...[intervention] --- I think it would have been the chief accounting officer, Mr Isaacs; Mr Gama, most likely because M'Lord would recognise the previous letter you referred me to, I handed that matter to Mr Gama to deal with as I was out of the country. But, M'Lord ...[intervention]

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Can you remember giving such instructions? --- No, I cannot remember.

MR VAN ZYL Now this desire to relinquish their shares - your shares, would you be able to throw any light on what Mr Parsee had in mind when he referred to this? --- Well, I believe, M'Lord, there was some correspondence between Workers College and myself, our company, in which they have expressed an interest to disassociate themselves from our group. There was a flurry of news media at that time in which, I believe, Workers College had expressed a deep

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concern about - and questioned whether they were involved in our company. Those news articles were indeed very nasty.

SQUIRES J This was once the investigations started? --- That's quite correct, M'Lord.

Yes, I remember somebody mentioning it. --- That's right, M'Lord. And therefore this whole issue of the Workers College now came to the fore. There was an exchange of correspondence between themselves and ourselves. M'Lord, I would have basically handed this matter to our senior management who would have, I'm sure, M'Lord, would have instructed our legal advisor to - and our auditing firm to resolve this issue amicably. We didn't want to be associated with any negative press as much as the Workers College won't. The sentiments expressed by the Workers College clearly hurt our business profile.

MR VAN ZYL Mr Shaik, can I ask you to go to NN 46? This is also a documents, a letter by Mr Parsee to Workers College dated the 8th of June 2004. It says:

"Our previous correspondence to you refers. We have previously written to your offices regarding the withdrawal of Workers College and relinquishing of shares as per your telefax of 20 November 2000, Our clients are now of this matter must be resolved. We wish to place on record the following factors:

The Workers College relinquished their shareholding in the entity Nkobi Holdings during or about November

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2000 by way of a written document headed 'Withdrawal from Workers College.'

If I can just ask you to hold that page and go back to court file Exhibit M I at 10042, the letter we looked at a bit earlier. Do you have that?

--- Yes, M'Lord, I do.

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This document is indeed headed 'Withdrawal of Workers College' and ...[intervention] --- M'Lord, it's also recorded on NN 28, for the Court's ...[incomplete]

Yes, but now let's look at this 10042. Do you have that in front of you? --- I do, M'Lord.

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Paragraph 2 of NN 46 reads:

"Workers College confirms that it played very little, if any, role in the affairs of Nkobi Holdings, both at board level and in terms of the activities and businesses of Nkobi Holdings.

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That wording is taken from the first paragraph of this document at 10042. --- Quite correct, M'Lord.

When the investigation was started into the arms deal encounter [?] this prompted a nasty article in the Mail and Guardian dated 26 January 2001. A copy of the document is attached, which is self-explanatory. Well, it's clearly stated the board did not know about the shareholding until November last year when it raised at a board meeting.

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- it's supposed to read 'was raised at a board meeting' -

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The matter was brought up and we decided to write Nkobi Holdings breaking ties. We had no benefit from the association at all. In the circumstances it was quite clear that there was not only a factual relinquishing of shares but also intent on the part of Workers College not to associate with Nkobi company or its affairs. Nkobi Holdings had to put up various guarantees and fund various projects which would have required shareholding funding and in turn would have meant that Workers College would have had to contribute financially.

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Needless to add, this funding was not provided. The shareholding funding requirements attached are self-explanatory ..."

'm not going to read this whole letter. The upshot of this letter was that you received NN 49. Do you have NN 49 in front of you? ---  
Indeed, M'Lord, I do.

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This letter, in the second - it is dated at the foot of NN 50 on the 13th September 2004 and in the second paragraph it says:

"At the start of this relationship the then director of Workers College, Yunus Shaik, brother of Schabir Shaik, approached the college about the possibility of the college becoming an equity partner of Nkobi Holdings. At the time it was a requirement for companies who were tendering, especially for public contracts, to have an equity partner that reflected some form of black

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empowerment. The understanding was that the name of the college would be used and in exchange there would be some form of financial benefit. This was done at a time when the college itself needed to plan for future funding and this appeared to be a viable option...

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If we can just stop there. Is this correct that you would use the name of Workers College as an equity partner that reflected some form of black empowerment? --- M'Lord, that's a strange remark because Nkobi Holdings then was already an empowerment company. I don't believe I need to be using any other empowerment credentials other than, M'Lord, the fact that I am from a previously disadvantaged background and that I have had directors or alliances within my company that's equally from a previously disadvantaged background. So to reflect on wanting to bring the Workers College merely to increase our black empowerment as we didn't have that, I don't believe that's quite correct, M'Lord.

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And the next sentence also:

... The understanding was that the name of the college would be used an in exchange there would be some form of financial benefit...

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Was that ever the idea? --- That's not true, M'Lord.

The next paragraph reads:

The contact with Nkobi Holdings faded away once Yunus Shaik left the college. Unfortunately, there were no documents or share certificated in the college which

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recorded this association, nor were there any minutes of the board of trustees of the college which reflected any such transactions. The college's next contact with Nkobi was when the newspaper reports publishes the fact that the Workers College held a 10%share in Nkobi Holdings. Subsequently the college, the members of the board were visited by the Scorpions. The official response from the college was set out in our letter to Nkobi Holdings which you are familiar with. These newspaper ... etcetera, etcetera ...

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The second paragraph on NN 50:

In terms of the obligations and duties that both the college and Nkobi had to each other as shareholders and the company respectively, we do not wish to enter into any exchange. Suffice it to say that in terms of annual reports and the declaring of dividends, if any, were not disclosed to the college as a shareholder from the beginning. We would assume that this would be a basic responsibility interms of accountability and transparency.

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and then in the second last paragraph:

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Under the circumstances, in the light of there being continued nondisclosure of such information, the college has decided to transfer the 10% shareholding back to Nkobi at no cost. It would be taken that the token fee of R200 provided by yourself has been effected in the

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transfer form as the value of the shares. We hope the above clarifies our position. Attached is a duly signed security transfer form CM 42, transferring the said 10% shares."

Now, Mr Shaik, after you received that letter in November 2000, in which they said they wanted to withdraw from the board and from association with your company ...[intervention] --- 1st of November, M'Lord? The 1st of November? 5

Yes, 2000. In your mind, was there ever - did you regard them as, in any way, possibly shareholders in your business thereafter? --- 10

No, M'Lord, in my mind that was a clear break of shareholding in our company.

And apart from the fact that you discussed the issue of the transfer of shares with your brother Yunus, did you receive any correspondence or anything of the sort from Workers College, the board of directors, or trustees, or managing body of Workers College to indicate that they accepted these shares? --- M'Lord, could you repeat the last part? 15

I say, did you receive any indication, in writing or otherwise, from the board of directors or whatever governing body governed this Workers College, that they've accepted these shares? --- No, M'Lord, I do not recall having received such communication. 20

Now, Mr Shaik, to turn to another topic, you have in your plea explanation admitted to this Court that you have made, through the years, as set out in the schedule to the indictment, a number of 25

payments to and on behalf of Mr Zuma. --- That's quite correct, M'Lord.

The State sought to accuse you in count 1 that these payments were actually made with an intent, to sum up, to bribe Mr Zuma. What do you say about that allegation? --- M'Lord, that is untrue and clearly does not reflect the relationship that I have with the deputy president. 5

If one looks at the schedule of payments, we see that the first two payments - are you familiar with the schedule? --- Yes.

The first one was made on the 25th of October 1995 and the receiving account-holder was K M Zuma - for the benefit of K M Zuma. The second one was made in the next year, March of '96 in the amount of R2 500 also to the same person. What were the backgrounds, or the background to these payments? The first one was made from Clegton Investments; the second one was made in cash. --- M'Lord, these payments were advanced to K Zuma. As I recall, the deputy president was unavailable, or was not in the country - but certainly was not available, or unreachable by Kate - the late Kate Zuma; because she knew we were close family associates, she felt it quite comfortable to call me and assist her. Those funds were for her personal nature. 10 15 20

You refer to the late Kate Zuma. She was, I think it's common cause, the wife, at the time, of Mr Jacob Zuma? --- Indeed so, M'Lord, she was one of the wives of the deputy president.

Was Mr Zuma out of the country on both occasions? --- 25

M'Lord, I recall clearly he was not reachable or contactable as I tried to reach him. I just assume, M'Lord, he was out of the country. He could have been in the country but certainly was not contactable.

And what was her request to you? --- M'Lord, her request was more of a personal nature as she required funds for the personal use at home, for domestic use.

And you did provide these funds? Actually you paid it into her bank account? --- That's quite correct, M'Lord. We transferred those funds electronically to her bank account.

Did you tell Mr Zuma about this? Or can you not recall, or what's the position --- M'Lord, I clearly did not tell the deputy president about this for some time as I felt it was a small amount and it was a request that Kate, the late Kate made to me and I was sort of close to her as well.

Now the next payment on the schedule, number three, is marked unknown. It's an amount of R3 500. We have established since that it was made to Ms Brown or Zapolski. --- That's quite correct, M'Lord.

A number of payments were made to Ms Brown, or Zapolski as she later was or earlier was - I'm not sure. Can you give the Court background to these payments? --- M'Lord, it was a time when the deputy president was very busy in our province on behalf of the ANC to bring some sanity in terms of political stability[?] and the potential threat it meant to the province, the possible violent uprising between the political parties in this province, the two major parties in

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this province. It was around that time, M'Lord, I received a communication, faxed communication from the Minister of Intelligence, Mr Nhlanhla - the former Minister of Intelligence - informing the deputy president that his life was in perilous danger. Mr Zuma at that time had visited my home on the beachfront and we sat outside. I recall receiving that fax at home as I have a fax machine at home. Mr Zuma clearly was disturbed by the fax as it clearly indicated the level of violence that he was to expect - in fact, M'Lord, naming some of the potential assassins that was targeting him. **As** a result of that, M'Lord, virtually within the next day or two I arranged for a what I believed was a safe house and it was an apartment at Malington Place which was down the road from where I lived. I felt it was suitable for the deputy president because it provided him with the necessary security.

Now you refer to the violence at the time in the province. It may be common knowledge but can you just give the Court some background?

SQUIRES J What time - what year was this? --- M'Lord, it was ...[intervention]

..[indistinct] not until you started paying the rent? --- Would be '96, '97 period.

'97? --- Yes.

MR VAN ZYL In '96/97.

SQUIRES J That's what your plea statement says. End of '96, beginning of '97? --- Quite correct, M'Lord.

MR VAN ZYL M'Lord, with respect, we've also put to Van der Walt that the plea explanation in that regard is not correct.

SQUIRES J Oh, did you?

MR VAN ZYL Yes, we did.

SQUIRES J Oh, sorry.

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MR VAN ZYL And I'll lead the witness on that.

SQUIRES J Yes, very well, then if that's not correct.

MR VAN ZYL Maybe I should go there first and then ask this question. Can I ask you to go to MI9 - file MI9 at 100158? This is a document under the heading 'Sparkport Pharmacy'. Mr Suleman testified about this, the previous witness. It's dated the 25th of July 1996.

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"Rentals due by Minister Zuma, Malington Place. Please note that the following rentals are outstanding for premises rented by Mr Zuma at Malington Place. Months due: May '96 through to July '96."

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... and so it goes on. Is this the apartment that was rented for Mr Zuma at Malington Place is issue? --- That's quite correct, M'Lord, this was the apartment.

And does this assist you to tell us more or less when you rented this apartment at Malington Place for Mr Zuma? --- It does, M'Lord, it's clear: from the period May 1996.

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Now if we can go from - if you can just keep your finger there and if you can go to the same bundle - oh, just the next ...[intervention]

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SQUIRES J Did you - was the apartment - I thought your apartment that he occupied was one that was rented by Nkobi and occupied by Mr Colin Isaacs. --- M'Lord, indeed that was another apartment within the block of Malington. Malington has about ...[intervention]

Several floors. --- ... several floors. Mr Isaacs occupied an apartment on one floor and Sparkport was another apartment on another floor, M'Lord.

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I see. --- And we then moved the deputy president from one floor to the other floor.

But he'd already been in Malington Place for some months before then? --- Indeed so, M'Lord.

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Right. And you started - you paid the unpaid rent for May '96, June and July '96 on receipt of this letter, or in knowledge of this letter from Mr Suleman? --- That's quite correct, M'Lord. M'Lord would notice attention C A Jadwat there.

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Yes. --- He was my accountant and auditor at that point in time.

Yes. --- He would then have forwarded this on to me, M'Lord.

Yes, but this was in respect of the flat he rented from Mr Suleman? --- Quite correct, M'Lord.

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Sorry, Mr Van Zyl.

MR VAN ZYL Just the next page, 100159, we see the sub-lease agreement with Tracy Ann Brown for 191 Malington Place, a lease period 1st September 1996 through to 31st August 1997. Is that the

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lease agreement that Mr Colin Isaacs entered into? His name - you can see his name under Nkobi Holdings, as one apartment. --- Quite correct, M'Lord.

Now Mr Isaacs moved out of 191 Malington Place when? --- M'Lord, shortly ...[intervention]

If you're not sure, tell us. --- M'Lord, I'm sure the fax indicate itself before me but Mr Isaacs moved out into a private residence and Mr Zuma moved into Mr Isaacs' apartment. It was one after the other.

Now when Mr Zuma initially moved into Malington place, into Mr Suleman's apartment, Sparkport Pharmacy's apartment, did - who negotiated with Mr Suleman for this lease? --- M'Lord, I'd approached Mr Cassim Jadwat and asked him if he had any clients that had any apartments and he referred me to Mr Suleman. Mr Suleman and myself, M'Lord, worked out the rent to be charged on the apartment. Mr Zuma wanted to have a look at the apartment and he had to accept the liability of the rental, so he needed to see the apartment. So, really, M'Lord, I would say in a sense a consultative process between Mr Suleman, Mr Zuma and myself.

But who entered into the agreement with Mr Suleman? You, Nkobi Holding, Mr Zuma, or who? --- M'Lord, it was myself and my company Nkobi Holdings.

And who undertook to pay Mr Suleman? --- M'Lord, initially it was going to be - I really stood as a guarantee, M'Lord, but really it was Minister Zuma who took that responsibility on to pay for those

rents.

And what happened eventually? Who did pay? --- Well, M'Lord, Mr Suleman contacted me via my auditor to say that there were funds outstanding. Mr Zuma, for some reason or the other, had not serviced that rent and as such it was my obligation then to do so.

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And you then paid that rent? --- Indeed so, M'Lord.

And when Mr Zuma moved to the flat vacated by Mr Isaacs at 191 Malington Place, the Tracy brown flat, what was the position there? --- I'm not clear what position you're referring to.

Who had the responsibility to pay for the rent for that flat once Mr Zuma moved in there? --- M'Lord, the responsibility for both the apartments at Malington, M'Lord, was the responsibility of the local treasury general, Dr Zweli Mkhize, in the ANC to service that obligation. My role was limited to the fact that I was supposed to secure these apartments and assist Zuma in the movement to those apartments. When it became apparent that the ANC lacked the funds to service the rental of these apartments, M'Lord, I took over that obligation and regarded that as a - my company and myself, as a contribution to the ANC.

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Now ...[intervention]

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SQUIRES J Just a minute, I just want to clear up something. So the message you received about the threat to Zuma's well-being caused you to agree with Mr Suleman for his flat to be available? Is that right? --- Quite correct, M'Lord.

And that was - seems to be about the middle of 1996? ---

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Quite correct, M'Lord.

MR VAN ZYL And why would the KZN treasurer of the ANC, Mr Zweli Mkhize, why would he then have to pay for Mr Zuma's accommodation? --- Well, M'Lord, it was clear that this could not be an obligation for Minister Zuma in his capacity as the MEC as his life was threatened by a political quarrel between the IFP and the ANC and this obligation fell on the ANC to cover this expense, M'Lord.

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SQUIRES J But wasn't he a minister? --- He was, M'Lord at that time. He was the MEC for economic affairs and tourism.

Don't they have a residence and have bodyguards? --- M'Lord, he - Zuma chose throughout his life and tenure as an MEC not to have bodyguards unless his life was really threatened and it was subsequent to this that he used to have bodyguards pick him up and transport him from Malington and wherever he went, but before that, M'Lord, he chose not to.

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Did he not have a government residence, or allowance for a house? --- M'Lord, I believe he had an allowance and the residence, M'Lord, I believe was in Albert Park.

And that situation which you - was apparently not very safe? --- M'Lord, I clearly recall visiting him in Albert Park and it wasn't a residence that both him and I would consider to be safe at all, M'Lord.

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But with a threat like this, would his security not have been considerably stepped up? --- M'Lord, it was indeed, after moving into Malington Place.

But by the government as well? The intelligence service. ---

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M'Lord, the intelligence services, and I'm no expert on that, but I recall from my discussion with Mr Zuma, merely served the basis to inform him of a political threat and Mr Zuma didn't feel it appropriate to charge his own department for beefing up, M'Lord, his security - as I thought he ought to have done. But such was his nature and this was his call, M'Lord.

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MR VAN ZYL Who actually protected him at Malington Place? Can you recall? --- Oh, yes, M'Lord.

Basically what I want to know, were these government officials or outside agencies, private people? --- These were security personnel employed - M'Lord, I don't want to speculate. I do recall several bodyguards around him. Whether they were funded by the Department of Economic Affairs and Tourism or the ANC, M'Lord, I don't want to guess on that issue, but his security remarkably improved.

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Now, the house that he had lived in at the time of when the threat first came to your attention, did you say Albert Park? --- Yes, M'Lord, I mentioned Albert Park.

Was that a house or was it an apartment? --- Oh, it was an apartment. It was an apartment, M'Lord.

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And was this an official residence, or not? --- It was an apartment that both deputy president and Nkosazana Zuma acquired. I believe Mr Zuma was getting an allowance to service that apartment, but it's not a typical government residence as we envisage today, with all the security and a four-bedroomed - it was quite a simple

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apartment.

And what became of this apartment, if you know, after Mr Zuma had vacated it for Malington Place? --- The apartment in Albert Park?

Yes. In other words, somebody stay on there, or not? --- I cannot - I don't know, M'Lord. I cannot recall.

Now, you have also admitted that you carried on making the rental payments for 191 Malington Place after Mr Zuma had moved in there at the end of January '97. That is the first payment on the schedule, payment number three. --- Mm-hm.

And until he vacated those premises when he became deputy president. Is that correct? --- Quite correct, M'Lord.

And did you see all these rental payments as the payments you were making on behalf of the ANC? --- Yes, M'Lord, that's how I viewed those contributions.

Did you also reflect them as such in your reports to the KwaZulu-Natal treasurer-general of the ANC? --- Yes, I believe so, M'Lord, I had done so.

Now, Mr Shaik, in your plea explanation, paragraph 7 ...[intervention]

**SQUIRES J** Are you turning to another point?

**MR VAN ZYL** M'Lord, I just need to finish off this point. Paragraph 7.21, you initially - well, you did say that at the beginning of 1997 you received the fax that you've just referred to and that Mr Zuma then moved into the premises that Mr Isaacs vacated at Malington

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Place. --- That's quite correct, M'Lord.

That statement was not correct? --- It's quite correct.

It actually happened earlier when he moved into Sparkport, Mr Suleman's flat ...[intervention] --- That's quite correct, M'Lord.

So the facts are correct, the date is wrong and the flat into which he moved is wrong. --- Quite correct, M'Lord.

He moved into the flat vacated by Mr Isaacs later. --- Much later.

At the time when you gave instructions for the plea explanation, did you recall or remember that he was, before he moved into Malington Place he actually stayed in another flat also at Malington Place? Or did that slip your mind? --- That indeed - and I beg the Court's forgiveness, M'Lord. It had slipped my mind but when the Sparkport Pharmacy document prevailed upon me, it became quite clear and known that was the sequence, that he first moved into the Sparkport Pharmacy's of Mr Suleman and subsequent to that to where Mr Colin Isaacs stayed, the company flat.

Thank you, M'Lord, that would be convenient ...[intervention]  
SQUIRES J Would that be a convenient time to stop? Ten o'clock tomorrow?

MR VAN ZYL As the Court pleases.

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CASE ADJOURNED TO 22 FEBRUARY 2005

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