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INVESTIGATION INTO ALLEGED MISCONDUCT

STELLENBOSCH UNIVERSITY

CASE NO: REC01/11/2019

DATE: 2019-11-12

COMMISSIONER: JUDGE BURTON FOURIE

WITNESS: DR LA SCHREIBER



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VERRIGTINGE GEHOU OP 12 NOVEMBER 2019

DR SCHREIBER: Verkies hulle Afrikaans of Engels?

KOMMISSARIS: Dit is die persoon wat getuig se voorkeur.

DR SCHREIBER: Okay ek het my notas in Afrikaans gemaak.

KOMMISSARIS: Ja.

DR SCHREIBER: Maar ek maar oorspring van dit.

KOMMISSARIS: Ja as jy wil oorskakel na daardie kant,
10 om hulle 'n gelyke kans te gee.

DR SCHREIBER: Inderdaad.

KOMMISSARIS: Broer is ons aan die gang? Goed, Dr. Schreiber net u vol name vir ons gee asseblief.

DR SCHREIBER: My volle name is Leon Amos Schreiber.

KOMMISSARIS: Die process wat ons nou hier volg, hierdie is 'n ondersoek as suks, met ander woorde dit is nit 'n hofsaak, soos jy sien waar mense kom met kruisverhoor en al sulke dinge wat daarmee gepaard gaan nie, so dit is
20 maar 'n kwessie van meer om inligting in te win, waar dit miskien ...[onduidelik] wees. En om daardie rede vereis ek ook nie dat getuies die eed moet neem nie. U is in ieder geval gebonde aan u eie gewete wat dit betref.

DR SCHREIBER: Hmm.

KOMMISSARIS: Die opdrag wat ek het om na te kom,

kragtens die Raad van die Universiteit is dat ek moet ondersoek instel en:

"To conduct an investigation and prepare a written report to council setting out the relevant facts and its conclusions to whether or not the Rector is indeed guilty of serious violation of the law, or any serious misconduct."

So dit is basies wat my opdrag behels. So daar buite het ek geen jurisdiksie nie, die vraag is net in aansien van
10 die Rektor het hy hom deur sy optrede skuldig gemaak aan, enige van daardie wangedrag.

DR SCHREIBER: Ja.

KOMMISSARIS: Nou soos u nou seker bewus is, die optrede of die versoek tot die ondersoek spruit eintlik dan voort uit 'n skywe wat u gerig het aan die, aan Dr. Ronel Retief, die Registrateur van die Universiteit, gedateer die 24 October 2019, so dit is die basiese dokument wat ons het, wat dan die verrigtinge tot gevolg gehad het. Ons het dit goedgedink dat u by ons 'n draai maak, indien u verder 20 sou wou toelig wat dit betref. Ons het nou, uiteraard dit gelees, ons het nou ander dokumentasie wat verband hou tussen wat ek aanvaar u nie persoonlik van bewus is nie, gesprekke tussen die Rektor, Regter Cameron en dies meer. Maar die doel eintlik dus, om u te vra om nou al die pad van die Kaap te kom is vir ons te sê of u wil byvoeg tot

wat ons hier het en u moet asseblief vry voel om enigets wat u voel relevant mag wees te lig. Daar is geen beperking nie.

DR SCHREIBER: Ja.

KOMMISSARIS: Wat dit betref nie.

DR SCHREIBER: So eerstens sal ek net sê baie dankie vir u, ook aan die uitvoerende komitee dat hulle spoedig opgetree het en gereageer het, op my klagte en ek dink die verstaan wat ek het van wat ons vandag hier wil bereik is
10 persies dit. Ek verstaan u mandaat is beperk en dit is ook waarvoor ek gevra het spesifiek om hierdie saak te bekijk vanuit die perspektief van die Universiteit en watter implikasies of skade al dan nie daar mag wees aan die Universiteit as sulks en verwag, of ek het geen verwagting dat julle moet afleidings of bevindings maak oor enige iets buite daardie mandaat nie. Dit is inderdaad hoe ek dit ook verstaan het en dankie vir die uiteensetting daar.

So ek dink miskien kan ek net my, hoe ek in die storie inpas miskien byvoeg tot dit saak.

20 KOMMISSARIS: Ja dit is 'n goeie idee.

DR SCHREIBER: En sê die rede waarop ek dit as 'n baie ernstige kwessie beskou, as iemand wat natuurlik mos nie betrokke was by enige van die hofverrigtinge, of enige van die mense in die storie noodwendig nie.

KOMMISSARIS: Ja.

DR SCHREIBER: So ek het bewus geword van die korrespondensie en ek sal sommer nou reguit sê, wat ek by het, is 'n paar eposse wat ek gekry het, en ek sal nou verduidelik waar ek hulle gekry het. Ek het vir Adv. Jan Heunis gekontak, ek kan nie 'n presiese datum onthou nie, maar dit was kort na die hof uitspraak, net hom vir hom te vra hoe dit gegaan het, ek meen dit was 'n ernstige sensitiewe saak vir Stellenbosch en ek het hom een keer vantevore ontmoet, in sy kapasiteit natuurlik as die

10 President van die Konvokasie, waarvan ek dan nou ook 'n lid is. Ek wat voorheen 'n lid van die Institusionele Forum op Stellenbosch en ek het ook vir vyf jaar hierso gestudeer. So toe ek hom kontak het hy vir my gesê dat hy bekommerd is oor gesprekke wat gevoer is tussen die Rektor en die Regter wat dan op die ou einde die uitspraak geskryf het soos wat ek dit verstaan. Ek vra toe vir hom, okay, dit is ernstige aantygings, maar waarop baseer jy dit, ek meen mens kannie nie net so iets sê nie. En op daardie stadium sou ek nie genoop gevoel het om enigsins betrokke te raak

20 op grond van 'n gesprek soos daardie nie. Maar Adv. Heunis het toe vir my in vertroue die korrespondensie aangestuur het wat hulle ontvang het by die Registrateur na 'n versoek. Ek verstaan daar is 'n hele storie ook oor hoe hulle die korrespondensie wou kry, maar hy het dit toe vir my aangestuur. So dit is op grond van hierdie eposse wat

ek het. Ek kan dit aanstuur vir julle. Ek weet daar was 'n versoek om dit vroeër aan te stuur, maar ek het gevoel die mense van die universiteit en Gelyke Kanse gaan waarskynlik die volle dokumentasie hê.

KOMMISSARIS: Ja ek wou huis, jammer om jou in die rede te val.

DR SCHREIBER: Ja.

KOMMISSARIS: Ons het met ander woorde op hierdie stadium alles wat in besit is van die Universiteit en dit lyk
10 my ook van Heunis hulle sê kant af.

DR SCHREIBER: Ja

KOMMISSARIS: As u verwys na eposse, sou dit daardie eposse wees tussen die Rektor en die Regter.

DR SCHREIBER: Ja die dokument wat ek het, is hierdie een. Dit begin met 'n brief van Gelyke Kanse...

KOMMISSARIS: Oh, ja wat is die datum van daardie ene?

DR SCHREIBER: 27 Augustus.

KOMMISSARIS: Is dit die een wat die aanhangsels A,
20 B, C, D, E aan het?

DR SCHREIBER: Dit is, ek dink dit is hy.

KOMMISSARIS: Alright.

DR SCHREIBER: So dan die korrespondensie begin in ie epos wat ek het, begin daardie gesprekke. Hierso, Dr. Retief stuur dan die korrespondensie op die 16 October,

stuur sy dit aan, an dan begin die gesprekke op die 2 Julie 2019. So dit is wanneer ek verwys na eposse wat ek het, is dit basies die gesprek wat dan per epos begin op die 2 July 2019 en ek aanvaar dat dit die volle korrespondensie is wat die Universiteit beskikbaar gemaak het.

KOMMISSARIS: Ja.

DR SCHREIBER: Indien hulle dan ander het, of mense ander gebring het, is natuurlik mos nou buite wat ek bewus was van.

10 KOMMISSARIS: Maar ek lei af en ook my ook gevang, ons het inderdaad dieselfde korrespondensie.

DR SCHREIBER: So Regter Fourie wat vir my geskok het, is toe ek die eposse sien en ek kyk natuurlik na die tydlyn van die hofsaak. Hierdie het alles gebeur voordat die uitspraak gelewer was en 'n mens kan aflei uit die gesprekke dat daar blykbaar ook gesprekke was voordat die saak nog aangehoor is. In die sin vandat mense verskyn het voor die hof. Dit is my verstaan van wat ek hier gesien het.

20 KOMMISSARIS: Ja maar dit was eers Augustus gewees.

DR SCHREIBER: Wat die aan aangehoor is.

KOMMISSARIS: Aangehoor is.

DR SCHREIBER: Dit is reg. So hier het ek een van die 2 Julie waar daar gevra word deur Prof. De Villiers om

kontak te maak met Regter Cameron. Die volgende een wat ek het, is 2 Augustus waar Regter Cameron antwoord en ek dink dit was vir my die heel belangrikste dink ek. Die stukkie wat, die bewyse wat ek het en tot 'n groot mate was my klagte gegrond op hierdie inligting wat die regter self hierso noem. So op die 2 Augustus verwys Regter Cameron sedert, na iets wat hy sê:

"Sedert ons gesprek twee weke terug..."

KOMMISSARIS: Ja.

- 10 DR SCHREIBER: En late in dieselfde epos verwys hy na 'n aangrypende bespreking wat hulle gehad het. My afleiding daar is dat dit dan gesprekke is wat waarskynlik nie per epos sou gebeur het nie. So dit is vir my, op daardie oomblik, wil ek dit aan u stel dat ons reeds te make het met 'n soort onbehoorlikheid hier. Ons hoef nog nie eintlik in my, volgens my mening verder te gaan en ander vrae te vra nie. As mens vir 'n oom blik hier stilstaan, my interpretasie daarvan is dat hier 'n gesprek wat, persoonlik gesprekke tussen 'n respondent in 'n hofsaak en die regter
- 20 wat die saak aanhoor en die uitspraak sou skyf en dat daardie gesprekke plaasgevind het, volgens wat ek hier sien persoonlik sonder die teenwoordigheid van die regspan van die universiteit, of van die applikant, Gelyke Kanse, die ander kant in die saak. Dit is hoe ek hierdie eerste stukkie inligting interpreer. En dit reeds vir my is baie

kommerwekkend. So indien u sou vind dat hierdie gesprekke wel plaasgevind het, is die eerste vraag wat ek sal vra, is dit as sulks nie reeds onbehoorlik nie, dat daar enigsins 'n gesprek soos dit kan wees. En ek het nogal gedink Regter Fourie hoe sou ek en u hierdie gesprek wat ons vandag het benader het, as ek 'n week gelede vir u gekontak het en gesê het, wil u nie die Seremoniële President van die DA raak daar, wat natuurlik my werkgewer is nie en waar ek nou 'n senior posisie beklee nie.

10 Daardie indruk, die persepsie wat dit sou skep in die gedagtes van 'n regter van 'n regbank en dan natuurlik van die publiek sou hierdie inligting dan openbaar word, is reeds vir my ...[tussenbei].

KOMMISSARIS: Kan ek vra, is u 'n regsgelerde?

DR SCHREIBER: Geensins.

KOMMISSARIS: Oh.

DR SCHREIBER: Nee, ek het politieke wetenskap gestudeer, so ons wil graag glo ons weet baie goed oor die reg, maar nee.

20 KOMMISSARIS: Ja maar us sê wat u pla is met ander woorde die persepsie wat geskep word.

DR SCHREIBER: Ja in die eerste instansie sou ek sê.

KOMMISSARIS: Ja.

DR SCHREIBER: Voordat 'n mens dieper in die hele saak ingaan, is die vraag wat ek myself afvra en wat ek

graag vra dat u beantwoord. Is dit nie in die eerste instansie verkeerd, onbehoorlik, oneties van 'n respondent in so saak om persoonlike gesprekke te hê met 'n regter nie en dan veral wanneer daardie gesprekke wentel rondom en ek het nogal baie hieroor gedink 'n *credible offer* sou ek dit beskryf as a *credible offer* van 'n *prestige ryke posisie*. Want dit is waarskynlik een ding as ek aan u die aanbod maak om kanselier van Universiteit van Stellenbosch te word of 'n nominasie te aanvaar, want ek is nie *credible*

10 wanneer ek so aanbod maak nie, maar in die geval van die regter en dan nou moontlik ander mense wat ook gesprekke sou kon gehad het, is dit 'n *credible* aanbod. Dit is nie iets wat, enige persoon sal verstaan dat dit steun van die Rektor en hy verwys later, verwys Prof. De Villiers, by beskryf die aanvaarding van hierdie nominasie dan as fantastiese nuus vir hom persoonlik ook. So dit wys vir my dit is a *credible* ding. Dit is nie iets wat sommer uit die lig kom nie. En ek dink as ek my eerste bekommernis moes saamvat sou dit wees, voordat ons in enige dieper gesprek

20 ingaan was dit nie reeds oneties en onbehoorlik om hierdie gesprekke persoonlik, sonder die regspanne te hê en so a *credible* aanbod te maak aan die regter wat die saak aanhoor nie.

KOMMISSARIS: Jammer, om jou in die rede te val.

DR SCHREIBER: Ja.

KOMMISSARIS: Ek wil net seker maak dat ek by die regte epos is.

DR SCHREIBER: Hmm.

KOMMISSARIS: Is dit die een van 2 Augustus 2019?

DR SCHREIBER: Dit is reg.

KOMMISSARIS: 20:00 pm gestuur.

DR SCHREIBER: Ja met die onderwerp kanselierskap.

KOMMISSARIS: Ja.

DR SCHREIBER: Ja.

10 KOMMISSARIS: Dit is voor, 4de, "ondersteunend na ons gesprek twee weke terug".

DR SCHREIBER: Ja.

KOMMISSARIS: "Dit is ongelukkig my ...[onduidelik]."

DR SCHREIBER: Dit is daardie epos.

KOMMISSARIS: So dat daar voorafgaande gesprekke was, was vir u die kernpunt.

DR SCHREIBER: Ja. Ek sou sê dit is die eerste kernpunt.

KOMMISSARIS: Die eerste kernpunt.

20 DR SCHREIBER: Is dit nie reeds onbehoorlik dat daar enigsins so 'n gesprek waar dit duidelik is dat so *credible* aanbod gemaak is nie. Ek sal dit so saamvat.

KOMMISSARIS: Ja.

DR SCHREIBER: Maar Regter Fourie ek sal ook wil stilstaan vir 'n oomblik by hierdie epos as sulks. Ek dink

die inhoud van hierdie epos is die tweede ding, wat vir my baie ernstige gevaarligte laat afgaan het, toe ek dit lees. Ek her persoonlik ongelooflike respek vir Regter Cameron en ek dink hy het op sy manier waarvoor hy bekend is eintlik die hele probleem vir ons hier opgesom. Hy het eintlik 'n soort van 'n bevinding gemaak na my mening oor waarom hierdie hele situasie onhoudbaar was. En dan ek haal hom aan waar hy sê:

10 "Sedert daardie gesprek twee weke terug het dit ongelukkig vir my onteenseglik duidelik geword dat enige moontlikheid om die kanselierskap te oorweeg tans prakties nie denkbaar is nie."

Hy gaan dan aan om te sê:

"Ek sit huis omring van die dokumentasie in die saak wat ons volgende week aanhoor..."

Weereens 'n aanduiding dat die hofsaak is nog nie eers aangehoor op hierdie stadium nie:

20 "...en watter kant toe ook sal my posisie in the beregting daarvan hopeloos gekompromitteer word, sou ek die nominasie aanvaar. Eweneens sou my posisie as genomineerde waarskynlik onder gebillikte bevraagtekening kom, terwyl die saak nog hangende is."

En wat ek lees daar, is dat Regter Cameron 'n beginsel probleem het met die aanbod. Hy beskou die hele

gesprek, die nominasie, sy onvermoë om die nominasie te aanvaar uit daardie stadium as iets wat uit beginsel verkeerd sou wees en dan verduidelik hy vir ons waarom dit verkeerd sou wees, omdat dit sy posisie in the beregtiging van die saak hopeloos sal kompromitteer en billike bevraagtekening tot gevolg sou hê en daarom is dit vir hom onteenseglik duidelik. Dit is baie sterk woorde en baie sterk uiteensetting van die onbehoorlikheid wat ek dink in hierdie saak teenwoordig is. Dat hier is 'n beginsel op die spel en die beginsel behoort te wees dat geen hofsaak, geen optrede, veral deur 'n respondent in 'n hofsaak moet die vermoë hê om 'n saak hopeloos te kompromitteer nie. En ek dink dit is wat die optrede van Prof. De Villiers, na my mening well in hierdie saak gedoen het. Net soos wat Regter Cameron in 'n mate voorspel het met hierdie epos.

So ek sou sê my tweede, as my eerste vraag is, is dit nie onbehoorlik om enigsins die gesprek te het nie, sal my tweede vraag dan wees, na gelang van wat Regter Cameron hier noem het dit nie wel nou in die praktyk geskiet nie, dat die regter se optrede het die saak hopeloos gekompromitteer soos wat Regter Cameron hierso basies tot 'n mate voorspel het nou nie, dit is nou nie wat hy bedoel het nie, maar ek dink sy woorde hier is well wat toe later waar geword het. So dit vir my sal waarskynlik die tweede kern vraag in hierdie saak wees. En ek dink hierdie

epos, om in alle eerlikheid, hierdie epos is vir my uiters problematies. Want as ons dan aanbeweeg dan die vraag wat dan ontstaan by my is, hoe is hierdie beginsel vraagstuk, die beginsel probleem wat Regter Cameron het, hoe is dit opgelos. Hoe het dit weggegaan en ek dink later in hierdie korrespondensie wat ek het, is daar 'n epos deur, ek verstaan dit is Adv. John Meiring, ook 'n lid van die Raad, as ek dit nie mis het nie.

KOMMISSARIS: Ja.

10 DR SCHREIBER: Dat hy 'n epos stuur op die 29 Augustus nadat Regter Cameron basies die nominasie van die hand gewys het, vir die redes wat hy uiteengesit het en dan sê Adv. Meiring:

"Please find enclosed a missive from Wim de Villiers."

...wat vir my aandui op verdere gesprekvoering rondom die saak en daardie *missive* is dan die brief wat Gelyke Kanse gestuur het op reaksie op, toe hulle gebus geword van hierdie gesprek in die eerste instansie. En wat
 20 vir my belangrik is, is dat in daardie brief spreek Gelyke Kanse pertinent hulle kommer uit dat dit onvanpas sou wees om 'n sittende regter wat besig is om die saak aan te hoor en te besleg hierdie nominasie sou doen, alhoewel hulle ook, nes ek, dieselfde respek vir regter Cameron uitspreek. So dit gaan nie vir my en ek dink ook nie in daardie geval

het vir Gelyke Kanse gegaan oor die vraag oor of Regter Cameron 'n slegte Kanselier sou wees nie, ek dink nie dit is enigsins ter sake in wat ek, in wat my bekommer hieroor nie. En so hulle spreek dit duidelike, hulle opinie uit, dat hulle dink dit is onvanpas. En vir my, weereens as ons kyk na die belangrikheid die absolute, dit is 'n kern waarde van ons Demokratiese bestel dat niemand die legitimiteit van die regbank enigsins in gedrang moet bring nie. Maar hier het ons 'n applikant wat reeds basis 'n alarm lig vir ons laat afgaan het, 'n rooi liggie wat afgaan wat sê, ons dink dit is onvanpas om hierdie nominasie te maak. En ten spyte daarvan interpreter Prof. De Villiers dit dan in sy woorde as groen lig vir die nominasie proses, soos bespreek. Dit is dan op die 29 Augustus.

Ek dink dit is heeltemal inkorrekk, dit is nie 'n groen lig vir die nominasie proses om voor te gaan nie. Dit bloot 'n brief wat sê die respondent in die saak gaan nie formeel *object in this case* nie. Nou die vraag wat ek aan u wil stel is, het daardie brief die beginsel probleem opgelos wat Regter Cameron in sy aanvanklike epos uitgelig het. Want daar gebruik hy baie sterk taal om te sê dat die saak gekompromitteer sal word, weens 'n beginsel wat in die gedrang kom. Nou het jy een party wat sê ons stem saam met jou dat die beginsel in gedrang kom, maar ons gaan nie formeel in hierdie saak *object* nie, ons wil het die saak moet

afgehandel word. So volgens my en tensy daar ander inligting is en ek gee toe dat daar ander inligting mag wees, maar in terme van wat ek gesoek het, is daar geen, geen manier wat daardie brief die beginselsaak oplos nie en ek wil sovér gaan as om te sê ek dink nie daar is brief wat geskryf kon word deur enige party wat die beginsel probleme wat Regter Cameron in sy epos uitlig sou kon oplos nie. Ek dink dit is eenvoudig 'n verkeerde, hierdie hele proses is verkeerd, dit moes nie gebeur het nie en

10 regter Cameron het in sy epos gesê, waarop dit nie moes gebeur het nie en ten spyte daarvan het dit voortgegaan.

KOMMISSARIS: Dit blyk wel Prof. De Villiers is rekord, soos ek dit ook het, hy in besonder dit inderdaad, die paragraph 3 van daardie brief as 'n groen lig gesien het. Met ander woorde, in sy boek, sy gedagtegang, sê hy dat hy dit as die groen lig gesien het dat daar nou voorgegaan kan word met die proses. Met ander woorde gesê, syne dat dit dan die beginsel probleem oplos, maar ek aanvaar dit is waar u en Prof. De Villiers uiteraard sou verskil van

20 mekaar.

DR SCHREIBER: Ja en ek sou net beklemtoon, dat dit is vir my, dit is nog steeds apart van die vraag of daar enige gesprekvoering oor hierdie, oor aanbod moes gewees het.

KOMMISSARIS: Moes gewees het ...[tussenbei].

DR SCHREIBER: Maar as ons verder, korrek. Maar as

ons vêrder in die saak ingaan, dan is dit soos van die tweede groot vraagstuk wat ek het en ek verskil inderdaad van hom indien hy paragraph 3, ek het dit voor my nou hier, wil sien as die groen lig wat die beginsel probleem oplos. Want ek dink daar is geen redelike mens wat paragraph 3 kan lees, sonder om paragraph 2 ook in ag te neem nie. En ek dink hulle sê dit baie pertinent, die applikante, dat wanneer hulle sê:

10 *"In the final analysis decided against your nomination because we concluded that it would not be appropriate to approach you in that regard in view of the fact that you are a member of the court who is seized of the matter involving Gelyke Kanse on the one hand and the University on the other."*

En ek dink as ek dit sterk wil stel sal ek sê, ek glo eenvoudig nie dat iemand in Prof. De Villiers se posisie, nie die duidelike link tussen paragraph 2 and 3 kon sien nie. Ek dink nie daar was 'n beter manier om die beginsel
20 probleem van die kant van die applikante af uiteen te sit nie en dan lei dit my tot die vraag of Prof. De Villiers doelbewus daardie deel van die brief geïgnoreer het omdat dit sy agenda gepas het. Indien dit nie opsetlik was nie, dan lei dit my tot 'n, miskien 'n net so belangrike vraag oor sy oordeel. Indien hy werklik in goeder trou nie die

beginsel probleem kon sien, ten spyte daarvan dat Regter Cameron hom aanvanklik uiters pertinent verduidelik het, was die beginsel probleem is en dat Gelyke Kanse dit weereens uitlig met 'n sin bo in die een wat hy verkies om op te focus, is vir my 'n growwe, growwe oordeelsfout op die heel minste. En ek sal aanvoer dat dit net so veel 'n aanduiding is daarvan dat hy onbehoorlik opgetree het en dat daar gevolgtrekkings op grond daarvan gemaak behoort te word.

- 10 KOMMISSARIS: As 'n mens nou praat van onbehoorlik optree. Dit is so in ons regspraak, wat vooroordeel betref, is daar inderdaad, ek wil amper sê twee vorme, or twee manier om dit te bewys. Die een is 'n subjektiewe grondslag, dat jy bewys dat die man, sê nou maar in hierdie geval is Cameron dat hy inderdaad daardeur beïnvloed is en dat Prof. De Villiers inderdaad bedoel het dat hy daardeur beïnvloed moes word. Dit is, maar u kan verstaan dat die meeste gevalle 'n moeilike bewyslas ...[tussenbei].

DR SCHREIBER: 'n Hoë standaard.

- 20 KOMMISSARIS: 'n Hoë standaard ja. Die ander halwe is daar 'n tweede grondslag en dit wil my lyk as ek so luister na u, ook kyk na die skrywe en dit is dat daar 'n persepsie van vooroordeel ontstaan in die oog van die normale man op straat. Die redelike man of die redelike vrou op straat, dat gegewe die feite, die afleiding dan

gemaak kan word dat die redelike persoon wat met die redelike feite, or al die feite bekend is, sal tot die gevolgtrekking kom dat daar inderdaad, minstens 'n persepsie is dat hier 'n bevooroordeling is.

DR SCHREIBER: Ja.

KOMMISSARIS: Dit lyk nie asof u ...[tussenbei].

DR SCHREIBER: Ja.

KOMMISSARIS: ...neig na die tweede nie.

DR SCHREIBER: Ek dink so en ek dink spesifieker dan,
10 sou daardie persepsie by 'n redelik mens kon ontstaan,
indien die rektor nie opgetree het soos wat hy wel opgetree
het nie. En ek stem saam met u, miskien moet ek nou wel
regte gaan studeer na hierdie saak, want dit is baie
interessant, maar dit is, dit is, ek dink u het dit perfek
saamgevat hoe ek daarna kyk. Ek dink nie die bewyslas op
enige iemand in hierdie saak, of in enige saak moontlik is,
is dat hy moet bewys daar was wel iemand wat beïnvloed is
en 'n denke en 'n bevinding wat beïnvloed is nie. Ek dink
dit behoort te wees dat veral in die posisie van iemand wat
20 'n openbare instelling lei, wat 'n prestigeryke amp beklee en
uiters magtevolle possie in daardie instelling beklee, dat
daar verwag word van daardie persoon om nooit iets te
doen wat so persepsie by 'n redelike mens kan laat
ontstaan nie. En ek dink dit is presies wat ek gesien het in
hierdie geval, ek sou graag myself as 'n redelike mens wou

beskou en ek het daardie persepsie raakgesien uit hierdie korrespondensie en ek glo nie, ek glo nie dit is onredelik om hierdie saak te interpreteer op 'n wyse wat sê dat baie mense gaan dit so interpreteer nie. En ek dink weereens as, daar is my eerste vraag oor of die gesprekke moes enigsins plaasvind, maar tweedens, hierdie, volgens my maak dit nog te meer 'n ernstige saak. En ek dink ek moet spesifiek noem dat ons praat oor ons hoogste hof, ons praat oor die Grondwetlike Hof in Suid Africa. En sekerlik is
10 daar, is daar ongelooflike hoë standaard van *conduct* wat verwag word van enige iemand wat met daardie hof te doen het, omdat ons weet sy absolute legitimiteit, onafhanklikheid is iets wat deur almal in Suid-Afrika gekoester behoort te word en ek dink bloot aan die hand van hierdie eposse, is dit eintlik reeds bewys dat Prof. De Villiers nie met die nodige sensitiwiteit, versigtigheid, oordeel en self etiese oordeel in hierdie saak opgetree het nie. Ek sal weer sê, omdat, dit is nou maar hoe ek daaraan dink en u sal my verskoon, die beste vergelyking wat by my
20 opgekom het, is dat as ek u sou kontak, voor hierdie gesprek en sulke tipe goed met u sou bespreek, dit is, onmiddellik kan ek mos voel dit is verkeerd. En dit is wat vir my uiters kommerwekkend sou wees, selfs al kyk ons verby van hierdie vra, hoe kan 'n Rektor, iemand wat nie 'n reg tot daardie posisie het nie, iemand wat die vertroue

moet inboesem van 'n gemeenskap van 'n universiteit, so groewe, groewe oordeelsfout, op die heel minste maak. En die vraag dan behoor te wees, is hy gepas vir die en gesik vir daardie posisie, gegewe indien u daardie gevolgtrekking sou maak. Ek dink dit is my eerlike belang tot hierdie saak. As ek sou mag ...[tussenbei].

KOMMISSARIS: Ja sekerlik.

DR SCHREIBER: Net om te noem, ek dink u het reeds,
ek stem heeltemal saam, dat u in die begin gesê het oor die
10 mandaat en waarna ons kyk, nou ek het natuurlik maar die
media gesprekke dopgehou en u sal oordeel oor die
uitsprake, ons weet die media kan nie noodwendig die volle
konteks altyd gee nie, maar ek wil net noem dat van die
verwere wat ek in die media gelees het, het verwys, een
van hulle het verwys na die stem proses in die raad om die
Kanselier te verkies en ek wil die ook pertinent aan u stel
dat ek dink nie eers dit is noodwendig die vraag nie. Ek
bevraagteken nie die integriteit van die fisiese stembrief
telling om 'n Kanselier aan te wys nie. Vir my gaan dit oor
20 wat voor dit gebeur het om Regter Cameron te kry om die
nominasie te aanvaar nadat hy vir ons die beginsel
probleem uiteengesit het. En ek dink dit is waar die
credibility vraag tog relevant is. Dit is nie 'n alleman wat
die aanbod gebod gemaak het nie, dit was die Rektor van
die Universiteit wat sy steun baie duidelik toegesê het aan

hierdie kandidaat en weereens hy beskryf dit as fantastiese nuus. So dit is swart op wit dan dat dit tog iets is wat moontlik moet wees, hoekom is dit fantastiese nuus indien dit iets is wat nie *credible* of moontlik is nie. So dit gaan vir my oor die nominasie proses. Ek het op geen tydstip en u het die korrespondensie daar 'n vraag gevra oor die stem proses en ek het geen twyfel dat dit ...[tussenbei].

KOMMISSARIS: Dit lyk my almal is ineens dat dit 'n volstrekte meerderheid is.

10 DR SCHREIBER: Ja en ek het geen kennis wat daar geskiet het nie, maar ek aanvaar in goeder trou dat daar nie 'n vraag rondom dit is nie. En ek dink dit is om in 'n mate die punt te mis en ek dink dit is ook daar om in 'n mate 'n afleiding. Dit is nie die saak wat ek oor bekommerd is nie.

KOMMISSARIS: Ja dit is nie waaroer die feite is nie.

DR SCHREIBER: En dan het ek nog iets hierso, ja ek dink dit gaan dan net terug die nota wat ek hier het oor die standaard van die, die selektiewe standaard wat u genoem het, of miskien meet die objektiewe standaard as dit die 20 laer standaard, of 'n redelike persoon dit so sou interpreteer.

KOMMISSARIS: Ja.

DR SCHREIBER: Net om te noem ek verwag nie van u, of enige iemand om te bewys wat in Regter Cameron sê, kom aangegaan het terwyl hierdie gesprekke plaasgevind

het nie. Dit is eerder om te vra en ter selfde tyd dink ek ook nie die standaard of die vraag is of daar 'n doelbewuste poging was om belang konflik en 'n *quit pro quo* te skep nie, eerder of daar so op 'n skrynende manier opgetree is, dat 'n redelike mens dit so sou interpreteer.

KOMMISSARIS: Ek dink dit is inderdaad dit vraag.

DR SCHREIBER: Ja.

KOMMISSARIS: En gegewe amper die omstandighede.

DR SCHREIBER: Ja en die *counter factual* vir my is, sou 10 so 'n persepsie bestaan het in die afwesigheid van die optrede waarvan ek reeds bewys is en indien daar meer is, dan sal u dan dal u natuurlik ook daaroor kan besluit. So ek glo in hierdie saak behoort dit inderdaad die standaard te wees. En ek dink dit is min of meer die oortuigings wat ek gehad het. As u enige ander vrae het, sal ek graag reageer.

KOMMISSARIS: Nee, daar is niks vêrder van my kant af nie. Vraag wat die man in die straat mag vra is, toe u nou hierdie klagte lê, was dit uit u eie persoonlike 20 oortuiging, or is uit die hoogte van u politieke konneksie?

DR SCHREIBER: Ek dink dit is relevant, ons het nou net gepraat oor wat 'n redelike persoon sou dink. Maar ek dink op hierdie stadium is my motiverings nie wat ondersoek word nie, ek sal, ek het, het geen probleem as iemand dit wil betwyfel om dit te verdedig nie en ek sal die vraag nou

direk beantwoord. Ek dink of ek dit klagte gelê het en of iemand anders die klagte gelê het ontnem nie hierdie saak van die vraag of daar werklik, of daar regtig iets is om ondersoek te word nie. So my motivering om hierdie klag te lê, spruit in heel eerste instansie, bo enige iets anders uit my noue verband en verhouding met Stellenbosch Universiteit oor 'n lang tydperk. Ek het vir 10 jaar op Stellenbosch gewoon, ek was vir vyf jaar 'n student aan die universiteit en ek het ook die hofsaak oor die taalbeleid as
10 'n uiters sensitiewe en belangrike kwessie beskou. Ek was teleurgesteld in die uitspraak en alhoewel ek weereens wil beklemtoon dat ek geensins dink hierdie gesprek en hierdie ondersoek gaan oor of die uitspraak hierdeur beïnvloed is nie, ek dink nie dit is die vraag nie.

KOMMISSARIS: ...[Onduidelik].

DR SCHREIBER: Korrek. Maar ek was gegrief daardeur dat die Rektor op so 'n disrespekvolle wyse ten minste kon optree in 'n saak wat vir, nie net vir my nie, maar ek dink vir duisende ander lede van die Universiteit Stellenbosch
20 gemeenskap 'n baie belangrike saak was, dat ek dink weereens dit gaan terug na die oordeel, die vrae rondom die oordeel wat 'n mens hier kan sien. Dat ek persoonlik as 'n lid van hierdie gemeenskap het gevoel dit is nie hoe die Rektor van hierdie Universiteit vir wie ek baie lief is, moet optree in 'n saak wat vir soveel mense baie, baie belangrik

is nie. En om eerlik te wees dink ek die optrede gaan die pad voreh toe vir die Universiteit moeiliker maak, omdat mense nou 'n redelike vraag sou kon hê, veral as hier nie hierdie ondersoek is nie. So dit is in die heel eerste instansie my motivering, kom ons kry die feite op die tafel, want ek weet ek was gegrief en ek wil aanneem dat baie ander mense wat ook redelik na die saak sou kyk gegrief sou wees deur die optrede van die Rektor.

Dit is natuurlik so dat ek 'n politieke posisie beklee en
10 daar sal politieke oorwegings wees altyd in hoe 'n mens 'n saak benader, maar ek dink as u sou kyk na daardie uitsprake het ek ook pertinent herhaaldelik gevra vir 'n ondersoek, ook in my politieke kapasiteit. Indien ek dit in 'n mate sou omdraai sou ek sê die party vir wie ek die kiesafdelingshoof is in Stellenbosch, het ook 'n belang as die verkose verteenwoordigende persoon en party van die gemeenskap van Stellenbosch, dat dit juis ook belangrik is dat ons politieke verteenwoordigers bereid is om moeilike kwessies aan te vat en die regte vrae vra te vra, maar
20 natuurlik op 'n manier wat, ons aanvaar dat die ondersoek sy bevindinge gaan maak. Maar ek glo dit is juis die rol van politieke verteenwoordigers wanneer daar gegriefde mense is, of waar redelike mense gegrief sou kon wees oor die optrede van iemand, veral as dit 'n magtige persoon is, dat die politieke verteenwoordiger juis in 'n gesonde

demokrasie ook daardie vraag behoor te vra. S vir my op die ou einde wat daar nie, die twee het mekaar nie weerspreek nie. Maar ek glo, kom ek stel dit so, sal ek geen politieke posisie beklee het nie, so ek nog steeds presies daardie selfde klagte gelê het net weens my verhouding met die Universiteit.

KOMMISSARIS: So op daardie tydstip en ook vandag was u die hoof van die kiesafdeling van Stellenbosch.

DR SCHREIBER: Dit is korrek, op daardie tydstip.

10 KOMMISSARIS: So ek probeer nou net ...[onduidelik], so hierdie kiesafdeling is eintlik deel van u verantwoordelikheid as ek dit nou reg verstaan?

DR SCHREIBER: Reg so, heeltemal reg. En omdat ons nie direkte verkiesings het, geografiese kiesafdelings nie, word daar na elke verkiesing, elke Nasionale verkiesing word daar 'n toedeling gemaak van parlementslede aan spesifieke geografiese ...[tussenbei].

KOMMISSARIS: Oh, is dit hoe dit gebeur.

DR SCHREIBER: Ja.

20 KOMMISSARIS: Oh.

DR SCHREIBER: So dit is, ons kan, ek sal baie graag 'n gesprek wil hê oor ons kiesstelsel.

KOMMISSARIS: Ja.

DR SCHREIBER: Ek dink nie dit hou mense regtig altyd verantwoordbaar aan 'n spesifieke gemeenskap nie.

KOMMISSARIS: Ja.

DR SCHREIBER: Maar in my party en sovér ek verstaan in all ander partye word daar so toedeling gemaak dat daar tenminste 'n mate van verantwoordbaarheid kan wees.

KOMMISSARIS: Ja.

DR SCHREIBER: Tussen 'n spesifieke verkose lid van die parlement en 'n spesifieke gebied. So in my geval het ek die toedeling gekry van Stellenbosch Munisipaliteit, so dit sluit natuurlik buurdorpe soos Franschhoek ensovoorts 10 in. En ek dink, ek dink dit sou 'n vreemde en dalk ook onregverdige vraag wees, of kom ek stel dit dan nou net 'n bietjie sterker, ek dink dit sou teen die demokrasieë gees indruis, indien ek as verteenwoordiger van hierdie gemeenskap in die National Parlement verdag gemaak word omdat ek so 'n kwessie aanpak. Ek dink dit is presies die rol van ons ...[tussenbei].

KOMMISSARIS: Die teendeel is eintlik waar, dit is u verpligting.

DR SCHREIBER: Absoluut.

20 KOMMISSARIS: Teenoor die gemeenskap, enige iets in the openbare belang te opper.

DR SCHREIBER: Absoluut Regter Fourie en ek sal vir u sê dit is nie die openbare reaksie is nie, was tot dusvér nie altyd gemaklik gewees nie, ek dink daar is baie mense wat waarskynlik nie al hierdie feite het nie. Daar is mense was

seker belang het in seker uitkomste en sekere aspekte van hoe die Universiteit tans funksioneer wat nie hou van wat ek gedoen het. En so net so veel soos wat daar mense dit kan beskryf as 'n soort vorm van optimisme, as hulle dit so wil sien, dink ek is daar net so veel mense wat dit ook sal beskou as iemand wat ten minste bereid is om dit vraag te vra, wanneer daar 'n vraag bestaan. En soos u gesê het ek dink dit is absoluut binne die plig wat ons het as openbare verteenwoordigers om hierdie vrae te vra, ek het nooit gesê

10 wat u moet bevind nie, ek het nooit gesê wat moet gebeur as gevolg hiervan nie, ek het bloot, sterk aangedring dat daar ondersoek moet wees. En dit is hoekom die eerste ding wat ek vir u gesê het, is dat ek dankbaar is dat die uitvoerende raad vinnig gereageer het en wel die ondersoek ingestel het. Ja ek dink dit min of meer verduidelik daardie aspek van my werk ten minste.

(3) KOMMISSARIS: Ja dankie daar is niks vêrder van my kant nie, not iets wat u dalk sou wou opper?

DR SCHREIBER: Ek dink die laaste punt wat ek sou maak is dat ek is onder geen, ek is nie onder die indruk dat ek al die inligting tot my beskikking het nie. Ek kan sien u leer is dikker as myne. En ek dink die vraag, een van die uitdagings wat hierdie ondersoek het, is om vas te stel of daar ander gesprekke was, of daar meer korrespondensie bestaan, of daar persoonlike ontmoetings was. Ek kan

afleidings maak van wat ek hier sien maar ek glo dat dit sal deur wees van die ondersoek om daardie tipe goed vas te stel. Ek weet ook nie tot hoe 'n mate ander lede van die Raad sou gesprekke sou gehad het met die regter, relevant is tot die mandaat nie, maar dit lyk vir my ten minste duidelik dat daar een lid van die raad was, behalwe vir die Rektor wat ook 'n gesprek gehad het met Regter Cameron. En my interpretasie sou wees dat indien daar 'n bevinding is dat die gesprek as sulks, om terug te gaan na my eerste 10 vraag, reeds onvanpas was dan sou geregtigheid moes vereis dat daar gekyk moet word na almal wat in daardie soortgelyke wys onvanpas opgetree het terwyl hulle ook 'n respondent in die saak was, of ten minste deel was van die groter prentjie, maar ek het geen persoonlike inligting, behalwe wat ek hier in die eposse het, het. En ek glo u sal daardie vra aan hulle stel.

KOMMISSARIS: Ja-nee wat u, die inligting wat u ook het, blyk dan nou vir my voldoende te wees ten einde u in staat te stel om ...[onduidelik], in te gaan. Dit is basies 20 soos u dit nou neergesit het. Ek sien u standpunt waar die geskilpunte is.

DR SCHREIBER: Ja ja, so baie dankie vir geleentheid.

KOMMISSARIS: Ja-nee ek waardeur dit. Goed dankie vir u tyd.

DR SCHREIBER: Dit is 'n groot plesier. Dankie, dat u

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PRIVAAT OPNAME

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INVESTIGATION INTO ALLEGED MISCONDUCT

STELLENBOSCH UNIVERSITY

CASE NO: REC01/11/2019

DATE: 2019-11-13

COMMISSIONER: JUDGE BURTON FOURIE

WITNESS: DR RONEL RETIEF



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INVESTIGATIONUNIVERSITY OF STELLENBOSCHVERRIGTINGE HERVAT OP 13 NOVEMBER 2019

KOMMISSARIS: Goed, Dr Retief, sou u verkieς Afrikaans of Engels?

DR RETIEF: Dit maak glad nie saak nie.

KOMMISSARIS: Tot op hede het almal Afrikaans getuig. Die keuse is die getuie s'n.

10 DR RETIEF: O, ek gee reric nie om nie.

KOMMISSARIS: Ja.

DR RETIEF: Hoe dit ook al sy.

KOMMISSARIS: Ja.

DR RETIEF: Dis reg, ja.

KOMMISSARIS: Ek sien die kronologie wat u vir ons hier het is in Engels, miskien sal dit wys wees om dan let's do it in English this time around.

DR RETIEF: Ja.

COMMISSIONER: Yes.

20 DR RETIEF: And if I may then I'll just use an Afrikaans word if I can't find [indistinct].

COMMISSIONER: Yes, whenever.

DR RETIEF: Yes, ja.

COMMISSIONER: Whenever you feel like it.

DR RETIEF: Yes.

COMMISSIONER: Yes. I take it you know much better than any of the other witnesses as to the purpose of this investigation.

DR RETIEF: Yes.

COMMISSIONER: Just in broad terms it's an investigation as to the conduct of the Rector regarding the nomination of Judge Cameron as chancellor, in broad that's what it's all about.

DR RETIEF: H'm.

COMMISSIONER: And I don't have to take there, but you've seen the complaint of Dr Schreiber.

10 DR RETIEF: I've seen it, yes.

COMMISSIONER: And everything that goes with that and the allegations made in that regard. So I understood also that you would be able to assist us as to the nuts and bolts of the election process?

DR RETIEF: Yes, yes.

COMMISSIONER: Of which I must admit I know very little.

DR RETIEF: Okay.

COMMISSIONER: Apart from what I've seen in the statute. So it would be pretty useful to take us there.

20 DR RETIEF: H'm-'m.

COMMISSIONER: So this being an inquisitive process I do not require witnesses to take the oath, it's not a court case, *dis 'n verkennende gesprek* if I can use that sort of term.

DR RETIEF: Yes.

COMMISSIONER: So on that basis I think the best would be

to hand it over to you.

DR RETIEF: Sure.

COMMISSIONER: And you can take us... Maybe firstly explain your position at the university.

DR RETIEF: Yes, sure.

COMMISSIONER: And take it from there.

DR RETIEF: Yes. So as you know I'm the Registrar, I've been appointed which I think is quite relevant on the 1st of January 2017 which means I've never gone through a chancellor's
10 election before, so I had to do a lot of homework from my side and it was my predecessor also to determine what the process normally entails and you will see some of that in my supporting documents that I've included with my chronology.

So my PA served longer at that point and she also you will see many of the documentation was compiled by her or some of the communication as well in support of my role.

COMMISSIONER: Yes.

DR RETIEF: So h'm...

COMMISSIONER: Doctor, if I may?

20 DR RETIEF: Ja, sure.

COMMISSIONER: If I may just interrupt, forgive me if I do.

DR RETIEF: No.

COMMISSIONER: You have then as we've already mentioned you've provided us with a chronology of events as well as supporting documentation etcetera which I then received. We

have a bundle of documents.

DR RETIEF: Yes.

COMMISSIONER: I think we'll add it to that. Mr Carriem, how do you feel, or shall we make it a separate exhibit?

MR CARRIEM: Yes.

COMMISSIONER: I think maybe yes.

DR RETIEF: Yes because it's not neatly, so it will intersect with the chronology there at points.

COMMISSIONER: Okay.

10 DR RETIEF: And so it might be better if...ja.

COMMISSIONER: Ja.

DR RETIEF: To keep it separately, and this is really h'm...the chronology that I've submitted is really sort of from my subjective engagements.

COMMISSIONER: Yes.

DR RETIEF: Or from what I've personally been involved with and that I'm personally aware of, rather than the interactions that played out after the election itself.

COMMISSIONER: Ja.

20 DR RETIEF: So do you want more on my role or shall I continue with...

COMMISSIONER: Yes, I'll first make this EXHIBIT K.

CHRONOLOGY OF EVENTS AND SUPPORTING
DOCUMENTATION MARKED AS EXHIBIT K

DR RETIEF: Okay.

COMMISSIONER: And yes, then give us some detail on your role and the process.

DR RETIEF: Okay, sure.

COMMISSIONER: If you can intertwine those?

DR RETIEF: Yes.

COMMISSIONER: And then we get...

DR RETIEF: Okay, so basically I'm also a member of Rectorate which is also important to note because some of my inter...or some of the information that I've put in here and that has
10 come to my attention was during Rectorate meetings.

COMMISSIONER: H'm.

DR RETIEF: So I was part of discussions around possible candidates for chancellor in that regard, but then I also would administer or run the process for the election.

COMMISSIONER: If you would just explain the Rectorate to us?

DR RETIEF: The Rectorate is the top management structure of the Institution, we have the Rector as chair and then the COO Professor Stan Du Plessis, myself as the Registrar and
20 then all the vice rectors, deputy vice chancellors as they would be called in other institutions, they are all members of the Rectorate and we would typically meet once in two weeks, sometimes more regularly and it would be our management, our management meeting as opposed to a board meeting where it's about governance, this would be where we discussed...ja, everything

related to the different responsibility centres.

COMMISSIONER: H'm.

DR RETIEF: So it's quite a formal meeting with an agenda and with minutes and what I have referred to in here was also minuted, some of the candidates were discussed as possible candidates in the run-up, the names I've put in my chronology, people that were mentioned as possible candidates at that point.

COMMISSIONER: As far as your position is concerned are you the Registrar full stop?

10 DR RETIEF: Of the Institution.

COMMISSIONER: I remember in the old days it was registrar of this and registrar of that.

DR RETIEF: No, ja.

COMMISSIONER: And academic and this and that.

DR RETIEF: Yes, no, I'm the Registrar full stop.

COMMISSIONER: Yes.

DR RETIEF: So in my portfolio the academic administration of the Institution is managed, so that's everything from the intake of students right up to graduation and then the
20 other part is governance support, governance function support where the secretariat for all the statutory bodies reside and it's in that capacity that I was involved with an Electoral College.

COMMISSIONER: Okay.

DR RETIEF: So I have a small team who provides secretarial services to Council, to senate, to the Executive

Committees of Council and Senate, to directorate, so that is the other division under me and then I also have legal services reporting to me and that consists of contract management, student discipline and legal services sort of [indistinct].

COMMISSIONER: So you've got a busy day.

DR RETIEF: Yes, but fortunately I have very competent people reporting to me, so *ja*, I myself don't have a legal background.

COMMISSIONER: Ja.

10 DR RETIEF: So I'm very happy that I have competent people in that division.

COMMISSIONER: Okay, so you took us to the Rectorate.

DR RETIEF: Yes. So maybe to start if I may with the documents that I provided.

COMMISSIONER: Yes.

DR RETIEF: So in 2018 already, and I haven't put a date because it was sort of we've been discussion this, that the chancellor...his term would be ending the next year and there were various discussion informally around who we could possibly approach and so I've put it there as my first point, I think it was for me that is where I sort of became aware of that this was coming and that I had to initiate certain processes and that I was also aware of people like Edwin Cameron being considered, but also others like Patrice Motsepe and Lesetja Kganyago and people like that. So there was a lot of discussions informally mostly around

possible candidates.

COMMISSIONER: Just tell me the term of the chancellor.

DR RETIEF: Yes.

COMMISSIONER: How many years?

DR RETIEF: Five years.

COMMISSIONER: Five years.

DR RETIEF: With the possibility of a second term and then a new person needs to.

COMMISSIONER: Then you have to go.

10 DR RETIEF: Then you have to have a formal election process, yes. Then you have to leave, exactly.

COMMISSIONER: And it was...is it Dr Rupert?

DR RETIEF: Yes. Well, no actually...he once rapped me over the knuckles for calling him doctor, he has an honourably doctor.

COMMISSIONER: HC, yes, but...

DR RETIEF: But he's Mr Rupert, yes.

COMMISSIONER: Okay.

DR RETIEF: Ja, ja, so I remember calling him doctor
20 and...

COMMISSIONER: Johann for that matter.

DR RETIEF: Ja, ja.

COMMISSIONER: Yes.

DR RETIEF: He actually said rather stick with Johann,
so...

COMMISSIONER: Okay.

DR RETIEF: Okay, so...

COMMISSIONER: So it's not a question of him indicating that he wasn't interested in carrying on?

DR RETIEF: No, no, no, no.

COMMISSIONER: He had to step down?

DR RETIEF: He had to step out, so we were aware of it, so that's one of the sort of things that we have to also flag from our role as governance support that this and this is coming up and
10 we need to start thinking about this and so...okay.

COMMISSIONER: Ja.

DR RETIEF: So that happened informally and this first formal communication in my office then was on the 5th of February this year where my PA formally sort of sent me an email to say we have to start working on this and she drew up a SOP with a sort of a timeline of what needs to happen when and she did that from her prior knowledge of how elections are normally run and also h'm...but, ja, even her, even she, there was nobody in my office who had actually been there for 10 years who was part of the first
20 election.

COMMISSIONER: Ja.

DR RETIEF: So I then discussed it on the 15th of April with the Rector in my one-on-one meeting and we discussed that we should initiate the process and so on. Then the next day I actually contacted my predecessor, the email is in there, to

enquire from him whether there are any other guidelines which is in the statute because my expectation was that there would be a nice detailed and standard operating procedure to follow.

COMMISSIONER: Yes, that you can follow.

DR RETIEF: Which there wasn't, so he communicated that no you just go with the statute. So in terms of this...so that was our guideline and you will also note and as I speak I will point out where we opted for instance during the election itself we did not include the nomination letters for the members of the Electoral
10 College which they apparently did in the past. I'll get to that because I think that's also relevant in terms of my governance role and the reasons for not including that, I will [indistinct] just now.

So yes, so he came back to me to say there are no other guidelines by the statute itself. So then, ja, so...sorry, then my PA drafted an SOP at my request and we discussed it and I have a copy of that in here just to indicate the timelines. On the 19th of July we communicated to other stakeholders on the campus around what would be expected of them, so that is the corporate communications people, the [indistinct] relations people, people
20 running the...ja, putting, needing to put systems in place, so that is not decision makers I'm talking about now, that's just the people that needs operationally support.

COMMISSIONER: Ja, [indistinct], ja.

DR RETIEF: Ja. At the same day on the 19th I invited the members of the Electoral College to sort of to save the day, so

we had an existing Council meeting on the 25th of September where all our Council members would be here in any case and we opted then to have the meeting of the Electoral College an hour before the start of the Council meeting, so Council would start at 10 o'clock on the 25th and our Electoral College meeting then started at nine and so the full Council is part of the Electoral College as well as the Executive Committee of Senate which is basically all the members of the Rectorate as well as the deans and then also the president and the vice president of the

10 Convocation.

So they all then got notice of this meeting to take place. In that context I myself don't have a vote obviously because then in that context I'm the secretary to the college, so...

COMMISSIONER: Just give us a count of heads, how many are we talking then about?

DR RETIEF: We're talking about 30 members of Council.

COMMISSIONER: About 30, yes.

DR RETIEF: And about...let me just...10 deans and then
20 the Rectorate is part of the Executive Committee of Senate, they are without myself five, six people, but they only have in the context of the Electoral College everybody just have one vote.

COMMISSIONER: [Indistinct]

DR RETIEF: That I saw from my previous when I looked into this, there was a debate around that with the previous

election, but it was minuted by Council in that context, even though you might be a member of Council and of the Executive Committee of Senate you only have one vote, so that was also clarified.

COMMISSIONER: And...I'm sorry.

DR RETIEF: H'm.

COMMISSIONER: And then you have the president and the vice president of the Convocation?

DR RETIEF: Convocation, as part of that, yes.

COMMISSIONER: Okay.

10 DR RETIEF: Okay, so they all received notification. Then on the 14th of August we put out a call for nominations for candidates which you have in your pack there. I've included the electronic call that went out via email.

COMMISSIONER: Let me just look at that, ja.

DR RETIEF: But it was also published in all the papers. Or not all the papers, sorry, in the *Eikestadnuus* and in one big Afrikaans newspaper and one big English newspaper.

COMMISSIONER: I see, ja.

DR RETIEF: So, okay.

20 COMMISSIONER: Verkiesing van kanselier, so en so.

DR RETIEF: And that's the SOP that you have in front of you.

COMMISSIONER: Yes, I see that is your SOP.

Kommunikasie lede... Am I closing in on it or have I passed it?

DR RETIEF: I think you've passed it.

COMMISSIONER: I think so too.

DR RETIEF: Yes.

COMMISSIONER: Because here it says:

"Vyf nominasies is ontvang."

DR RETIEF: Ja, no, then you passed it. Sorry.

COMMISSIONER: Ja.

DR RETIEF: Okay. So interestingly I...

COMMISSIONER: I have it, yes, thanks.

DR RETIEF: Okay. So then I [indistinct] on. During that
10 time, now we are in the domain of the other pack that you have
because you would've seen that around August there's a lot of
interaction around possible candidates and that's where some of
the interactions with Edwin Cameron took place, but I also last
night when I put this together stumbled upon an email between the
Rector and Ainsley Moos which I've included there where Johan
van Zyl previously from Sanlam was asked to approach Patrice
Motsepe for the role.

COMMISSIONER: Oh, Dr Van Zyl?

DR RETIEF: Sorry?

20 COMMISSIONER: That's Dr...

DR RETIEF: Johan.

COMMISSIONER: Johan, Dr Van Zyl, ja.

DR RETIEF: Ja, ja, ja.

COMMISSIONER: African Rainbow Capital.

DR RETIEF: Exactly, exactly. So for me this was

interesting, so while the other, while there was interactions with Judge Cameron to avail himself there was at the same time also interactions by the Rector with Ainsley Moos who is the deputy chair to Council who's also involved with Africa Rainbow Capital.

COMMISSIONER: Okay.

DR RETIEF: To find out whether Patrice would be interested in the position. So the email is in there, so very similar to the sort of interactions that were had with Edwin at that same juncture.

10 COMMISSIONER: I see, so the Rector then set out to enquire as to whether Mr Motsepe would be interested?

DR RETIEF: Ja, yes.

COMMISSIONER: That's really what it boils down to. Because I wanted to ask you, but okay, none of us have past experience of what happened, whether it is customary if I can use that word...

DR RETIEF: H'm.

COMMISSIONER: For the Rector to...

DR RETIEF: Approach people.

20 COMMISSIONER: To approach people.

DR RETIEF: Yes.

COMMISSIONER: H'm.

DR RETIEF: It's definitely customary and I don't think there is...I wouldn't be surprised if it's customary at all institutions because the concern, and it's not only for the Rectorate there, I

know our COO Stan Du Plessis, I don't think he's on your list, you might...I don't know, you might.

COMMISSIONER: No.

DR RETIEF: Stan Du Plessis for instance also approached Lesetja Kganyago.

COMMISSIONER: Yes.

DR RETIEF: So the statute does not prohibit that because all of them are also members of the Convocation, so any member of the Convocation and all of them, all the Rectorate 10 members also supported some of the chancellors candidates as members of the Convocation.

COMMISSIONER: H'm.

DR RETIEF: So some of the signatures, some of them I know even signed for more, you know supported more than one candidate.

COMMISSIONER: Ja.

DR RETIEF: Because of the stature of the specific candidates. So my experience, and it's limited, but is that there's a lot of toing and froing, even some of the professoriate who 20 nominated Ruda Landman would engage with the Rectorate because in the end it's sort of you want someone who will be aligned to the values of the Institution and that would add stature to the role or so, so there's a lot of sort of thinking around who is out there that you know that it's a titular role, so you literally don't have any...

COMMISSIONER: Ja.

DR RETIEF: You don't have a seat at the Council, you don't have a seat at management, but it is has to do with what you stand for and...

COMMISSIONER: Yes, it's the face of the Institution really.

DR RETIEF: Ja, in a certain sense.

COMMISSIONER: Ja, sense.

DR RETIEF: And some people take it up very actively and others are much more passive, they pitch up at graduation and
10 they do the capping which is the other function that they have.

COMMISSIONER: Yes.

DR RETIEF: Is to cap students and to award the qualifications at the Institution. So I never got and I have to say our vice Rectors, some of them have been here for long periods, so we also ask them and I sort of would ask them about how did it work the previous time.

COMMISSIONER: H'm.

DR RETIEF: With the nominations, nomination ballots, did you present them to Council or not, so but my sense was that
20 ja there's a lot of discussion happening.

COMMISSIONER: Yes, you found no...

DR RETIEF: Unease.

COMMISSIONER: Surprise or unease?

DR RETIEF: Oh, no.

COMMISSIONER: Expressed by anybody as to the fact that...

DR RETIEF: No. That people were having these discussions.

COMMISSIONER: That the Rector was involved to a certain extent?

DR RETIEF: No. Nobody was...and it was actually we actually spoke about it at the Rectorate meeting also, who do we have, who are we aware of, who's been nominated.

COMMISSIONER: Ja.

DR RETIEF: And do we have people, because I think
10 you need to ensure that you have enough candidates that can live up to the expectation of that role, so that's why I mean Patrice Motsepe holds an honorary doctorate from us as well as Lesetja Kganyago of Reserve Bank.

COMMISSIONER: Yes.

DR RETIEF: And they were actively approached by members of the Rectorate to ensure that we have a strong pool of candidates to fulfil this role. So from my perspective there was no like is/or, nobody was surprised about the fact that Rectorate was as members of management, but also as members of the
20 Convocation.

COMMISSIONER: H'm.

DR RETIEF: Involved in these discussions, and it's also not as though it was a secret sort of...secret discussion.

COMMISSIONER: Ja.

DR RETIEF: It was very open, [indistinct] would speak,

people would...so it was a very sort of transparent, putting it out there, 'Oh we've heard somebody's nominated Ruda Landman, okay so who else, and do we have women and do we have enough diversity in the pool', so a real opportunity for the Institution to get something right, so to put somebody in that position. Not that the Institution can put somebody there, but to have somebody in that role that if you have your Electoral College vote in that you know there's people that will live up to that expectation.

COMMISSIONER: Ja.

10 DR RETIEF: So from my perspective I never had the impression that anything was...you know untoward was happening.

COMMISSIONER: Ja.

DR RETIEF: It was a very...it was very transparent.

COMMISSIONER: Would you put it as high as saying that it's really pivotal if you wish for the Rector?

DR RETIEF: It's pertinent.

COMMISSIONER: Pivotal.

DR RETIEF: Oh, pivotal, yes, yes.

COMMISSIONER: Pivotal.

20 DR RETIEF: It's important.

COMMISSIONER: Important for the Rector and the Rectorate did you call it?

DR RETIEF: Ja.

COMMISSIONER: Ja. To be involved in the process, I mean it's...

DR RETIEF: Or to ensure that you have the right candidates.

COMMISSIONER: Yes.

DR RETIEF: And I think ...[intervention]

COMMISSIONER: It's their company they...

DR RETIEF: Yes, exactly.

COMMISSIONER: It's the future they're dealing with here.

DR RETIEF: No, you can't abdicate that, I wouldn't say
they Rector, I would say the Rectorate bears the responsibility to
10 ensure that there are enough candidates that they can...that can
be presented, and so I also...my sense was that even in this case
even if the Rector had not involved himself Edwin Cameron
would've been nominated and I'll come to that later on because
there were 70 people who actually signed these nomination forms
and that was the reason why I also thought from a governance
perspective, and I checked it with the Rectorate, we cannot put 20
names, one ballot, for the other four candidates and then have 70
signatures in that meeting when people have to now vote because
for me that would create a bias.

20 COMMISSIONER: Ja.

DR RETIEF: And also the names, it was as you know it
was Johann Rupert himself who signed Edwin's nomination and
Michiel Le Roux, Koos Bekker, members of the Rectorate, so
from...my predecessor said they use to put the ballots in front of
the Electoral College, but I told the Rectorate I'm very

uncomfortable with doing that because the candidates have to now stand on their own merit and it doesn't matter who put them there. We've checked, we've done the due diligence that the nominations were complete and the people who nominated them were members of the Convocation as the statute determines.

COMMISSIONER: Ja.

DR RETIEF: But now once they go into the Electoral College, and you'll see in the bundle that I provided to you of documentation that went in there it was just sort of the CV that was 10 provided to us, the picture and the vision statement.

COMMISSIONER: H'm.

DR RETIEF: And we didn't have any discussion as to how many people signed, who were the people that signed. So h'm...but my point is actually that even if the Rectorate you know he signed on one place, but there were other forms coming in from the Law Faculty, from Koos Bekker, you know from people in the community.

COMMISSIONER: H'm.

DR RETIEF: So I received many different nomination 20 forms with up to in the end 70 names in total. So h'm...

COMMISSIONER: Sorry, does the statute call for a minimum number of...

DR RETIEF: Of 20.

COMMISSIONER: 20?

DR RETIEF: 20, minimum of 20.

COMMISSIONER: So 20?

DR RETIEF: Ja, so some people stuck with that, so once they had the 20 names...

COMMISSIONER: Ja, they stopped.

DR RETIEF: But because...I think because Edwin's name was mentioned since 2018 as a possible candidate my sense was that there were different groups actually lobbying to get him to stand and that typically if you...so with Ruda Landman we knew that other people were bringing her to the table, so that was
10 fine.

COMMISSIONER: H'm.

DR RETIEF: So there wasn't additional work done to get her to stand, but we knew she was coming because Anton Van Niekerk who is our Professor in Philosophy they drove a campaign around Ruda Landman. So the nomination process is a very sort of...my experience of it was it's not secret, it's a lot of conversation happening as to what do we need, we really need, do we need a woman, do we need an African black businessman, do we need...so what is it that we need in terms of a new chancellor, so
20 that was the conversation.

COMMISSIONER: Does the statute prescribe any minimum number of nominations, in other words...

DR RETIEF: No, but it does say if you have one, even if you only have one candidate you have to vote at the Electoral College and it has to be an outright majority, so more than 50% of

the Electoral College.

COMMISSIONER: Okay.

DR RETIEF: So it's not if you only have one candidate that you don't go into a vote, so you will always vote.

COMMISSIONER: You will always have a vote.

DR RETIEF: Yes.

COMMISSIONER: Yes.

DR RETIEF: So ja, so we had five candidates in the end.

10 COMMISSIONER: Is it five?

DR RETIEF: So ja, so that was on that point, so I think with the Rector's interaction around Motsepe it's just to illustrate I think that this is some of the processes that played out in the run of the election and similar processes as I pointed out, I know Stan Du Plessis contacted people to get Lesetja Kganyago to stand, he didn't in the end, but there was interaction. Okay.

COMMISSIONER: I'm sorry to interrupt you again.

DR RETIEF: No, yes.

20 COMMISSIONER: As I understand it the closing date for the nomination as you put it here was the 4th of September.

DR RETIEF: Was the 4th, that's right.

COMMISSIONER: And that is prescribed?

DR RETIEF: It's to make the Council meeting, it's for us to allow the processing after that.

COMMISSIONER: I see, so it's aligned with the Council

meeting?

DR RETIEF: Yes, it's to allow...well it's not the closing date for Council, but it was in terms of our SOP how much time we then needed to verify because it goes to our alumni office.

COMMISSIONER: Right.

DR RETIEF: They check every single signature and id number to ensure that the people who nominated are in fact members of the Convocation and then it comes back and then we prep the bundle and then we also want to allow enough time for 10 the Electoral College to scrutinise the documents, so it was in terms of that timeline, the date for the meeting of the 25th that we determined the 4th of September.

COMMISSIONER: I see. So it's not a case of reaching a stage and we say okay guys, let's postpone it for another week or two and we'll see whether a further nomination is[intervention]

DR RETIEF: No, no, not at all.

COMMISSIONER: We wait until ...[intervention]

DR RETIEF: No, I would be...if somebody wanted to do that I would be very upset because it's so tight in my office to get 20 all of these processes, I get furious with my...with some of the managers if they assume they can willy-nilly just extend a date, or we had to do it for our honorary doctorate process this year because we didn't have enough nominations, and the Rectorate said well we have to open this again for the honorary doctorates and I mean my staff were up in arms because it puts so much

pressure on the administrative processes that needs...

COMMISSIONER: H'm.

DR RETIEF: And then in the end your Electoral College you can't submit these documents to them a day before the meeting, so it's that, those were the considerations that would determine that closing date.

COMMISSIONER: Ja.

DR RETIEF: So working back from that meeting and then to see where your process [indistinct].

10 COMMISSIONER: And if one looks at the process as a whole the impression I get from your evidence too is that it was preferable that there be a number of nominations.

DR RETIEF: Yes. Ja, ja, ja, no, of course because also ...[intervention]

COMMISSIONER: That's why different people were approached.

DR RETIEF: Yes, yes.

COMMISSIONER: It's not just Judge Cameron.

DR RETIEF: No.

20 COMMISSIONER: He happened to be one of those that was approached.

DR RETIEF: Yes, and also its approach to stand, to avail themselves, so you want...because you know Patrice in the end said he's not available, so you want to create a pool of people that you could possibly elect from.

COMMISSIONER: Ja.

DR RETIEF: Or that you can present to the Electoral College, so yes.

COMMISSIONER: Because it gives credibility to the process also.

DR RETIEF: Yes, yes, yes.

COMMISSIONER: If you only have one horse in the race all sorts of questions are asked.

DR RETIEF: Ja, ja. I think that was not really the fact
10 that there were a lot of effort put into other candidates were not really highlighted anywhere in the media.

COMMISSIONER: H'm.

DR RETIEF: But the process behind in the run-up was that we knew Ruda was coming from the University...what do you call it, broader University community, she was from the Arts Faculty, there were a lot of professoriate and some of our vice Rectors signed her nomination as well and then as I said Patrice and Lesetja Kganyago was approached, but they in the end did not avail themselves, so yes, so you really want a pool of...and then
20 we got two sort of surprise candidate from the...somebody from the Free State and that we weren't aware of, and one of our other honorary doctorates from Namibia, Japie...what is his surname...

COMMISSIONER: Oh, yes.

DR RETIEF: Japie Van Zyl.

COMMISSIONER: The scientist?

DR RETIEF: Ja, the engineer/scientist.

COMMISSIONER: Yes.

DR RETIEF: Ja, so h'm...

COMMISSIONER: Oh, so was he actually in the race too at the end?

DR RETIEF: He was, he was in the pool, ja.

COMMISSIONER: H'm.

DR RETIEF: There you have...so on the 4th of September...

10 COMMISSIONER: Oh, there we go.

DR RETIEF: Ja, so on the 28th of August we actually had the Rectorate meeting where the minutes indicate who were the names that I've mentioned here.

COMMISSIONER: Yes.

DR RETIEF: Where these where the people that were mentioned, Phumzile Mlambo-Ngcuka, Nicky Newton-King, Ruda Landman, Lesetja Kganyago, Kate O'Regan, those were all the names that were sort of discussed at that meeting as possible candidates.

20 COMMISSIONER: Yes.

DR RETIEF: And then on the 4th the nominations closed and those were the five complete nominations at that point, and then followed the prepping in my office whereas I've explained we verify the signatures and we compile the bundles. One thing that I might mention, it is also in...so on the 24th, just before the 25th I

wrote the letter, a brief for his Chairmanship, I think it's one of the documents at the end of your pack, just before the bundle where I wrote him an email advising him on some of the matters that might come up, so one of them was whether it's allowed, you're allowed to give a proxy to someone and he obtained advice that [indistinct] not allow that and we did not allow that.

So who could vote on, so we didn't allow people on behalf of others and then we also had our financial controller count the votes with me which was a mechanism that our COO 10 suggested to just protect me as well. Yes, so one of the other things that we decided was to keep the submissions as they were received by us, so I also asked Wim to say that explicitly, it's the third bullet in that email that I sent to him:

"Elke kandidaat moet 'n foto, visiestelling en CV voorsien vir voorlegging aan die [onduidelik]. Let daarop dat die sekretariaat die dokumentasie geplaas het soos dit ontvang is. Dis geen redigering of vertaling nie."

And that we also did because the moment you start translating or editing you can either change meaning or you can put your own interpretation, so that's why you would see some of the candidates 20 actually gave us their vision statements in two languages, others only submitted it in one language, that was not a bias that we put in, it was we've consciously decided to keep the documentation as it was presented to us, so it...ja, so that was just I think another point that was important for me to raise.

And as I've mentioned we did not include the nominations in the meeting at that point for the reasons that I've already mentioned because of the sort of the difference between the volumes of signatures for the different candidates and also the specific people who nominated there. So that information was never presented to the Electoral College, that only came out now in the sort of in the aftermath, people started asking who was involved and so on. And then we had...ja, we had our one person from the Corporate Comms there to just in term of communication

10 to facilitate that once a decision was made.

So there if you page over you'll see who was there, who wasn't there and who had voting rights and who didn't have voting rights, it's just the *resensie/ys*, what is that in English?

COMMISSIONER: Ja.

DR RETIEF: And then...ja and then you have it back there. Right at the end I've...where did I include that? Oh, I thought I included the Excel spreadsheet with the names of the people who nominated Edwin Cameron, so if you are interested I can....

20 COMMISSIONER: Yes, that...

DR RETIEF: I wonder where that is, I thought I had included it.

COMMISSIONER: I thought you mentioned it just now, yes, I was in fact...

DR RETIEF: Ja, sorry, I think my PA might have

forgotten to print that document. I will send it now.

COMMISSIONER: Yes, if you could just let us have that.

DR RETIEF: Yes, yes, it's all 70 names, I just summarised that, I thought it might be interesting. I think the point is there were more than three times the requires number of signatures.

COMMISSIONER: Yes.

DR RETIEF: Okay, ja, sorry, I will need to have that, it's not in the pack. So yes and then actually at that point my role
10 was...or I thought my role was I was done with this process, so after that my involvement really became as an entry point for requests by different people for information and you would've seen that Edwin also asked me to submit the communication to Jan Heunis because the Constitutional COMMISSIONER refused then the communication and Edwin felt that we should really be transparent.

COMMISSIONER: Yes.

DR RETIEF: And there's nothing to hide and we should just put it out there.

20 COMMISSIONER: I saw that correspondence.

DR RETIEF: Yes.

COMMISSIONER: Yes.

DR RETIEF: So that's where I sort of came involved again.

COMMISSIONER: Ja.

DR RETIEF: And then I also received Leon Schreiber's complaint and so my office fulfilled the same role as fulfilling for this panel, it's sort of holding the process, but I wasn't really involved in anything beyond that.

COMMISSIONER: Would you...he was chosen by an outright majority.

DR RETIEF: Ja.

COMMISSIONER: I haven't seen the figures yet.

DR RETIEF: Ja, I...

10 COMMISSIONER: I don't know whether you would like...

DR RETIEF: I can share it with you, there were only two votes against him.

COMMISSIONER: Only two votes against him?

DR RETIEF: H'm, ja, so I can give you the minutes of that meeting, but if you look at the ...[intervention]

COMMISSIONER: No, it won't be necessary.

DR RETIEF: Ja. And interestingly enough, so there was the whole group then sort of ja...voted for him and two votes against him, which we were actually very surprised about.

20 COMMISSIONER: Surprised about there being two or...

DR RETIEF: No, no, no, surprised that there were...that he had that level of support from the Electoral College.

COMMISSIONER: Ja.

DR RETIEF: We really...I really anticipated a much wider spread given the variety of candidates and given the fact

that Ruda Landman was on our Council for many years, I really thought...and she's a woman, so I thought the woman would get a vote at least from the women in the room, but ja, it was...I found it very interesting that...ja, that the whole group except for two people voted for Edwin. It was actually at that moment we were quite elated, we were just...we couldn't believe that there was so much support for our next Chancellor, that was a very good sign in terms of the support that he would have going forward. And Council as you would know is a very diverse group, are you aware

10 of the composition of our Council?

COMMISSIONER: Yes.

DR RETIEF: Okay. Ja, so it's ministerial candidates and six members of the Convocation and ja, so that was very interesting that it played out like that.

COMMISSIONER: H'm-'m. Yes and then as far as the rest is concerned obviously you had no direct involvement, I'm putting it in the broader sense of the purpose of this enquiry.

DR RETIEF: H'm.

COMMISSIONER: As far as who said what to whom between
20 the Rector and the Judge and...

DR RETIEF: Only what I saw when...ja, only as it came across my desk I learnt as it emerged, ja.

COMMISSIONER: Ja.

DR RETIEF: So I saw, I'm fully aware of everything that's in that bundle.

COMMISSIONER: Ja.

DR RETIEF: Because we compiled it, but I h'm...no.

COMMISSIONER: You wouldn't have had personal knowledge of maybe some things, but not the gist of it.

DR RETIEF: No, I just knew that there were a lot of support for having Edwin stand for Chancellor and it was very exciting to have somebody who's got a broader sort of mindset around all things...well the politics of the country and just the...where we're heading as an institution to become more inclusive, so the charm of the candidate was in that really, and similarly somebody like Ruda Landman would be a woman and Patrice would be an honorary doctorate, he's an African black man, he's a business leader, so those were the sort of the considerations that informed the discussions that were had and as I say it was never, I never got the sense that there was something sort of happening under the table somewhere.

COMMISSIONER: H'm.

DR RETIEF: It was very transparent. In retrospect naively so because it was sort of everybody knew who was talking to whom and who we have ...[intervention]

COMMISSIONER: Yes, that's surely what I was sort of aiming at without wanting to ask the question.

DR RETIEF: Ja, it was a very sort of 'do we have enough candidates' and 'listen, don't you think you should call...don't you know somebody who we can approach' and they

said ja Kganyago, and that kind of conversation and then Stan would say 'I think I can phone somebody who's got a...' you know, 'we could approach him' and so it was sort of getting candidates into the mix and thinking out of the box in terms of this opportunity to do something new and that would signal where we want to go as an institution because of our legacy that we are constantly faced with, so you would know about all the protest action on campus and around all sorts of things, the funding free, and so I think it's a very big context in terms of where our institution wants to position

- 10 itself and to have somebody that can embody that, or that can signal that, because it's a symbolic position more than anything else, there's no salary attached to it, there's no real power in terms of decision-making, so it's just a sort of a symbolic person that would symbolise something of where we want to go to. Ja, so for me that was really what it was about and that was the message that I got from my peers.

- COMMISSIONER: You never experienced any discussion...or shall I put it this way, did you have an experience during the course of these events, any discussions that sort of linked the 20 possible nomination of Judge Cameron with the *Gelyke Kanse* court case?

DR RETIEF: That is the irony, I don't think we even had that discussion because at that point it has been in the system for so long and nobody knew when the *uitspraak*...

COMMISSIONER: When the judgment is calendared.

DR RETIEF: Judgment would come. So I now feel like an idiot that we didn't think about it of course because now it's playing out against this wonderful decision that we got from the Electoral College, but it's on the table because it was like this thing has been...it's been coming for years and the first time they took us I think to court was in 2016 when the policy came in, the new policy came into play.

COMMISSIONER: Ja.

- DR RETIEF: So it's been carrying on like for forever and
- 10 it's not...we didn't know when the judgment would come, it was... The discussions I would have was with Gerhard Lipp who is our legal person who would be 'so where are we at in terms of the Gelyke Kanse thing and where's it now' and that would be all through for three years, but there was never a discussion around...the discussion was will he retire because we can't ask an acting judge to be our chancellor, so the conversation we did have was 'oh he's retiring, so he should be available', that was the only link that was ever made in those discussions with him in that role, it was around his retirement, but it was never h'm...
- 20 I mean lots of conversations around language always, it's always with us, but it was never that these discussions were linked to the process in the Constitutional COMMISSIONER or...I don't think anybody even knew he would be writing the...

COMMISSIONER: Judgment.

DR RETIEF: The judgment himself, so yes, so it was

just a bad coincident that they then suddenly we heard it was coming and we literally heard it the previous day. I remember Gerhard who is our Head of Legal said: 'We just heard that judgment [indistinct] morning, I have to get on a plane now.' So the previous day we heard that judgment would come out on the...what was it, the 8th of October or something. So it wasn't that anybody sort of even thought of this process in terms of that process.

COMMISSIONER: Yes, that's basically what I have to ask you, there's nothing else that I can think of at this stage unless you
10 think there's...

DR RETIEF: Ja, no, I will send you the names of the people who signed.

COMMISSIONER: If you would just send us that, yes.

DR RETIEF: And I do think maybe if...I don't know how full your schedule is, somebody like Stan Du Plessis who's a member of the Rectorate and who approached or who I asked to approach other candidates might be valuable to speak to unless you feel what I've mentioned is sufficient, but he will also be able to share some perspectives from the sort of the Rectorate if that is
20 something you would be interested in.

COMMISSIONER: And he also approached or he was instrumental in the approaching of other candidates?

DR RETIEF: Of the...yes, of the Reserve Bank Lesetja Kganyago.

COMMISSIONER: Ja.

DR RETIEF: Ja. So that was I think the only person he was...because he's an economist by training.

COMMISSIONER: Ja, I see, so he...

DR RETIEF: He was the Dean of Economic and Management Sciences.

COMMISSIONER: Ja.

DR RETIEF: And he's got...he's sort of connected in that network.

COMMISSIONER: Ja.

10 DR RETIEF: So that was the reason they said...well, you know, he was also when we awarded the honorary doctorate to Lesetja Kganyago it was they sort of prepped the what do you call it, the nomination, so he knew those.

COMMISSIONER: Ja.

DR RETIEF: He was connected in that way, so that's why they asked him.

COMMISSIONER: Mr Carriem and I will have a word on that.

DR RETIEF: Ja.

20 COMMISSIONER: And if necessary can we do it through your ...[intervention]

DR RETIEF: Sure, ja sure, ja, he would be willing to I'm sure, but there's nothing else I can think of h'm...ja, it's just...

COMMISSIONER: Mr Carriem, there's nothing outstanding apart from the document that we've...

MR CARRIEM: [Indistinct]

COMMISSIONER: Oh okay. Does this form part of...

MR CARRIEM: That's part of the witness bundle, it's part of your D bundle.

COMMISSIONER: Oh of course, yes, it's D, all right. Mr Carriem has just drawn my attention to our bundle of the witnesses bundle we've got there.

DR RETIEF: Yes.

COMMISSIONER: There's...if you could maybe just put that before her. Have you got another one there?

10 DR RETIEF: [Indistinct]

COMMISSIONER: That's page 67. Do you see it?

DR RETIEF: Ja.

COMMISSIONER: It's from Professor De Villiers.

DR RETIEF: Ja, to Juan Meiring.

COMMISSIONER: Ja.

DR RETIEF: Oh, yes, yes, yes.

COMMISSIONER: You know who Juan Meiring is?

DR RETIEF: Ja, he's on our Council.

COMMISSIONER: Yes.

20 DR RETIEF: Ja.

COMMISSIONER: And you were cc'd in on this.

DR RETIEF: Yes.

"...besonderhede van die nominasie van..."

Oh okay, I...I...these are similar, I had similar emails like this asking for nomination forms to be sent to people to sign.

COMMISSIONER: Right.

DR RETIEF: So I did it. This was just asking me to h'm...

COMMISSIONER: To do the [indistinct].

DR RETIEF: To forward the nomination form to Juan to start collecting signatures based on the fact that Edwin had indicated that he was available.

COMMISSIONER: Ja.

DR RETIEF: But I have many...I haven't even...I mean
10 many people across the Institution would contact me for nomination forms, so I would forward it to whoever needed one to complete.

COMMISSIONER: Ja.

DR RETIEF: Ja.

COMMISSIONER: As far as the first paragraph is concerned where the Rector says:

"Sien asseblief die aangehegte brief van Jan Heunis aan Edwin."

DR RETIEF:

20 "...van Jan Heunis aan Edwin Cameron."

COMMISSIONER:

"Ek glo dit gee die groen lig vir die nominasieproses."

DR RETIEF: Ja, I think that was the legal...the letter from the lawyers to say that they wouldn't have any objection.

COMMISSIONER: Yes.

DR RETIEF: That was it.

COMMISSIONER: It's that letter.

DR RETIEF: That's the letter, there's no other letter that I'm aware of and it was actually the official *prokureurs* letterhead or...ja.

COMMISSIONER: It was in fact Mr Heunis...

DR RETIEF: Or Jan Heunis's own letterhead.

COMMISSIONER: Mr Heunis's own letterhead.

DR RETIEF: Yes, with the one paragraph that said that
10 they were actually also considering to nominate him.

COMMISSIONER: Ja.

DR RETIEF: But they decided not to because of the possible conflict and then the second one is saying but they have no objection.

COMMISSIONER: Right.

DR RETIEF: And that is the letter that then convinced Edwin that there wouldn't be an issue.

COMMISSIONER: Ja.

DR RETIEF: Ja.

20 COMMISSIONER: And as far as the Rector is concerned, hy sê:

"Ek glo dit gee die groen lig vir die nominasieproses soos bespreek."

DR RETIEF: Ja.

COMMISSIONER: Did he say to you at any stage *ons het die*

groen lig or something to that effect, or explained what he maybe meant there?

DR RETIEF: I...no, I didn't think any...I didn't think there was an explanation needed, for me it was just Edwin wasn't available as he indicated earlier and then we heard that there's now this letter from Gelyke Kanse...from Jan Heunis...

COMMISSIONER: Yes.

DR RETIEF: ...saying that it's fine.

COMMISSIONER: Okay.

10 DR RETIEF: And based on that Edwin then said he's fine.

COMMISSIONER: All right.

DR RETIEF: Then clearly everybody is okay with this and he can go ahead, so that's a groen lig that I can now send the form.

COMMISSIONER: Exactly. You are copied in by virtue of the groen lig being given that you can go ahead with the nominations.

20 DR RETIEF: That I can now...with the nomination, because at that point nobody completed any forms because Edwin wasn't available.

COMMISSIONER: Yes.

DR RETIEF: So it's one of the...that's maybe...ja, one of the stipulations in the statute actually says that the candidates must sign that they are available.

COMMISSIONER: H'm.

DR RETIEF: So you cannot nominate somebody without their knowledge, without them being approached, without them giving consent that they will participate in the nomination process which is actually I think speaks to this whole sort of run-up to the nomination with all the candidates, it's you have to engage with them in some way to see whether they would be willing to take on this role and then the nomination process sort of the form, the formal process with the signatures and everything starts and the candidates themselves also have to sign the form.

- 10 COMMISSIONER: And you were in fact in terms of this given the green light to send the nomination forms?

DR RETIEF: To send the blank forms to Juan.

COMMISSIONER: Ja.

DR RETIEF: To start h'm...

COMMISSIONER: To start the process.

DR RETIEF: With the signature processes, ja.

COMMISSIONER: Yes.

- DR RETIEF: But as I've said I've received a similar request from Professor De Waal from *regsfakulteit* and from Anton
20 Van Niekerk for Ruda's nomination, so yes, ja.

COMMISSIONER: [Indistinct]

DR RETIEF: So there's a lot of interaction between my office and the people who nominate because sometimes they get it wrong then you have to tell them this isn't a complete nomination and where's the this, where's the that or there's no signature, so

my PA would give that feedback to people, or they would send an email then we would say no, no, you can't just send an email, you need the form, here's the form, so it's sort of supporting the nomination process in that way.

COMMISSIONER: Yes, Doctor, thank you, thank you for your time.

DR RETIEF: Thank you for your time. I realise you are spending so much time.

COMMISSIONER: No.

10 DR RETIEF: Ja.

COMMISSIONER: No, that's a pleasure, a pleasure being in Stellenbosch.

DR RETIEF: Ja, we are so privileged.

COMMISSIONER: Ja.

DR RETIEF: We live in this beautiful town. I just wish the wind would...

END OF INTERVIEW