

BEFORE THE COMMISSION OF INQUIRY INTO TAX ADMINISTRATION AND  
GOVERNANCE BY THE SOUTH AFRICAN REVENUE SERVICE

HELD AT PRETORIA

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AFFIDAVIT

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I, the undersigned,

VITTORIO MASSONE

do hereby make oath and state:

1. I am a partner of Bain & Company South Africa, Inc. (**Bain & Company/Bain**). A copy of my biography is attached marked "VMI".
2. The facts contained herein are true and correct and, unless otherwise stipulated or proven by context, within my personal knowledge and or belief.
3. This affidavit is structured as follows:
  - 3.1. Introduction and purpose of this affidavit;
  - 3.2. Meetings with Tom Moyane (**Moyane**);
  - 3.3. Meetings with Former President Jacob Zuma (**Zuma**);
  - 3.4. Clarification of issues and answers to certain questions at the Commission;  
and
  - 3.5. the RFP process.

## INTRODUCTION

4. On 30 August 2018 and 31 August 2018, I testified before the former Judge of the Supreme Court of Appeal, Honourable Mr. Justice Robert Nugent (**Commissioner**), Mr. Michael Katz, Advocate Mabongi Masilo, and Mr. Vuyo Dominic Kahla (**Commission**).
5. During the course of that testimony, I could not conclusively recall the facts and occurrence of all events required to answer certain questions. I have now had the opportunity to refresh my memory and recollect my experiences since 2013 and my clarification of these matters follow.
6. The main purpose of this affidavit is to respond directly to all questions raised by the Commission in its letter of 3 September 2018. I attach marked "VM2" copy of that letter. This affidavit also deals with, and having considered the transcript of my testimony, clarifications and context to certain of my answers provided to the Commission. It may be necessary to supplement my affidavit and I reserve my right to do so at a later stage.

## MEETINGS WITH MOYANE

7. After consultation of my records, to the best of my recollection, I have had the meetings or encounters with Moyane as set out below. I was introduced to Tom Moyane by Duma Ndlovu (**Ndlovu**). I was told by Ndlovu that Moyane had approached him and asked for an introduction to Bain because he had heard about Bain's successful work at Telkom and wished to understand more about how Bain worked.
8. It is necessary to pause here to set out Bain's relationship with Ndlovu. I was introduced to Ndlovu by Sipho Maseko (**Maseko**) (The CEO of Telkom). At the time I remember that Ndlovu had been an activist from KwaZulu Natal during the apartheid regime and that at one stage he fled to the United States and started to work in the media industry. Ndlovu probably is better known for the production of a local soap opera Muvhango broadcast by the SABC. There was no reason to doubt the reputation of Ndlovu, nor that any association with Ndlovu would be improper.

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9. My introduction to Ndlovu resulted in a professional relationship and he acted as an external consultant to Bain, initially on an informal basis and then under a Business Development and Stakeholder Management Contract ("**Ambrobrite Contract**") concluded between Bain South Africa and Ambrobrite (Pty) Ltd ("**Ambrobrite**") and running from 1 November 2013 to December 2016. Ambrobrite is a communications, events, project management and strategic stakeholder managements specialist company and formed by Ndlovu and his partner, Mr Mandla KaNozulu (**Mandla**). Ambrobrite focuses on the public sector and in the communications and entertainment industries. This mainly assisted my introduction to the public sector. It is a common practice in the consulting industry to hire well-connected advisors to make introductions to executives and senior leaders.
10. I have asked the accounting team at Bain to confirm the exact amount paid to Ambrobrite and I shall advise the Commission as soon as this is confirmed.
11. A copy of the Ambrobrite Contract is annexed hereto as "**VM3**".
12. It was through Ndlovu that I was introduced to various key leaders, decision makers and executives from the public sector, including Moyane and Zuma.
13. Ndlovu's contribution to Bain's business and general understanding of the South African culture was of great significance to Bain and me. Ndlovu assisted me to understand South African social and political structures, including the impact of South Africa's apartheid history on its current structures and demographics, guidance on protocol when attending meetings with executives and advice on the appropriate communication (tone and clarity) skills. This allowed me to be relevant and effective in my dealings with South African executives and political leaders.
14. I now turn to deal with my meetings with Moyane. Ndlovu told me that Moyane had the ambition to become the next Commissioner of SARS, which position had recently become vacant following the resignation of Oupa Magashula in July 2013. The purpose of the introduction to Bain was for Bain to advise Moyane (it is referred to in the consultancy world as "CEO coaching") on how to achieve his professional goals.

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15. My meetings with Moyane are to be understood in the context of how Bain (and I) operate/s regarding the development of Chief Executive Officers in the private sector. It is an ordinary part of our global business to meet with corporate executives who are in need of support and assistance in reaching their own personal development objectives as high performing leaders, managers and business executives. We assist these individuals in identifying potential future opportunities to advance their own careers, and in realising these opportunities.
16. In line with the usual Bain strategy to build trust and credibility when meeting a senior decision maker, I prepared fully in advance of that initial meeting in order to make a strong first impression. At the time, my intention was to use our increased visibility arising from the Telkom success story to raise our overall profile. For this reason, I asked Stephane Timpano (**Timpano**), then a principal (the level below Partner) at Bain & Company, to prepare an outside-in perspective or point of view on SARS in order that we might present it at my first meeting with Moyane.
17. After due reflection and consultation of my records, to the best of my recollection and in terms of documentary and other records at my disposal, I have had meetings or encounters with Moyane as set out below:
18. *Sunday, 13 October 2013*
- 18.1. This was the first meeting I ever had with Moyane and was held at Bain & Company's offices. In addition to Moyane and myself, attended by Ndlovu and Timpano. This meeting discussed the document entitled 'SARS 2.0', which is an 'outside-in document'. This document was prepared by Timpano. A copy of this document is attached marked "VM4" and dated 13 October 2013.
- 18.2. As the name suggests an outside-in document is a due diligence to better understand an organisation. It is prepared using reliable, publically available information. Typically those sources would include reports published by the target organisation, industry reports, and benchmark studies.

18.3. In the preparation of the SARS 2.0 document, we applied Bain’s standard approach and we relied, amongst others, on the following publically available information (to be clear, Bain did not “just read the newspaper”): SARS annual reports and statistics; OECD reports; IMF reports and so on.

19. *More Background on CEO Coaching*

19.1. At this point, it is helpful to explain to the Commission how Bain approaches the coaching of CEOs in the private sector, because this is exactly the same approach I used in these meetings with Moyane. CEO coaching is something we do across our network all the time. We work with dozens of executives annually to prepare them for interviews.

19.2. Typically, this is done by the partner contact who knows the executive well, but we also have a central client development function that can help them prepare for key meetings or interviews. Bain’s involvement can be light (e.g. walk through the “first 100 days” framework to give them a sense for the topics to think about and the executive then prepares himself for the session) or it can be more involved (e.g. prepare materials with our perspective on the direction of the particular industry, opportunities and challenges facing the company and how to address them).

19.3. Because Bain carries out this activity so often, we have standardised intellectual property that our consultants can access when creating presentations of the type that we created for Moyane. We have materials covering for what executives should be thinking about, which we call the New CEO agenda; how to develop the content; what good diagnostics look like and sample frameworks that can be tailored for the situation. These materials are developed using the lessons learned from our worldwide strategy work. We’ve done more than 7,000 strategy cases globally; many are blueprinting cases, which is effectively what Timpano produced here. In the context of a person who would be interviewing for a CEO job, which I accepted was Moyane’s position at that time, the initial “SARS 2.0” materials are early stage preparation for the interview and the later

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materials (like the first 100 days document) would typically be used in a final round interview.

- 19.4. I attach marked as "VM5", a document comparing side-by-side a few template slides from our database and their final versions in the "first 100 days document" to show how the materials prepared for Moyane used our standard approach and some of our template documents.
- 19.5. It is worth noting that this integral part of our business is also implemented in South Africa through two programs, through a formal Corporate Social Responsibility initiative, known as the Bain Academy Executive Programme and the Great Board Programme, fully funded by Bain & Company South Africa through the Bain Academy Trust. Through the Trust, we have created an executive training programme targeted at historically disadvantaged South Africans. We use our global business consulting expertise in order to train young South Africans as the next generation of South Africa's executives and leaders.
- 19.6. The conversations with Moyane that took place prior to his appointment as the Commissioner of SARS, were all in line with Bain's standard approach for CEO coaching and job interview preparation. For the avoidance of doubt, we never ask for or look to create any expectation of future work when carrying out these activities. The aim is simply to introduce them to how Bain works by showing them samples of our materials and thinking and creating a reputation of being a trusted and capable adviser in the minds of key decision makers.

20. *Tuesday, 25 February 2014*

- 20.1. This encounter occurred at the official presidential residence in Cape Town. I was there to see Zuma, not Moyane. There were several groups of persons awaiting their turn for a meeting with Zuma. I exchanged pleasantries with Moyane in the waiting room whilst waiting to meet with Zuma.

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21. *Thursday, 15 May 2014*

21.1. This meeting occurred at Tashas Café in Melrose Arch and was attended, in addition to Moyane and myself, by Fabrice Franzen (**Franzen**). Franzen is a partner at Bain & Company and I had invited him to attend in order to meet Moyane. My recollection regarding this meeting is that it was a general catch-up lunch with Moyane, given the lapse of time (several months) between the first meeting identified in paragraph 18 above and this meeting.

22. *Monday, 2 June 2014*

22.1. This meeting was held at Bain & Company's offices and, in addition to Moyane and me, attended by Franzen and Alexis Bour (**Bour**)(a Principal at Bain at the time). A "first 100 days" document was prepared by Timpano and Bour for purposes of this meeting and I attach marked "VM6" a copy of this document, dated 26 May 2014. Accordingly, Bour attended at my invitation because he had assisted with the creation of the 'first 100 days document' that was presented and discussed with Moyane at this meeting. I deal with this document in more detail below.

22.2. In short, the "100 days document" is a document that summarises for the candidate what his/her "report card" ideally should look like after the first 100 days in office, assuming he/she was to be appointed to the job/position then aimed for.

23. *Monday, 16 June 2014*

23.1. This meeting was initially scheduled to be held at Bain & Company's offices and, in addition to Moyane and myself, was to have been attended by Ndlovu. I do not recall this meeting actually taking place and only mention it because it is referred to in my diary, but I cannot provide any additional information concerning this meeting.

24. *Thursday, 26 June 2014*

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24.1. This meeting was held at Bain & Company's offices and, in addition to Moyane and me, attended by Bour. At this meeting the document entitled 'Potential SARS organisation chart and focus areas' was discussed with Moyane. I attach a copy of this document marked "VM7". This document was prepared by Bour.

24.2. I attach marked as "VM8", an email sent by Bour to Moyane on Friday, 27 June 2014 in which Bour thanked Moyane for the discussion on 26 June 2014 and attached the 'Potential SARS organisation chart and focus areas' document as referred to above.

25. *Wednesday, 6 August 2014*

25.1. On this day Bain's Global Economic Macro-Trends Breakfast was held. Moyane was invited to this event. Besides greeting each other, we did not speak or had a discussion. This was a general client event intended for a wider audience of Bain clients and potential clients. I do not recall how many people were present, but I remember it was well attended.

26. *Thursday, 28 August 2014*

26.1. This meeting was held at Bain & Company's offices and, in addition to Moyane and myself, attended by Ndlovu, Jonas Makwakwa (**Makwakwa**) who was already an employee of SARS, and Mandla. My recollection of this meeting is that I did not participate extensively and mostly listened to what Makwakwa had to say. What I recall is Makwakwa sharing his personal issues that he had been experiencing at SARS at that time. I don't know who suggested he attend this meeting, but the suggestion did not come from me.

27. Pursuant to this last meeting with Moyane, Ndlovu requested Bain to prepare an updated version of the SARS2.0 dated September 2013. I did so and provided Ndlovu with a copy under the cover of an email dated 29 August 2014. A copy of that email and the document, entitled "SARS what has to be done" is attached marked "VM8.1". I note that my covering email refers to an upcoming meeting. I

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don't have an independent recollection of what that meeting was, but it may have been for a meeting involving Zuma.

**MEETINGS WITH FORMER PRESIDENT JACOB ZUMA**

- 28. Set out below is as full a record as I am able to put together (with the assistance of Bain personnel and my legal advisors) of the meetings I had at which Zuma was present. In putting together this record, I did as thorough a search as possible of my emails and documents.
- 29. These meetings happened over the course of a long period of time and it is fair to say that I was never really mindful of the total number thereof until I went through this exercise and tallied them up. I was always open about the meetings with colleagues and would mention them in partner meetings as part of a general business update. It is fair to say that I was proud to be meeting with senior politicians and I was very hopeful that Bain could suggest or otherwise become involved in projects that would lead to economic growth and positive improvements in South Africa.
- 30. Bain & Company never charged or accepted any fees or other consideration for these services and we did all the work on a pro bono basis because we wanted to build our brand and reputation as a trusted adviser with senior government officials by exposing them to our approaches and insights and – if some of these ideas were accepted as formal projects effected with consulting support – we hoped to have the opportunity of being included in the RFP process for these projects. I am happy to talk in detail about the contents of these documents and I am currently going through the process of reminding myself of these materials in order that I can assist the Commission.
- 31. When attending these meetings, I was almost always present as a guest to the presenter of the meeting. The only time I ever took the lead in any meeting with Zuma was for the meetings concerning a different 100 days' plan (annexure VM15 below). The person with whom we prepared the materials would present and I would only occasionally step in to assist if there was a question on a detail or a number.

*me*

32. The timing of the meetings was usually during the evenings or at the weekend, sometimes late at night. Although I found this inconvenient, I was told it was the only time that Zuma was free. In any event I was prepared to accommodate those requirements in order to have the opportunity to demonstrate Bain's expertise and insights to executives. As we would often be kept waiting for hours before we could see Zuma, we took to gathering at the Sheraton Hotel in Pretoria near the official residence. I would usually pay the bill and these expense receipts have helped us identify the dates of meetings. These were then cross-checked against my e-mails and documents to match a meeting date with a meeting topic. It was frequently the case that we would gather in advance of a meeting and then after waiting a few hours the meeting would be postponed until a future date.
33. I also wish to point out that many of the presentation slides which I have provided may not be the final version that was presented at the corresponding meeting. In almost all cases, various versions of the presentation would be circulated and amendments made prior to the meeting. I have included, to the best of my knowledge, the most recent versions of the documents that were ultimately presented.
34. I wish to be completely clear on the following:
- 34.1. at no point in any of the meetings with Zuma was SARS or Moyane discussed;
- 34.2. I had no control or influence over, or input into, the appointment of Moyane. I was not involved or consulted in this decision in any way. I learned of the appointment, to the best of my recollection, via the media after it had been announced.
35. Accordingly, I have attempted as best I can to recall the meetings I attended with Zuma. I have also attempted to recall who else attended those meetings and what was discussed. Where I have located a document that was presented or discussed at a meeting with Zuma, I have attached this document to this affidavit.

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36. Should the Commission require further clarity on the documents disclosed, I will do so.
37. I was introduced to Zuma by Maseko. Most of the meetings with Zuma were scheduled and arranged by Ndlovu. Maseko is a long-standing client of mine and I have provided him with advice and consulting support on a number of occasions over the 2 years I had then known him. I believe he has been a client of Bain for even longer, although I am not sure how long. Before Maseko was appointed as CEO of Telkom, Bain provided him with advice and CEO coaching of the type I described above. We also assisted him in creating the "Project Phoenix" turnaround plan for Telkom that he successfully pitched in order to be appointed CEO of Telkom. Since the successful implementation of that plan by Maseko, the share price of Telkom has increased significantly.
38. Almost all of the meetings with Zuma took place at his official residence in Pretoria. One meeting each took place at his official residences in Cape Town and Durban respectively. I note the absence of "official" in the question posed by the Commission in its letter to me dated 3 September 2018. To avoid any possible confusion, I should say in advance that I have never been to Nkandla.
39. I believe Zuma's secretary would then contact Ndlovu, who attended all the meetings with Zuma and me, to advise when we should make our way to the meeting at Zuma's residence. My driver would then take me to Zuma's residence for the meeting.
40. I have reconstructed the dates of the meetings with Zuma based on entries in my diary, entries in my driver's diary, expense claims submitted by me, emails in which a meeting is mentioned and presentations or documents marked with a date which indicates that a meeting would probably have occurred on that date.
41. Given that most of these meetings happened between 2012 and 2014, I have some difficulty in recalling the specifics in relation to each meeting, especially where I have not been able to refer to a document or email.
42. I have set out below my best recollection of my meetings with Zuma.

*me*

43. *11 August 2012*

- 43.1. This was the first time I met Zuma. I had been invited to attend this meeting by Maseko. In addition to Maseko and Zuma, Ndlovu was also in attendance at this first meeting.
- 43.2. This was the first meeting related to Project Phoenix (**Phoenix**) (which was initially called Sisekelo).
- 43.3. Phoenix was aimed at creating a national and regional ICT champion, leapfrogging economic development and transformation in urban and rural areas, creating a world class generation of professionals and infrastructures and maximizing the impact of government in the delivery of services to South African citizens.
- 43.4. I have attached marked annexure "VM9" the document that was presented at the meeting. The document was prepared by Timpano.

44. *23 August 2012*

- 44.1. This was a further meeting with Zuma in relation to Phoenix, and the intention was to follow-up on what had been discussed at the first meeting and to discuss additional topics relating to Telkom/Phoenix and to dive deeper into certain aspects of Phoenix. This meeting was attended by Ndlovu, Maseko and Zuma. I seem to recall that Jabu Mabuza (**Mabuza**)(the Chairman of Telkom) may also have been at this meeting, but I cannot be sure. I remember that he joined us in relation to Phoenix meetings either at the second or third meeting on the topic with Zuma.
- 44.2. I have attached marked annexure "VM10" the document that was presented at this meeting.

45. *27 October 2012*

- 45.1. This was another meeting on Phoenix with Ndlovu, Maseko and Mabuza also in attendance.

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45.2. I recall delving deeper into various regulatory aspects of Phoenix, specifically in relation to the different technological choices of the broadband plan (which was a plan to have broadband implemented across the whole of South Africa) which would drive different investment profiles.

45.3. I have attached marked annexure "VM11" the Phoenix document that was presented at this meeting, the document is dated September 2012.

46. *25 April 2013*

46.1. I include this reference because the attached document, marked annexure "VM12", is dated 25 April 2013 and I remember being present at a meeting with Zuma where this document was presented, around this time, but I do not recall specifically who was at the meeting, apart from Maseko.

46.2. The idea was to change the way infrastructure deployment was done through the creation of a delivery agency that would take care of the most important infrastructure and then find improvements in the methodology that was used to plan the infrastructure and incentivise suppliers in delivering on time and within budget (later called project Elephant). Elephant was based on a set of global best practices.

47. *4 August 2013*

47.1. I do not recall the exact date of this meeting, but the document attached marked annexure "VM13" bears this date.

47.2. From a reading of the document this meeting was regarding Phoenix progress. I do remember discussing strategic solutions for the Mobile Division, which was at the time unprofitable.

47.3. I do not recall who else was at this meeting but, if Phoenix was discussed then, in addition to Zuma, Ndlovu and Maseko would likely have been there as well.

48. *25 February 2014*

- 48.1. This meeting was scheduled to take place at the President's Official Residence in Cape Town. I do not recall who else was scheduled to attend the meeting.
- 48.2. I remember that this meeting did not unfold as planned. We had intended to discuss the central procurement agency idea (CPA) (to which I refer to further below), but Zuma arrived very late and there was no time to delve into that topic. Instead, we had a social chat and I remember Zuma telling us about Zulu customs and traditions relating to marriage.
- 48.3. I recall that prior to our chat with Zuma, I bumped into Moyane in the waiting room. I believe he was there to meet with Zuma as well. We only exchanged pleasantries.
- 48.4. I have attached marked annexure "VM14" the presentation of the CPA that was intended to be discussed at this meeting, the document is dated March 2014. The CPA was eventually discussed at a meeting on 26 April 2014, which I discuss further below.
- 48.5. The idea behind the CPA was to create an agency that would manage procurement for central government and create opportunities for significant savings in expenses and investments, improve the quality of supply and increase transparency.

49. *3 April 2014*

- 49.1. It appears that a meeting with Zuma was scheduled and I know that I was at the Sheraton that evening as I have an expense claim indicating that I, along with other guests, had dinner at the Sheraton.
- 49.2. This meeting never went ahead as planned and was postponed to 26 April 2014. This meeting had been scheduled to discuss the CPA which we had failed to discuss in Cape Town in February as set out in paragraph 48.

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- 49.3. I recall that when this meeting did eventually take place on 26 April I was late for my brother's birthday dinner, as his birthday is on 26 April.
- 49.4. I suspect what happened is that we waited at the Sheraton and eventually ended up having dinner there while waiting to be called by Zuma's residence. This is my best recollection regarding this date.
- 49.5. I do not have any document or email that specifically relates to this date.

50. *26 April 2014*

- 50.1. This was the meeting where the CPA was presented. I refer to the document dated March 2014 marked as **VM14**. The document was prepared by me.
- 50.2. I recall that Fantas Mobu (**Mobu**) was at this meeting because he presented the document to Zuma. In addition to Mobu, Ndlovu was present.
- 50.3. In addition to the CPA, the idea of a workshop to be launched after the new government administration in order to create their 100 days' plan was presented at this meeting. This was a different 100 days document to the document prepared for Moyane regarding SARS.
- 50.4. The workshop (simply described, a more interactive form of presentation where ideas are generated and exchanged by the attendees) was aimed at ensuring the best delivery of the promises of the ANC Manifesto in the upcoming elections consistently with the recommendations of the National Development Plan. It was to focus on the prioritisation of the most important projects and the creation of a better process for the collaboration between government departments, the private sector and state owned entities.
- 50.5. I have attached marked annexure "**VM15**" the document that was presented in relation to the workshop.

51. *22 May 2014*

VM 15

- 51.1. This was a meeting to discuss new entrepreneurship and Small and Medium sized Enterprises (SME) and it was presented to Zuma by Maseko.
- 51.2. The idea behind this presentation was to acknowledge that SMEs were a potential major driver of employment and growth which was underdeveloped and to discuss a number of possible actions (regulatory framework, dedicated ministry, creation of incubators and specific funding. I believe that KaNozulu may have also been at this meeting, along with Ndlovu. KaNozulu was Ndlovu's partner at Ambrorite.
- 51.3. I attach marked annexure "VM16" the document that was presented at this meeting.

52. *The period between 23 May 2014 and 3 July 2014*

- 52.1. These meetings related to what was known as the 100 days' plan. The 100 days' plan was similar to the workshop that was presented in relation to the ANC manifesto and it again related to how best to execute on the National Development Plan.
- 52.2. Between May and July 2014 I recall a few meetings that took place in relation to the 100 days' plan. One of these meetings took place on 23 May 2014. I have attached marked annexure "VM17" the document that was presented at the meeting of 23 May 2014.

53. *6 July 2014*

- 53.1. This meeting took place at Zuma's official residence in Durban. I think that Ndlovu and Busi Mabuza (Chairman of the IDC) were at this meeting and the topic of discussion was Project Sirius (Sirius).
- 53.2. Sirius was aimed at re-shaping South Africa's energy sector. This included the need for a turnaround at Eskom, similar to what was then being done at Telkom.

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53.3. The document attached marked annexure "VM18" was discussed at this meeting, the document is dated June 2014.

54. 28 July 2014

54.1. This was another meeting on Phoenix. The purpose of this meeting was to accelerate the implementation of Phoenix. Often, Phoenix would be discussed when a new Minister of Telecommunications had been appointed, and I think that this was the reason for this meeting. The acceleration would have been based on the results of one year of Telkom turnaround and the idea was to implement the broader Phoenix concept.

54.2. I attach the document marked as "VM19" that was discussed at this meeting. It is dated July 2014.

55. I have said that most of the meetings with Zuma were arranged and scheduled by Ndlovu. I should also add that none of the ideas or projects referred to above (save for Telkom) were ever followed up, or lead to any projects for Bain.

#### CLARIFICATION OF ISSUES AND ANSWERS TO CERTAIN QUESTIONS

56. The Commissioner enquired whether I had met with Moyane "*at all in connection with SARS*" before Bain & Company's submission as regard to the Request for Proposal (RFP) released by SARS on 11 December 2014.<sup>1 2</sup> I have now reconstructed that history as set out above.

57. I should add here, that I did not, myself, prepare any of the documents to which I have referred to above, save where expressly recorded otherwise. I do not do so ordinarily, nor do I generally present any of the documents produced by Bain to a client.

58. My professional responsibility in the period in question (August 2012 to December 2014) consisted largely of meetings and reviewing documents or portions of

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<sup>1</sup> Vittorio Massone, Transcript, *Commission of Inquiry Into Tax Administration and Governance by SARS* at p. 2100, lines 3-4.

<sup>2</sup> *Ibid.* at lines 8-11.

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documents produced pursuant to, or for, such meetings and managing the work of the Bain Johannesburg office. A review of my Outlook diary demonstrated that I attended more or less 15 to 20 meetings per week, meaning a total of more than 1600 meetings over this period. My best estimate is that at least 25% of those meetings were with prominent public and private sector figures, mostly but not exclusively from South Africa. When giving evidence on 30 and 31 August 2018 and not having prepared for this issue at all, I had to trawl through my memory in an attempt to recall meetings with Moyane and Zuma without the benefit of first reviewing my calendar or any other records relating to these meetings.

59. I respectfully submit that my responses during the course of my evidence should be seen in the light of this background.
60. Also I mentioned that Bain & Company's customary 'outside-in' document is a "five, six, ten, pages summary".<sup>3</sup> In this regard I must clarify that the extent of any 'outside-in' document is wholly dependant on the specific company or institution to which the document relates and could easily run to more. In this context it is appropriate to indicate that Bain & Company prepared four documents for Moyane; namely, the SARS2.0 (dated 13 October 2013), TM first 100 days (dated 26 May 2014), "Potential SARS organisation chart and focus areas" (meta dated 27 July 2014) and SARS2.0 "What needs to be done" (dated August 2014). The difference between the SARS2.0 document dated 13 October 2013 and the SARS2.0 document dated August 2014 is not substantial, the main difference being that an implementation plan and an indicative example structure chart were added to the 2014 SARS2.0 document.
61. The Commissioner also posed the question as to what the "follow up" was after I "had made [my] presentation" to which I answered "[n]othing".<sup>4</sup> After reviewing my records, I have ascertained that some further meetings were arranged as described above. The 'TM first 100 days' document as well as the 'proposed organisational structure' document would have been presented to Moyane.

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<sup>3</sup> *Ibid* at p. 2102, line 20.

<sup>4</sup> *Ibid* at p. 2104, line 23-25.

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62. The next question relates to whether Moyane "approached ... [me] about the possibility of ... [Moyane] approaching Telkom" in respect of the request for the so-called "transversal contract" to which I have answered "[n]o, it is the first time I heard about that".<sup>5</sup> I have reviewed my records and confirm that I did receive a telephone call from the then acting Chief Operating Officer of SARS, about which I had forgotten. I discovered correspondence confirming this phone call and this appears to indicate that I did receive a request as to whether SARS could use the Telkom contract (the relevant email referring to this discussion is attached hereto as "VM20").
63. The final question which I seek to address is the question posed by Mr. Kahla as to whether there I had met with any other public office bearers with whom I discussed any matter relating to what could be done at SARS.<sup>6</sup> My answer to the posed question was "[t]hat I recollect, no".<sup>7</sup> After due consideration of the question posed in this regard, it has become apparent to me that I had met with Makwakwa as set out above.
64. I have been advised that using such "transversal contract" is currently in fact an express requirement of SARS's Procurement Policy. At that time however, during 2014/2015, I am not sure what Procurement Policy existed, and in the limited time I have not been able to obtain a copy of the SARS Procurement Policy that existed at that time. However it appears likely that those conditions applied as well.
65. I have also been requested to provide an answer to the allegation that Bain & Company submitted its tender proposal on 12 December 2014 and that it would have been impossible to prepare the submission within such a short period of time (within 24 hours).<sup>8</sup> The allegation and concomitant conclusion is inaccurate and without any basis. To start with, our proposal was not completed in 24 hours and it should have been obvious that it was not. The Technical proposal presentation and also the Price proposal presentation, both submitted in respect of that RFP, are both dated 19 December 2014 and attached hereto as "VM21" and "VM22", respectively. In

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<sup>5</sup> Vittorio Massone, Transcript, *Commission of Inquiry Into Tax Administration and Governance by SARS* at p. 2105, lines 8, 16-17, & 20-21.

<sup>6</sup> *Ibid* at p. 2107, lines 14-16.

<sup>7</sup> *Ibid* at p. 2107, line 17.

<sup>8</sup> *Ibid.* at p. 2106.

addition, the meta data of Bain & Company's pricing schedule to its submission shows that it had last been edited on 17 December 2014, which schedule and metadata is attached hereto as "VM23".

66. On 11 December 2014, at 09:33AM, my assistant at the time, Samantha van Wyk received an email from SARS setting out an overview of the RFP presentation which would be conducted by SARS the next day. I attach a copy marked "VM23.1". There is nothing unusual or remarkable in the scope of the proposed tender. On the basis of this email it is also easy to assess that every tenderer would have to qualify itself in terms of experience, capacity etc. Giving that it was a long weekend (the 16<sup>th</sup> December was a public holiday) and that most people were preparing for a long weekend holiday (and the time of the year when most people prepare for the annual holiday), Bour starting pulling together basic documents for the technical presentation. I attach as annexure marked "VM24" a copy of an email circulated internally by Bour later that evening demonstrating the effort then put in to the first part of the preparation of the tender submission.
67. I point out that the tender, as will appear more fully below, consists of three discrete sections. The first is an administrative section dealing with the aspects referred to above, all of which is readily available to any executive at Bain responsible for the completion and submission of tenders. The two other sections deal with Technical and Pricing proposals. Those two sections are, and would almost always be, specific to the tender only and would require some detailed work on the Pricing schedule before being encapsulated in an formal tender. As is apparent from the email from SARS to Bain dated 12 December 2014, marked "VM25" the pricing schedule would only be provided for the first time on Monday 15 December 2014.
68. The RFP states at 8.2.4 "SARS Organisation and Governance: (i) Structure and sizing; (ii) Efficiency of decision making, and (iii) Governance model review". Our proposal clearly showed that this project was not intended to be just about structure, we also referenced decision-making and governance and our diagnostic highlighted the importance of those elements.

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**THE RFP PROCESS**

69. I now respond to the question as to whether Bain & Company had prior knowledge of the RFP. My answer provided in this regard requires clarification. Before and leading up to 11 December 2014, my assessment was that SARS likely would require services from management consultants, but I had no knowledge of the substantive content of the RFP released by SARS on 11 December 2014.
70. Before and leading up to 11 December 2014 I did not have insight beyond the following:
- 70.1. the meetings with Moyane on the topic of SARS;
  - 70.2. an email received from Mogogodi Dioka (Executive Procurement, SARS) on 2 December 2014 requesting any current public entity relationships and references that I might have had (the email is attached hereto as "VM26"); and
  - 70.3. the telephone call received from the then acting Chief Operating Officer of SARS regarding the request of whether SARS could use the Telkom contract (refer to annexure marked "VM20").
71. I am to deal with the manner in which the RFP came to my knowledge. On 11 December 2014, Samantha van Wyk received an invitation to a briefing session. I repeat what I have said above in this regard. We attach a copy of the meeting invite marked as "VM26.1".
72. On 12 December 2014, Bain employees attended the briefing session.
73. On 12 December 2014, following the briefing, Bain received the RFP (RFP 26-2014)(see annexure marked "VM25"). Indeed, even a cursory review of that RFP 26/2014 would have revealed the following:
- 73.1. the Required Tender Documentation is set out in paragraph 8.5 thereof. Items 8.5.1 to 8.5.4 are standard, readily available material which we could (and did) produce at the proverbial "touch of a button". This is what was

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produced, available and signed off, to the best of my recollection, by me, on 12 December 2014. My best effort at recollecting the events then is that whatever cover document was required to accompany the tender documentation was signed by me as I was departing on annual leave. Skeleton staff remained who completed the remaining required tender documentation and who continued to interact with SARS;

- 73.2. the information in paragraphs 8.5.5 and 8.5.6 constitutes the substance of the tender and those were completed and provided to SARS on 19 December 2014.
74. In addition, on 15 December 2014, Bour received a request from the Commissioner to indicate Bain & Company's availability to present its bid to the SARS Bid Evaluation Committee on 17 December 2014. Bain & Company was also requested to complete an Annexure B\_RFP26\_2014. A copy of the email is attached marked as "VM27". The reference to "17 December" in the email is clearly a typing error on the part of the draftsman of that email. As appear below, Bain only provided copies of its presentation documents at 6.18PM on Thursday 18 December 2014.
75. On 18 December 2014 Bour sent soft copies of Bain & Company's presentation sections of the tender to SARS, which presentation concerned Bain & Company's 'technical proposal presentation' and 'price proposal presentation'. The email with both presentations attached hereto as "VM28".
76. I attach hereto "VM29", which is the Letter of Award, dated and received by Bain & Company on 22 January 2015, as well as the enclosing email.
77. The innuendo against Bain is that we must have known our competitors' pricing given that we effected a 50% discount to our pricing and then came in below the competitor pricing. Of course, if Bain's tender had in fact been submitted on 12 December (as was alleged to me) it is self-evident that this allegation has no basis because the competitive tender was only delivered thereafter, albeit I don't know exactly when.

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78. In any event, I attach as marked as "VM30" a copy of an email from me to Franzen and Bour dated 16 December 2014, the contents whereof speaks for itself. This demonstrates how and why we applied the discount and that I had no knowledge of the competitor pricing.

## CONCLUSION

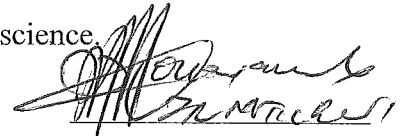
79. I had met with Zuma and Moyane. At no stage did any meeting or encounter have any improper motive, nor were my engagements aimed at securing work for Bain & Company without following due process or at any cost.
80. I have consistently provided various public figures with "staple" Bain & Company client development documents with the exclusive purpose of showcasing Bain & Company's technical and specialised expertise. As such, no single meeting or collection of meetings considered *in tandem* can be interpreted or understood as an attempt at securing future work unlawfully or otherwise improperly.
81. My meetings with Zuma were, as set out in detail above, completely unrelated to the work at SARS or my interactions with Moyane. These meetings were both an attempt to raise Bain & Company's profile and to demonstrate our sector specific expertise with particular emphasis on our credentials in the public sector, locally and abroad. While these meetings were a significant investment of my time, they were a valuable opportunity for me to familiarise myself with issues relevant to the public sector in South Africa and also demonstrate Bain & Company's expertise.
82. In conclusion, no document or advice had been provided, no meeting had been attended, and no correspondence had been disseminated with the expectation of future work *in exchange* for such document, advice or input. No-one ever gave me any reason to believe that they received this work or my input with any expectation or obligation to furnish Bain & Company with any preferential treatment work in return.
83. I only ever intended to ensure that Bain & Company and I were recognised as experts in various spheres of advisory services and thereby to increase Bain & Company's public profile.



VITTORIO MASSONE

Signed and sworn before me at Rosebank on this the 17TH day of September 2018.

By appending my signature hereon I, the Commissioner of Oaths, certify that the deponent has acknowledged that he has personal knowledge of and understands the content of this Affidavit, that the deponent has no objection to taking the prescribed oath, and that the dependent considers the prescribed oath to be binding on his conscience.



COMMISSIONER OF OATHS

Full names: Zulu Robert Mthembu

Capacity: WARRANT OFFICER

Address: 15 STURBEE AVE  
ROSEBANK 2196

Office: ROSEBANK CSC

