

**LIFE ESIDIMENI ARBITRATION**

**HELD AT: EMOYENI CONFERENCE CENTER, 15 JUBILEE ROAD,  
PARKTOWN, JOHANNESBURG**

**DATE: 30<sup>th</sup> OCTOBER 2017 DAY 15**

5 **DAY 15 SESSION 1 – 3.**

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**BEFORE ARBITRATOR – JUSTICE MOSENEKE**

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**WITNESSES:**

10 **DOROTHY FRANKS**

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## SESSION 1

**ARBITRATOR JUSTICE MOSENEKE:** Thank you, you may be seated. Advocate Ngutshana?

5 **ADV PATRICK NGUTSHANA:** Thank you, Justice Moseneke. Today we have a witness from Anchor house, but before that maybe we would like to address you Justice Moseneke, with the issues of witnesses pretending to the subpoena's which have been issued or the possible presents of the MEC as well as DR Malamela and DR Sibluane. I am not sure whether I should address you on that or should I invite the other parties to do so?

10 **ARBITRATOR JUSTICE MOSENEKE:** Well, the first thing I would like you to raise your voice. Also because there is so many people who are watching here what you are asking. The well council may pick who like to start, let's start with talking about the attendance of DR. Mahlamela at these proceedings, what is the state of play, where is she and when will she be here?

15 **ADV PATRICK NGUTSHANA:** As regards, DR. Mahlamela as subpoena was issued by section 27. There was a mistake on the dates.

**ARBITRATOR JUSTICE MOSENEKE:** Shall we get section 27 to speak to that?

**ADV PATRICK NGUTSHANA:** 27, yes.

20 **ADV NIKKI STEIN:** Thank you, Justice. As MR Ngutsana indicated section 27 did issue a subpoena calling on Dr. Mahlamela to appear today. There was, unfortunately, a mistake within the subpoena with the date and so Dr. Mahlamela's

attorneys address correspondence to us raising that as one of two grounds, one of two reasons why she wouldn't be in attendance today. So on that note, we are in the process of reissuing a subpoena calling on her to appear at a later date, the other issue...

5 **ARBITRATOR JUSTICE MOSENEKE:** What date is the later date?

**ADV NIKKI STEIN:** Justice my instruction at this stage is that we are looking at the 5<sup>th</sup> of December, but we are discussing with the other parties in line with our conversations about the length of the arbitration further dates for availability in November. And we will very soon make a decision as to what those dates are and  
10 when we should be calling DR. Mahlamela. So we will update you Justice as soon as we can on that issue. The other challenge DR. Mahlamelas attorneys raised is that there is currently an appeal by DR. Mahlamela against the Ombuds report and the findings and recommendations specifically in relationship to DR. Mahlamela. We differ with them and we understand that MR. Ngutshana sent a letter asking the  
15 attorneys to come and make representations on that issue and I think perhaps he can address you on their response.

**ARBITRATOR JUSTICE MOSENEKE:** Very well, counsel.

**ADV PATRICK NGUTSHANA:** Thank you, Justice Moseneke. It is indeed correct I received communication from DR. Mahlamelas attorneys on Saturday morning. I  
20 responded later on the day that inviting them to come and address those issues which they attend to raise, I'm not sure whether I can read some of which are on record the letter are quite short...

**ARBITRATOR JUSTICE MOSENEKE:** Are they here, the attorneys?

**ADV PATRICK NGUTSHANA:** They are not here but I have since not received any response from them to my email and which response I have just received now. And basically, they are saying that they notice we are inviting them to attend here is too short. They will not be present here today, but as far as invitation has been extended to them to make their or to raise their issues in writing or in a form of application. The undertakings that they can do so on the 6<sup>th</sup> of November that is next month, so basically they are not going to appear today, so we shall then wait for the next date of the hearing to which they have been invited.

10 **ARBITRATOR JUSTICE MOSENEKE:** No, aren't you going to issue an subpoena to Mahlamela the normal way of any witness? Any objections to it those legal objections must be raised.

**ADV PATRICK NGUTSHANA:** Correct.

15 **ARBITRATOR JUSTICE MOSENEKE:** Isn't it so when you get a subpoena going on a fixed date and which she is going to appear here and if any objections in law she is entitled to raise them and she must choose at which form and how they are raised?

**ADV PATRICK NGUTSHANA:** Correct, Justice Moseneke. A subpoena will be issued, the corrected subpoena will be issued with the correct date and time, inviting her to come and raise those issues...

**ARBITRATOR JUSTICE MOSENEKE:** It is not a choice of the witness when they have to appear. The subpoena tells you when to appear...

**ADV PATRICK NGUTSHANA:** Correct.

**ARBITRATOR JUSTICE MOSENEKE:** And if you are unable to appear for any good reason at all, you raise it and state it. So council in light of all that, what are the next steps?

5 **ADV NIKKI STEIN:** Justice the next steps on which we anticipate will happen very quickly are to finalize the availability of the parties in November and from there see if we can call DR Mahlamela to appear in November. If not then we will issue a subpoena for the 5<sup>th</sup> December and deal with whatever arises with any objections that arise from that.

10 **ARBITRATOR JUSTICE MOSENEKE:** As soon as the certainty and the confirmation that a subpoena has been sent out and that must be done promptly and if there are any challenges to that, you must be able to deal with them as on when they arise.

**ADV NIKKI STEIN:** We will do that Justice. Thank you.

15 **ARBITRATOR JUSTICE MOSENEKE:** Let's move on to the, yes council is there anything that you want to say on the attendance of DR. Mahlamela before this arbitration proceedings?

**ADV PATRICK NGUTSHANA:** Correct, Justice Moseneke. The subpoena will be directing to appear that is on the next date of the hearing. So the date will be provided to you that is to them, not that we are waiting for them to appear here on the 6<sup>th</sup> also. So the date will be provided to them as well as the correct time on

which they are expected to appear. Those are the only issue I have as far as the DR. Mahlamela is concerned.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you and when will DR. Silabano appear here and what arrangements have been made to procure his attendance?

5 **ADV PATRICK NGUTSHANA:** Thank you, Justice. With regards to DR. Silibano, we have issued a subpoena which has been sent to the sheriff for service. The

Date set for DR. Silibanos appeals in this proceeding will be on the 4<sup>th</sup> of December 2017. We are however awaiting a return of service form the sheriff indicating that indeed the subpoena has been served. But the date has been chosen for the

10 Doctors appearance is the 4<sup>th</sup> of December.

**ARBITRATOR JUSTICE MOSENEKE:** Before you sent the subpoena the doctor was asked to appear voluntarily and did she decline?

**ADV PATRICK NGUTSHANA:** Justice, there has been correspondence between my instructing attorneys, Mr. Garo Instwane who has indicated that there has been  
15 a resistance form DR. Silibano that he did not intend to appear in light of the issues that he wanted to raise amongst others the proceedings, which are still pending before the tribunal. Where he is challenging his findings of the Ombudsman and those are some of the issues that we have raised, that indicated his unwillingness to come and appear before this proceedings. But in despite of those exchanges and  
20 issues being raised, we did find it appropriate that we should, in fact, proceed to issue the subpoena. And if there is any objection in relation to the subpoena we

then have to take whatever steps are available in order to ensure that these appear is before these proceedings.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you so much... council will you like to say anything else in relation to the attendance and appearance of DR. Siliboano?

5 Very well it gets us then to the MEC MS. Tweta Allina Mashlango, what are the arrangements to secure her attendance before this arbitration proceedings?

**ADV PATRICK NGUTSHANA:** Thank you, Justice. Once again I should indicate that there has been correspondence exchange between my instructing attorney from Worksmans MR. Motswane in relation to the appearance of the former MEC.

10 And the former MEC is being represented by a firm of attorneys Nkaleya Mahlangu, incorporated. There has been an exchange of emails trying to seek to try and agree on a date which the former MEC can come and appear. The invitation that has been given was that she will only be available to appear before this proceedings from the 29<sup>th</sup> to the 31<sup>st</sup> of January 2018. However what we have decided to do is that we  
15 have taken a decision to ensure that a subpoena is issued against her for her appearance in these proceedings on the 6<sup>th</sup> of December. The only difficulty that we are trying to resolve is to get the details of her whereabouts, the attendees have requested the former MEC attorneys for her actual address where the subpoena will be sent. We are on course to ensure that, that subpoena should be sent to that, she  
20 should be able to appear on the 6<sup>th</sup> of December.

**ARBITRATOR JUSTICE MOSENEKE** Thank you, counsel. Know that is helpful thank you to your attorney to MR. Motswane. Do any of the council want to say anything about what has just been communicated in the relation to the attendance and appearance of the former MEC MS. Ntatlwane Mahlango?

5 **ADV DIRK GROENEWALD:** Justice, we will trust that our colleagues will inform us as to the status of that subpoena so that we will know what will happen in December, and if she will indeed will be available on the 6th of December. I think it is a highly anticipated issue and you know we will just like to keep the families informed of the process thereof. So I think that should just be noted that we will be  
10 provided with the necessary updates as to the status of this subpoena and her willingness to come and testify.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you, council. I am sure your colleague has heard you and will keep all of you informed, starting with me and all of you about the state of the subpoena its service and ultimate attendance. Of  
15 course, we have already agreed that we will have to the end of these proceedings the evidence of current MEC of health DR. Gwen Rampogopa, the evidence of the premier of Gauteng premier Makhula as well as the evidence of the national minister of health DR. Mutswaledi. Are those preparations on track council?

**ADV PATRICK NGUTSHANA:** It is indeed correct, Justice. The three officials have  
20 been prepared to make appearance during this proceedings, I should, however, indicate that given the time that is available we are trying to work with the other parties in order to arrange dates during which they would be appearing. There are agreed dates which are available however those dates will be utilized for other

witnesses, but we will in differ to ensure that we find an agreement on the exact dates during which those officials will be coming through to testify. They have indicated their willingness to come and appear before this proceedings and give their account. The dates will only be confirmed at a later stages once we have  
5 agreed with the representatives of the family members.

**ARBITRATOR JUSTICE MOSENEKE:** Yes. And I would like to say this is quite important that these proceedings will certainly end this year and they will end not later than December. If it is the first two weeks of December at the very latest. So all councils should expeditiously attend to these matters so that they can have these  
10 Cullinan witnesses to be here. Which allows time for deliberations admittedly after the second week of December is there any other matter of which any other council would like to raise or place on record before we going to evidence? How are we doing with the Legal Aid South Africa and a more completed list of survivors of the marathon project?

15 **LEGAL AID LILLA CROUSE:** Thank you, Justice. Justice, from our side we have appointed a group of attorneys to attend to go to hospitals and so forth. We have a list of I think it is 56 patients at the moment, we are in a position to present some evidence at this stage obviously we don't want to finalize that list as yet. But we will be in a position to do it shortly, we have the main power now to assist us.

20 **ARBITRATOR JUSTICE MOSENEKE:** Thank you. Is there any other matter that council would like to raise now before we proceed in the evidence? There will be none council.

**ADV PATRICK NGUTSHANA:** Thank you, Justice Moseneke. The next witness is Dorothy Franks from Anchor house/home.

**ARBITRATOR JUSTICE MOSENEKE:** Miss Franks good morning.

**DOROTHY FRANKS:** Good morning Justice.

5 **ARBITRATOR JUSTICE MOSENEKE:** Will you put your full names on record?

**DOROTHY FRANKS:** I am Dorothy Evensharlene Franks.

**ARBITRATOR JUSTICE MOSENEKE:** Miss Franks, do you swear that the evidence that you are about to give will be the truth and nothing but the truth, and if so please raise your right hand and say so help me God?

10 **DOROTHY FRANKS:** So help me God.

**ARBITRATOR JUSTICE MOSENEKE:** In what language do you prefer to testify?

**DOROTHY FRANKS:** English, please.

**ARBITRATOR JUSTICE MOSENEKE:** English. Council?

**ADV PATRICK NGUTSHANA:** Thank you Justice Mosenek. Miss Franks where  
15 are you currently employed?

**DOROTHY FRANKS:** I am not employed at the moment.

**ADV PATRICK NGUTSHANA:** In 2016 what occupation were you involved in  
2016, 2015?

**DOROTHY FRANKS:** Ok. In 2015 I was actually employed at the AFM revival  
20 center.

**ADV PATRICK NGUTSHANA:** 20 what?

**DOROTHY FRANKS:** 2015.

**ADV PATRICK NGUTSHANA:** From what period to what period?

**DOROTHY FRANKS:** Ok. It was from 2013 to 2016 February.

5 **ADV PATRICK NGUTSHANA:** 2016 February from 2013. Where is that organization?

**DOROTHY FRANKS:** It is AMF Revival well fare organization.

**ADV PATRICK NGUTSHANA:** What where you employed as?

**DOROTHY FRANKS:** I was employed as a manager for the mental patients.

10 **ADV PATRICK NGUTSHANA:** A manager for mental patients?

**DOROTHY FRANKS:** Yes.

**ADV PATRICK NGUTSHANA:** What is your educational background?

**DOROTHY FRANKS:** Ok. I was working at SETA before and I was just a financial credit controller.

15 **ADV PATRICK NGUTSHANA:** A financial credit controller?

**DOROTHY FRANKS:** Yes.

**ADV PATRICK NGUTSHANA:** Any qualification in the care of mental patients?

**DOROTHY FRANKS:** No, I was just working in a welfare department.

**ARBITRATOR JUSTICE MOSENEKE:** Ok, you were working as a financial controller at SETA?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Which SETA was it?

5 **DOROTHY FRANKS:** It states information technology.

**ARBITRATOR JUSTICE MOSENEKE:** It states information technology. Ok.

**ADV PATRICK NGUTSHANA:** Any experience you have had in taking care of mental patients, have you had that?

10 **DOROTHY FRANKS:** No, I didn't had any, I was just working [inaudible], just doing welfare work for the church.

**ADV PATRICK NGUTSHANA:** For the church?

**DOROTHY FRANKS:** Yes.

**ADV PATRICK NGUTSHANA:** Ok. Do you know the entity called Anchor house or Anchor home?

15 **DOROTHY FRANKS:** Yes.

**ADV PATRICK NGUTSHANA:** How do you know it?

**DOROTHY FRANKS:** I registered the NPO for myself as Anchor home/ Anchor center.

**ADV PATRICK NGUTSHANA:** When did you register it?

**ARBITRATOR JUSTICE MOSENEKE:** \_ Sorry, its former name was Anchor?

**DOROTHY FRANKS:** Centre.

**ARBITRATOR JUSTICE MOSENEKE:** \_ Centre?

**DOROTHY FRANKS:** Yes.

5 **ARBITRATOR JUSTICE MOSENEKE:** And you said you registered it?

**DOROTHY FRANKS:** That is right I'm the social developer.

**ADV PATRICK NGUTSHANA:** When did you register it?

**DOROTHY FRANKS:** I received my MPO on the 12<sup>th</sup> of April.

**ADV PATRICK NGUTSHANA:** Do you have a registered...

10 **ARBITRATOR JUSTICE MOSENEKE:** \_ April which year?

**DOROTHY FRANKS:** 2016.

**ADV PATRICK NGUTSHANA:** You have registered it for what purpose?

**DOROTHY FRANKS:** Ok. For the mentally disabled people.

**ADV PATRICK NGUTSHANA:** Why did you do that...

15 **ARBITRATOR JUSTICE MOSENEKE:** \_ ... for what would be the purpose?

**DOROTHY FRANKS:** Sorry?

**ARBITRATOR JUSTICE MOSENEKE:** What was the purpose of the MPO?

**DOROTHY FRANKS:** For the server mental patients.

**ARBITRATOR JUSTICE MOSENEKE:** For caring for severe mental patients?

**DOROTHY FRANKS:** Yes, Justice.

**ADV PATRICK NGUTSHANA:** Let me take you to one of the bundle of documents that is 7. It should be in front of you as specifically page 38... it is 238 I'm sorry.

5 **ADV PATRICK NGUTSHANA:** Bundle 7, I'm sorry I don't think it is before you. You will be assisted with a copy of that, 2385.

**ARBITRATOR JUSTICE MOSENEKE:** Could I get a bundle also, can I take advantage of you. Thank you.

**ADV PATRICK NGUTSHANA:** 2835 are you there?

10 **DOROTHY FRANKS:** Yes counselor.

**ADV PATRICK NGUTSHANA:** Do you know what document is that?

**DOROTHY FRANKS:** It is the license from which we received from the health department.

**ADV PATRICK NGUTSHANA:** That is your license?

15 **DOROTHY FRANKS:** Yes.

**ADV PATRICK NGUTSHANA:** And when did you apply for it?

**DOROTHY FRANKS:** I applied for it in April.

**ADV PATRICK NGUTSHANA:** In April?

**DOROTHY FRANKS:** Yes.

**ADV PATRICK NGUTSHANA:** Do you see the date when it was issued?

**DOROTHY FRANKS:** Yes I do.

**ADV PATRICK NGUTSHANA:** That is the first of April 2016?

**DOROTHY FRANKS:** Yes councilor.

5 **ADV PATRICK NGUTSHANA:** In relation to that date, when did you apply for it?

**DOROTHY FRANKS:** Ok, I applied actually, oh sorry for that. Ok, when we registered our MBO we gave all of the documents to the health department. And I'm really not sure what was the date that we give it to.

10 **ARBITRATOR JUSTICE MOSENEKE:** You are not sure about which date the date on which you applied for it?

**DOROTHY FRANKS:** That is right Justice.

**ADV PATRICK NGUTSHANA:** Miss Franks I'm told that they can't hear you, can you pull that mic forward to you, that mouthpiece.

15 **ARBITRATOR JUSTICE MOSENEKE:** \_And both you and the council should speak louder, please.

**DOROTHY FRANKS:** Ok, I will do so. Is it fine?

**ADV PATRICK NGUTSHANA:** It was indicated that you have registered this in order to care for the mentally ill patients, and that is your license for the registration of the MPO?

20 **DOROTHY FRANKS:** Yes counselor.

**ADV PATRICK NGUTSHANA:** Where were these mentally ill patients going to come from?

**DOROTHY FRANKS:** Ok...

**ARBITRATOR JUSTICE MOSENEKE:** Ok. Before you get there, the licensed  
5 purpose for the issue of the 1<sup>st</sup> of April 2016, but when did you apply for it? You registered on the 12<sup>th</sup> of April 2016.

**DOROTHY FRANKS:** My MPO was registered on the 12<sup>th</sup> of April.

**ARBITRATOR JUSTICE MOSENEKE:** But the license was issued on the 1<sup>st</sup> of  
April 2016?

10 **DOROTHY FRANKS:** Yes, counselor.

**ARBITRATOR JUSTICE MOSENEKE:** So the licensed purpose still being issued  
11 days before you received your MPO registration, is that correct?

**DOROTHY FRANKS:** Yes Justice. I don't know whether it was a mistake from the  
health department but as I'm saying when I received it I saw the dates.

15 **ARBITRATOR JUSTICE MOSENEKE:** And you can't remember when you applied  
for the license in terms of the mental health care act?

**DOROTHY FRANKS:** Ok. We had a meeting in 2015, where we discussed that we  
can apply for the licenses. But we didn't register as that.

**ARBITRATOR JUSTICE MOSENEKE:** Tell me about the meeting, where was the  
20 meeting?

**DOROTHY FRANKS:** Ok. The meeting was held at the Sterkfontein.

**ARBITRATOR JUSTICE MOSENEKE:** Who convened the meeting, who called you to the meeting?

**DOROTHY FRANKS:** They sent me an email in connection to the meeting.

5 **ADV PATRICK NGUTSHANA:** Justice Moseneke perhaps let me intervene there. There is a bundle of documents in front of you, one of which it starts with LA 49, the next one is 50, the next one is 51. It is a loose bundle of documents. Do you have them there?

**DOROTHY FRANKS:** Yes, counselor.

10 **ADV PATRICK NGUTSHANA:** Ok. What is LA 49?

**DOROTHY FRANKS:** This is the meeting, the mail that they send to me.

**ADV PATRICK NGUTSHANA:** That is the invitation that you are referring to Justice Moseneke to?

**DOROTHY FRANKS:** That's right.

15 **ADV PATRICK NGUTSHANA:** Ok, if you can go ahead and explain that?

**DOROTHY FRANKS:** Ok. The meeting was just to say as you can see on the email, the meeting date will be on the issues regarding the Esidimeni movement. But we didn't receive any minutes from that.

**ADV PATRICK NGUTSHANA:** Yes, let me assist you. In the middle of the  
20 document there, there is LA 49. It says "Dear all." It comes from Jacobus Jana,

dated 9 November 2015 at 10:25 am , underneath that it says " Dear all. In relation to a meeting of NGO, and that was on the 13<sup>th</sup> November at 9:30. Please be informed of the meeting scheduled for all NGO's in the regions to attend a urgent meeting scheduled for the 13<sup>th</sup> November 2015 for 9:30. The meeting date will be on issues regarding the Life Esididmeni movement, all NGO managers must be present to discuss NGO placement and admission. Held in Sterkfontein hospital in Pretoria date 13<sup>th</sup> November 2015 time 9:30. Kind regards". Is that the email you received the invitation?

**DOROTHY FRANKS:** Yes, counselor.

10 **ARBITRATOR JUSTICE MOSENEKE:** Bu then did you know who Hanna Jacobus is?

**DOROTHY FRANKS:** No, I didn't know because I was actually working for the MPO of the AFM revival.

**ARBITRATOR JUSTICE MOSENEKE:** Do you know why you were invited?

15 **DOROTHY FRANKS:** I was just thinking because I was busy with the home for the AFM revivals center.

**ADV PATRICK NGUTSHANA:** About the NGO that you were working for at the time this communication was sent to you. Did you take care of mentally ill patients?

**DOROTHY FRANKS:** Yes.

20 **ADV PATRICK NGUTSHANA:** Ok. So you were invited in your capacity as an NGO that takes care of mentally ill patients?

**DOROTHY FRANKS:** Yes, counselor.

**ADV PATRICK NGUTSHANA:** Ok. Then you responded to this invitation unattended at the meeting, I guess that is correct?

**DOROTHY FRANKS:** Yes, counselor.

5 **ADV PATRICK NGUTSHANA:** And what were you're informed in the meeting?

**DOROTHY FRANKS:** As I said I didn't receive any minutes from the meeting. But in the meeting, they were just talking about the movement that they were going to do at Life.

**ADV PATRICK NGUTSHANA:** And I am correct that as at that time you were NGO  
10 that is Anchor home or care center has not yet been registered?

**DOROTHY FRANKS:** Yes, counselor it wasn't registered yet.

**ADV PATRICK NGUTSHANA:** And as at that time you were fully employed by your, or that was the NGO you worked for?

**DOROTHY FRANKS:** That is right counsel.

15 **ADV PATRICK NGUTSHANA:** Ok. Then what were you then informed in that meeting?

**DOROTHY FRANKS:** Can you repeat the question, please?

**ADV PATRICK NGUTSHANA:** What where you called for at that meeting?

**DOROTHY FRANKS:** They called us if we can extend our NGO or you can open up  
20 a new one.

**ADV PATRICK NGUTSHANA:** So it was an invitation for those who did not have NGO's to form NGO registers NGO's to take care of mentally ill patients?

**DOROTHY FRANKS:** That is right counselor.

**ADV PATRICK NGUTSHANA:** Where was these patients going to come from?

5 **DOROTHY FRANKS:** Sorry, which patients?

**ADV PATRICK NGUTSHANA:** Where was these patients going to come from the NGO's?

**DOROTHY FRANKS:** The ones that we had on AFM?

**ADV PATRICK NGUTSHANA:** No, no you had said that you were advised to  
10 extend your existing Ngo's or to form new NGO'S. For what purpose?

**DOROTHY FRANKS:** So they will be coming from Life.

**ADV PATRICK NGUTSHANA:** Life Esidimeni?

**DOROTHY FRANKS:** That is right.

**ADV PATRICK NGUTSHANA:** And where you informed on when those patients  
15 are going to come through?

**DOROTHY FRANKS:** No they did not specify the dates.

**ARBITRATOR JUSTICE MOSENEKE:** Who chaired the meeting?

**DOROTHY FRANKS:** It was DR. Mahlamela.

**ARBITRATOR JUSTICE MOSENEKE:** Did she say you were going to move patients receiving mental health care from Life Esidimeni to NGO's?

**DOROTHY FRANKS:** Yes, Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Did she say why they were going to do  
5 that?

**DOROTHY FRANKS:** No Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Did you ask why were they moving these mentally ill patients, from Esidimeni?

**DOROTHY FRANKS:** I didn't ask in the meeting.

10 **ADV PATRICK NGUTSHANA:** Where you ever occurred some experience in this field of taking care of mentally ill patients before you could receive patients from Life Esidimeni or what?

**DOROTHY FRANKS:** No, they didn't.

**ADV PATRICK NGUTSHANA:** They didn't?

15 **DOROTHY FRANKS:** No.

**ADV PATRICK NGUTSHANA:** So for anyone else without experience, they could just receive patients from Life Esidimeni?

**DOROTHY FRANKS:** For me, it was just because I was working with the patients from the AFM Revival center.

**ADV PATRICK NGUTSHANA:** Nothing else was required on the registration for a new NGO to receive patients as was explained by DR. Mamelela if it was explained at the meeting?

5 **DOROTHY FRANKS:** That was actually not explained but as I'm saying it was only because I was running the MPO where I was taking care of the mentally ill patients.

**ARBITRATOR JUSTICE MOSENEKE:** And you decided to register your own NGO?

**DOROTHY FRANKS:** Yes, Justice.

**ARBITRATOR JUSTICE MOSENEKE:** And you called it Anchor center?

10 **DOROTHY FRANKS:** Yes, Justice.

**ARBITRATOR JUSTICE MOSENEKE:** And was your plan to operate separate and away from your employer of the time?

**DOROTHY FRANKS:** Yes Justice.

15 **ARBITRATOR JUSTICE MOSENEKE:** But you had no qualifications as you have already told us of taking care of mentally ill patients?

**DOROTHY FRANKS:** OK. What happened because on the MPO that I was running there was for the nurses and the care workers that worked there.

20 **ARBITRATOR JUSTICE MOSENEKE:** Oki just listen to the question again and I'll want an answer from you. You had no qualifications in mental health care, is that right?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** You had no experience in looking after people requiring mental health care?

**DOROTHY FRANKS:** Yes Justice.

5 **ARBITRATOR JUSTICE MOSENEKE:** You could have either learned something by qualifications or by experience. But you had neither, you didn't have qualifications and you didn't have experience. Is that correct?

**DOROTHY FRANKS:** Yes, Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** But you went ahead and registered your own NGO?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** And you went ahead and applied for a license under the mental health care act?

**DOROTHY FRANKS:** Yes, Justice.

15 **ARBITRATOR JUSTICE MOSENEKE:** At the meeting did they tell you what you were going to be paid, I'm talking about the meeting of the 13<sup>th</sup> of November 2015 at Sterkfontein?

**DOROTHY FRANKS:** No, they didn't talk about any pay that we are going to get.

20 **ARBITRATOR JUSTICE MOSENEKE:** Did you talk about how you would look after these patients if you didn't talk about money?

**DOROTHY FRANKS:** Okay, because as I was saying because I was working with AFM Revival Centre's mental patients and there was an amount that they gave to them, so we submit the documents to the Health Department for the AFM Revival Centre.

5 **ARBITRATOR JUSTICE MOSENEKE:** Yes, you can just put your voice a little louder please, so that we can record it – we are recording what we are doing here. What amount did they say they were going to pay a NGO that had applied for and was granted a license?

**DOROTHY FRANKS:** Okay, at that time, the amount they paid for per person was  
10 R3 490.00.

**ARBITRATOR JUSTICE MOSENEKE:** R3 490.00 per person – for how long – for a month, for a week?

**DOROTHY FRANKS:** For a month.

**ARBITRATOR JUSTICE MOSENEKE:** For a month. So, they would pay you  
15 R3 490.00 per patient per month?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Uhm. Counsel.

**ADV PATRICK NGUTSHANA:** Yes. This R3 490.00 that is per person monthly – is this what your previous NGO used to claim from the department, or what?

20 **DOROTHY FRANKS:** That's right, but it was a little bit lower, then they increased the price.

**ADV PATRICK NGUTSHANA:** Oh, it was a little lower than the R3 490.00?

**DOROTHY FRANKS:** That is right.

**ADV PATRICK NGUTSHANA:** When did they increase it?

**DOROTHY FRANKS:** It was, I think it was in April, I am not sure, but they got right,  
5 that's when they increased it.

**ADV PATRICK NGUTSHANA:** Okay. Before we proceed – that is on that. Let me  
take you back to that is the license. Your license makes reference to a fact that the  
address from which you are going to be operating is Colourful Heights, where is  
this?

10 **DOROTHY FRANKS:** Colourful Heights is at Colourful at the old nurses' quarters.

**ADV PATRICK NGUTSHANA:** Yes, and further down there, it says for namely  
child residential care facility – that is you were to receive children only?

**DOROTHY FRANKS:** No, I didn't receive children.

**ADV PATRICK NGUTSHANA:** ...but, your license limits you to children only. Is  
15 that so?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV PATRICK NGUTSHANA:** ...and you didn't receive children?

**DOROTHY FRANKS:** No, no children.

**ADV PATRICK NGUTSHANA:** Okay. Now I will come to that later on. Then, further  
20 down or immediately below, it says maximum number of persons is 150?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV PATRICK NGUTSHANA:** And what does this signify is that at the time when you made your application you already had premises for 150 or to house 150 patients, or what?

5 **DOROTHY FRANKS:** I didn't have the premises because they – why this Colourful Heights was, it was registered on that.

**ADV PATRICK NGUTSHANA:** Yes?

**DOROTHY FRANKS:** Health Department asked me to go and check with Mrs. Jacobus to go and check the premises as Colourful.

10 **ADV PATRICK NGUTSHANA:** And Hanna Jacobus advised you when?

**DOROTHY FRANKS:** That was in May – I'm not sure about the correct date, it was in May.

**ARBITRATOR JUSTICE MOSENEKE:** Which year?

**DOROTHY FRANKS:** 2016.

15 **ADV PATRICK NGUTSHANA:** Remember, your application it should precede the issue of the license, which is 1 April 2016.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV PATRICK NGUTSHANA:** Yes. So, I want to find out about the processes prior to you obtaining a license – that is a license that limits you to a number of 150  
20 patients. Did you have those premises that house 150 patients?

**DOROTHY FRANKS:** I didn't have the premises yet.

**ADV PATRICK NGUTSHANA:** Yes, then how was this number determined?

**DOROTHY FRANKS:** Okay, they said we must go and look at the premises – there is four premises at Colourful Heights that we can actually use. So, the two was  
5 actually allocated to me – one was already in a good condition and the other one was actually not in a good condition, it was vandalized and they asked me to renovate the one.

**ADV PATRICK NGUTSHANA:** Yes?

**DOROTHY FRANKS:** ...and that's where they count how many patients they could  
10 get in there.

**ADV PATRICK NGUTSHANA:** Yes, and you had said that they advised you to go and look at premises. Who are these they and when did they told you to do so?

**DOROTHY FRANKS:** It's, as I am saying, know this in May – early May and it was Hanna Jacobus and Dr Mahlamela.

15 **ADV PATRICK NGUTSHANA:** Okay.

**ARBITRATOR JUSTICE MOSENEKE:** Let me cut to the chase – you know – we know you have no qualifications and no experience to take care of people who suffer from mental ability, you had no premises – right?

**DOROTHY FRANKS:** Yes Justice.

20 **ARBITRATOR JUSTICE MOSENEKE:** When you received your license, you had no actual patients – did you?

**DOROTHY FRANKS:** No Justice.

**ARBITRATOR JUSTICE MOSENEKE:** When your license permitted you to look after 150 people, there was no rational basis for that.

**DOROTHY FRANKS:** Yes Justice.

5 **ARBITRATOR JUSTICE MOSENEKE:** We can take it further – you had no staff to look after the 150 people, but yet you establish a caring facility – isn't it so?

**DOROTHY FRANKS:** Okay, just in that sense that when I was working at the AFM, I was liaising with the Healthnikon that all the care workers are working with. So, I liaised with them so that...

10 **ARBITRATOR JUSTICE MOSENEKE:** ...but, at Anchor Life, you have employed nobody - you had no staff.

**DOROTHY FRANKS:** Well, I was – I didn't have at that moment, but I liaise with them.

15 **ARBITRATOR JUSTICE MOSENEKE:** In May 2016, you had a piece of paper in your hand, called a license, that appears on page 2385 of the bundle – is that right?

**DOROTHY FRANKS:** 23?

**ARBITRATOR JUSTICE MOSENEKE:** The license.

**DOROTHY FRANKS:** Okay. Yes, Justice.

**ARBITRATOR JUSTICE MOSENEKE:** That's about all that you had, that – you had no patients, you had no premises, you had no employees to do the work.

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Did you have money? Have they given you  
5 this R3 490.00 per person per month?

**DOROTHY FRANKS:** No, I didn't have any money, I was just using my own pension money.

**ARBITRATOR JUSTICE MOSENEKE:** When for the first time did they pay you?

**DOROTHY FRANKS:** In September.

10 **ARBITRATOR JUSTICE MOSENEKE:** 2015?

**DOROTHY FRANKS:** 2016.

**ARBITRATOR JUSTICE MOSENEKE:** 16, did they pay you for 150 people?

**DOROTHY FRANKS:** No Justice.

**ARBITRATOR JUSTICE MOSENEKE:** They paid you for how many people?

15 **DOROTHY FRANKS:** Only the patients that came in to Cullinan.

**ARBITRATOR JUSTICE MOSENEKE:** How many were they?

**DOROTHY FRANKS:** Okay, it was 69.

**ARBITRATOR JUSTICE MOSENEKE:** 69, and did they pay you for the arrears – from April, May, June, July, August?

**DOROTHY FRANKS:** Not from April, but from June from when I took the first patients in.

**ARBITRATOR JUSTICE MOSENEKE:** ...and what was the gross amount that you have received in September 2016?

5 **DOROTHY FRANKS:** Can I just have a look Justice?

**ARBITRATOR JUSTICE MOSENEKE:** We can multiply 3490 times 69 times five months

**DOROTHY FRANKS:** Sorry Justice, I am just looking for the June month's

**ARBITRATOR JUSTICE MOSENEKE:** Yes, but from what you have told us so far,  
10 it is quite a straightforward sum actually.

**DOROTHY FRANKS:** Okay, but – it was R239 000.00, but I don't see June now here, I don't know why.

**ARBITRATOR JUSTICE MOSENEKE:** R239 000.00

**DOROTHY FRANKS:** R239 000.00

15 **ARBITRATOR JUSTICE MOSENEKE:** R239 000.00

**ADV PATRICK NGUTSHANA:** Is it not 500, over 500?

**DOROTHY FRANKS:** Okay, have you got it there because I see I didn't...

**ADV PATRICK NGUTSHANA:** I think it should be 535 something...

**DOROTHY FRANKS:** That's right, yes.

**ARBITRATOR JUSTICE MOSENEKE:** Thousand?

**ADV PATRICK NGUTSHANA:** Thousand.

**DOROTHY FRANKS:** Ja, for June.

**ADV PATRICK NGUTSHANA:** No, that's fine, we'll come to that.

5 **ARBITRATOR JUSTICE MOSENEKE:** What is the answer – let me get the answer – you've said, you have received how much? Simple calculation – I was told it was R539 000.00 – isn't it?

**DOROTHY FRANKS:** Yes, for June, July and August.

**ARBITRATOR JUSTICE MOSENEKE:** Yes, is that the amount that you have  
10 received?

**DOROTHY FRANKS:** Yes, that's right Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Very well. Counsel proceed.

**ADV PATRICK NGUTSHANA:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** Just over a half a million?

15 **ADV PATRICK NGUTSHANA:** ...and now you know you didn't have the premises and you were advised by Hanna Jacobus and Dr Mahlamela to go and renovate some premises at Colourful Heights – where did you end up? Did you occupy those premises?

**DOROTHY FRANKS:** No Counsellor.

20 **ADV PATRICK NGUTSHANA:** Which premises did you occupy?

**DOROTHY FRANKS:** Cullinan.

**ADV PATRICK NGUTSHANA:** Cullinan?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV PATRICK NGUTSHANA:** When did you occupy Cullinan?

5 **DOROTHY FRANKS:** From June.

**ADV PATRICK NGUTSHANA:** From June 2016?

**DOROTHY FRANKS:** 2016, June 2016.

**ADV PATRICK NGUTSHANA:** Did you have a lease with Cullinan?

**DOROTHY FRANKS:** No, I didn't have.

10 **ADV PATRICK NGUTSHANA:** Then, how did you come to occupy Cullinan?

**DOROTHY FRANKS:** Okay, it was also through Dr Mahlamela and Hanna – they arranged it.

**ADV PATRICK NGUTSHANA:** Yes. So, you went to Colourful Heights – you could not occupy those premises identified for you by Hanna Jacobus and Dr Mahlamela  
15 – why couldn't you occupy those premises?

**DOROTHY FRANKS:** Okay, the problem was we would renovate the one place and they said they will bring out the inspectors just to check the place, because it was a double storey – just to make sure it is okay for the mental patients and when the inspectors came out they said they failed the place that we could not occupy the  
20 place.

**ADV PATRICK NGUTSHANA:** The Colourful Heights?

**DOROTHY FRANKS:** Yes.

**ADV PATRICK NGUTSHANA:** ...and then you went back to Dr Mahlamela and Jacobus and they led you to that is Cullinan?

5 **DOROTHY FRANKS:** Actually right there when they failed the place they said that they will see if there were other hospitals that have a place open that was open.

**ADV PATRICK NGUTSHANA:** Okay

**ARBITRATOR JUSTICE MOSENEKE:** ...and where were the patients in all this time?

10 **DOROTHY FRANKS:** There was no patients yet.

**ARBITRATOR JUSTICE MOSENEKE:** Yeah, and when you went to Cullinan there were no patients yet?

**DOROTHY FRANKS:** There were no patients – no, we haven't received any patients then.

15 **ADV PATRICK NGUTSHANA:** ...and when was the first time you've received patients after you occupation of Cullinan?

**DOROTHY FRANKS:** It was the 23<sup>rd</sup> of June.

**ADV PATRICK NGUTSHANA:** How many were these patients you received?

**DOROTHY FRANKS:** 30 Patients from Cullinan.

**ADV PATRICK NGUTSHANA:** Okay, and were these children or was it just a mixed group?

**DOROTHY FRANKS:** That's right Counsellor.

**ADV PATRICK NGUTSHANA:** How many were children and how many were  
5 adults?

**DOROTHY FRANKS:** Actually they were all over 18.

**ADV PATRICK NGUTSHANA:** All over 18?

**DOROTHY FRANKS:** That's right.

**ADV PATRICK NGUTSHANA:** So they were all adults.

10 **DOROTHY FRANKS:** Yes.

**ADV PATRICK NGUTSHANA:** Okay. Did you inform Dr Mahlamela and Hanna Jacobus that your license limited you to receiving children only?

**DOROTHY FRANKS:** Sorry, just repeat Counsellor.

**ADV PATRICK NGUTSHANA:** Did you inform Dr Mahlamela and Hanna Jacobus  
15 that your license limited you to receiving children and no adults?

**DOROTHY FRANKS:** No, I didn't.

**ADV PATRICK NGUTSHANA:** You didn't, okay, and...

**ARBITRATOR JUSTICE MOSENEKE:** Why didn't you?

**DOROTHY FRANKS:** Okay, because they said I am going to look after patients from – adults, over 18.

**ARBITRATOR JUSTICE MOSENEKE:** Didn't you say to them *my license says this will be a child residential care facility* – did you tell them that?

5 **DOROTHY FRANKS:** Because, according to me, it should be from over 18.

**ARBITRATOR JUSTICE MOSENEKE:** ...but, look at the license ...

**DOROTHY FRANKS:** Yes

**ARBITRATOR JUSTICE MOSENEKE:** ...and, this is what Counsel is putting to you. Persons with severe and profound intellectual disability, namely a child residential care facility – maximum amount of persons 150. Can you see that?

10

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** So, my questions is, why didn't you say to them *my license is limited to a child care facility*?

**DOROTHY FRANKS:** No, I didn't Justice, because as I am saying, according to me it was just severe profound intellectual disabled and I was looking after patients from 18 and upwards.

15

**ARBITRATOR JUSTICE MOSENEKE:** ...but why didn't you know this – it's in your license and Dr Mahlamela signed the certificate, your license? Did she ask you to look after adult patients when she issued the license to you?

20 **DOROTHY FRANKS:** No, they just say they will bring the patients from Life.

**ARBITRATOR JUSTICE MOSENEKE:** ...and you have just accepted them, but why didn't you just say *no, my license does not allow it?*

**DOROTHY FRANKS:** As I am saying, I didn't - I'm sorry, that line was – according to me I had to look after patients 18 and upwards.

5 **ARBITRATOR JUSTICE MOSENEKE:** You are sorry about what, about that line that talks about...?

**DOROTHY FRANKS:** About child residential.

**ARBITRATOR JUSTICE MOSENEKE:** I beg your pardon?

**DOROTHY FRANKS:** The child.

10 **ARBITRATOR JUSTICE MOSENEKE:** What about it?

**DOROTHY FRANKS:** Okay, as I am saying, previously I was looking after 18 years and upwards and that is what I know of and only now I noticed that the license was for child.

15 **ARBITRATOR JUSTICE MOSENEKE:** Didn't you read your license – the one that was issued to you?

**DOROTHY FRANKS:** They brought the licenses and they just filed them, I didn't take note of that child.

**ARBITRATOR JUSTICE MOSENEKE:** ...but, why didn't you take note of the terms of the license – why not? Why did you just file it?

**DOROTHY FRANKS:** As I am saying – to me – I don't know whether they made a mistake on this license, but as far as I know they are to be 18 years and upwards.

**ARBITRATOR JUSTICE MOSENEKE:** At a rally, you can hackle – not here, because we have to get to the truth – right? So we don't hackle witnesses please –  
5 just allow the lady to help us get to the truth. You did not read the licence – you say?

**DOROTHY FRANKS:** Yes, as I am saying because I was looking after patients that were 18 and upwards and that is what they actually should have put in that line.

**ARBITRATOR JUSTICE MOSENEKE:** Did they force you to do this? To register  
10 Anchor Centre, to want to set up with telephone hides and then to move on to Cullinan and after to have to receive patients – were you compelled to do it?

**DOROTHY FRANKS:** Okay, no – they actually – it was only at that meeting that they said *if you want to, you can go and look after that patients.*

**ARBITRATOR JUSTICE MOSENEKE:** ...but, you were acting voluntarily – you  
15 wanted to do this?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Why did you want to do it?

**DOROTHY FRANKS:** ...because I was already working with these patients.

**ARBITRATOR JUSTICE MOSENEKE:** ...but to do it, you needed a number of  
20 things to be in place – isn't it?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** You needed a venue, you needed a license, you needed the knowledge and skill, you needed money.

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** ...and you needed to care for the people –  
5 is it not so? Not just to make money – to ...

**DOROTHY FRANKS:** No, it was to care for these patients.

**ARBITRATOR JUSTICE MOSENEKE:** Counsel.

**ADV PATRICK NGUTSHANA:** Thank you Justice Moseneke. We know now that they have moved you to Cullinan Centre because Colourful Heights were not  
10 suitable for you to occupy and the premises you occupied at Cullinan, were they catering for 150 patients?

**DOROTHY FRANKS:** No Counsellor.

**ADV PATRICK NGUTSHANA:** How many?

**DOROTHY FRANKS:** Okay, it was actually for – the one ward take 25 and 30.

15 **ADV PATRICK NGUTSHANA:** Okay. You received one ward for 25 and when did you receive this one ward for 25 patients?

**DOROTHY FRANKS:** Patients?

**ADV PATRICK NGUTSHANA:** Yes.

**DOROTHY FRANKS:** On the 23<sup>rd</sup>.

20 **ADV PATRICK NGUTSHANA:** On the 23<sup>rd</sup>?

**DOROTHY FRANKS:** Yes Counsellor.

**ARBITRATOR JUSTICE MOSENEKE:** Of which month?

**ADV PATRICK NGUTSHANA:** ...of June.

**ARBITRATOR JUSTICE MOSENEKE:** 2016?

5 **DOROTHY FRANKS:** That's right Justice.

**ADV PATRICK NGUTSHANA:** So, on the 23<sup>rd</sup> of June 2016, you received your first patients?

**DOROTHY FRANKS:** Yes Counsellor.

10 **ADV PATRICK NGUTSHANA:** ...and it will house 25 and you said you received 30?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV PATRICK NGUTSHANA:** Okay. Why was that so?

**DOROTHY FRANKS:** Okay, as I'm saying, that the – sorry – that the patients that came in from CCRC on the 23<sup>rd</sup> – we told them we could only put 25 in ...

15 **ADV PATRICK NGUTSHANA:** Yes?

**DOROTHY FRANKS:** ...but, that date that they brought the patients in, they said this is the patients that was allocated to me – that was 30 – and I said I don't have any space for them and the previous CEO from Cullinan, Hanna, and Oscar Moghale – I mean, Mrs. Jacobus and Mr. Moghale was there and they said and I

said to her I can't hold these 30 patients, so she went to the CEO and the CEO actually just come and say we must just deal with it.

**ADV PATRICK NGUTSHANA:** What does *just deal with it* mean?

**DOROTHY FRANKS:** The 30 patients that came.

5 **ADV PATRICK NGUTSHANA:** You must take the 30 patients?

**DOROTHY FRANKS:** Yes, so we had to get some extra 5 beds and put it in for them.

**ADV PATRICK NGUTSHANA:** Within the same ward?

**DOROTHY FRANKS:** Yes.

10 **ADV PATRICK NGUTSHANA:** That could house only 25 beds?

**DOROTHY FRANKS:** 25.

**ADV PATRICK NGUTSHANA:** Okay, and then the next ward – when did you receive it?

**DOROTHY FRANKS:** It was the 29<sup>th</sup>.

15 **ADV PATRICK NGUTSHANA:** The 29<sup>th</sup> of?

**DOROTHY FRANKS:** June.

**ADV PATRICK NGUTSHANA:** The 29<sup>th</sup> of June?

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** Where did the extra people sleep?

**DOROTHY FRANKS:** We got extra beds for them because we had extra beds, but it wasn't in the cubicles.

**ADV PATRICK NGUTSHANA:** With relation to this license, who brought it to you?

5 **DOROTHY FRANKS:** It was Rochelle Gordon.

**ADV PATRICK NGUTSHANA:** ...and Dr. Mahlamela were aware that you received this license?

**DOROTHY FRANKS:** Yes Counsellor.

10 **ADV PATRICK NGUTSHANA:** ...and I take it she was aware of your limitations on this license?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV PATRICK NGUTSHANA:** Okay, yes, and then the next ward you received it and when did you receive the next batch of patients – you have said that you have received around 70.

15 **DOROTHY FRANKS:** Okay, what happened – the other ward was occupied by the other NGO of Siyabadinga.

**ADV PATRICK NGUTSHANA:** Siyabadinga?

**DOROTHY FRANKS:** Yes.

**ADV PATRICK NGUTSHANA:** Yes?

**DOROTHY FRANKS:** ...and Dr. Mahlamela and Hanna came one day and they said to Siyabadinga she must occupy 2 wards and I must occupy 2 wards - so she must make space so that I can use the other.

**ADV PATRICK NGUTSHANA:** How many patients were supposed to be housed in  
5 the second ward?

**DOROTHY FRANKS:** Okay, there was also – the other side was 30.

**ADV PATRICK NGUTSHANA:** 30 as well?

**DOROTHY FRANKS:** Yes.

**ADV PATRICK NGUTSHANA:** ...and, I guess that you have received more than  
10 30?

**DOROTHY FRANKS:** Yes.

**ADV PATRICK NGUTSHANA:** By ratio of the number of patients you referred to  
earlier on.

**DOROTHY FRANKS:** Yes Counsellor.

15 **ADV PATRICK NGUTSHANA:** How many was those?

**DOROTHY FRANKS:** Those patients was 40 when they came in.

**ADV PATRICK NGUTSHANA:** I'm taking that you were forced to look for further  
beds to be placed in that ward – that is the second ward?

**DOROTHY FRANKS:** Yes Counsellor, yes.

**ARBITRATOR JUSTICE MOSENEKE:** ...and this is a ward that normally take how many people?

**DOROTHY FRANKS:** Okay, the one ward 25 and the other 30.

**ARBITRATOR JUSTICE MOSENEKE:** So, the 30 one had 40 people?

5 **DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** ...and the one for 25 had 30 people?

**DOROTHY FRANKS:** That's right Justice.

**ADV PATRICK NGUTSHANA:** ...and just to emphasize – this was throughout with the arrangement and consent of Dr. Mahlamela?

10 **DOROTHY FRANKS:** Yes Counsellor.

**ADV PATRICK NGUTSHANA:** Okay. Let me take you to one of the loose bundle of Annexures, that is Annexure 15 – that is ELA 50 ... are you there?

**DOROTHY FRANKS:** Yes Counsellor.

15 **ADV PATRICK NGUTSHANA:** What is that document – I see there is a list for names there from 1 to 30.

**DOROTHY FRANKS:** Yes, this is the list of patients that I have received from CCRC.

**ADV PATRICK NGUTSHANA:** So these would be the list of patients that you've received on the 23<sup>rd</sup> of June?

20 **DOROTHY FRANKS:** Yes Counsellor.

**ADV PATRICK NGUTSHANA:** All right, and the next page?

**DOROTHY FRANKS:** These are the patients that we've discharged to [inaudible] from Precious Angels.

**ADV PATRICK NGUTSHANA:** When did you discharge these patients?

5 **DOROTHY FRANKS:** Okay, according to the list, there are different dates on which we've discharged them, but on the 29<sup>th</sup> she took the first patients when they came in from Life.

**ADV PATRICK NGUTSHANA:** Let's take it step by step. On the second page, at the top, there's a column there that says: *names, surname, institution, date admit,*  
10 *date transfer, information handed over to* – where do I find the date, that is the date that you transferred them to Precious Angels?

**DOROTHY FRANKS:** There is a date there that shows *date transfer*.

**ADV PATRICK NGUTSHANA:** Date transfer?

**DOROTHY FRANKS:** Yes.

15 **ADV PATRICK NGUTSHANA:** Those are the dates. So, for example, you've received from other institutions – you've received patients from CCRC – am I correct?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV PATRICK NGUTSHANA:** The first column and you received these on the 23<sup>rd</sup>  
20 of June 2016. Then the following month – on the 6<sup>th</sup> of July 2016, you've transferred them to Precious Angels?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV PATRICK NGUTSHANA:** Why was that so?

**DOROTHY FRANKS:** The DTG was there to come and inspect the place, with Dr. Mahlamela and Hanna, and he actually asked them *is there males and females here* – so, we said yes, but the males were separate from the females and in  
5 different cubicles and he said they must make sure that all these ladies must be out by the latest in July.

**ADV PATRICK NGUTSHANA:** In July? So, and correct me when I'm wrong, is that you have housed both male and female – you took in both females and males and  
10 that is into the same ward?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV PATRICK NGUTSHANA:** ...and, you were approached by Hanna Jacobus that the DTG is coming – *please separate these patients* – males must be separate from females?

15 **DOROTHY FRANKS:** No, we did separate them before then in different cubicles, but the DTG just said that males and females must not be under the same roof.

**ADV PATRICK NGUTSHANA:** Under one roof – that is, they must not occupy one ward?

**DOROTHY FRANKS:** That's right.

20 **ADV PATRICK NGUTSHANA:** The same ward.

**DOROTHY FRANKS:** That is right Counsellor.

**ARBITRATOR JUSTICE MOSENEKE:** Before then, were they occupying the same wards?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Just before you proceed Counsel, on ELA  
5 50, on the first page, extreme right hand – you have a heading there that reads *patient files* – can you see that? You know that document that you gave us

**ADV PATRICK NGUTSHANA:** The first page of ELA50?

**ARBITRATOR JUSTICE MOSENEKE:** I have numbered the pages from 1 to 7, for  
ease of reference: ELA 51, ELA 52, 3, 4, but for now we are on page 1 – can you  
10 see that?

**DOROTHY FRANKS:** Yes. Justice.

**ARBITRATOR JUSTICE MOSENEKE:** On the extreme right hand – after CRC  
date of admission, all of it 23<sup>rd</sup> of June – on the extreme right, you have a heading  
patient files and you have recorded against all 30 patients no history, no files, no ID  
15 – only medical report and discharge forms. Just explain that to me.

**DOROTHY FRANKS:** Okay, when the patients came in – they brought them in with  
no files, only their medication in a small – I didn't note it here – discharge form and  
a [inaudible] report – they didn't give us any files.

**ARBITRATOR JUSTICE MOSENEKE:** Medical report – what was that?

20 **DOROTHY FRANKS:** Okay, the medical report is the prescription and ...

**ARBITRATOR JUSTICE MOSENEKE:** So, the medical report means the prescription of the patient.

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Was there no file with diagnosis with  
5 these...

**DOROTHY FRANKS:** No.

**ARBITRATOR JUSTICE MOSENEKE:** No?

**DOROTHY FRANKS:** No.

**ARBITRATOR JUSTICE MOSENEKE:** The discharge form was from where? From  
10 CRC to you?

**DOROTHY FRANKS:** From CRC, yes. The CRC.

**ARBITRATOR JUSTICE MOSENEKE:** ...and there were no ID's in relation to all of  
them?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** How would you have known how to find  
15 their next of kin?

**DOROTHY FRANKS:** That was our problem.

**ARBITRATOR JUSTICE MOSENEKE:** How would you have known who they were  
with no ID's?

**DOROTHY FRANKS:** That was one of our concern when we took the person in.  
20

**ARBITRATOR JUSTICE MOSENEKE:** How would you know which medication belongs to which patient?

**DOROTHY FRANKS:** That was our main concern on that Justice, but the prescription they just wrote a name and the prescription.

5 **ARBITRATOR JUSTICE MOSENEKE:** ...and if one looks at ELA50 on page 2, 6<sup>th</sup> July would've have been something like 2 weeks from re-admission from their stations and I see the names are mainly female on pages 2 and 3 – and all are taken to Precious Angels – is that correct?

**DOROTHY FRANKS:** Yes Counsellor – oh sorry, Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** ...and surely, you could only give Precious Angels what you have too, which was virtually no records about these ladies.

**DOROTHY FRANKS:** Yes Counsellor, argh, Justice.

**ARBITRATOR JUSTICE MOSENEKE:** ...and did they tell you why they shunt them around like cattle like this? They were brought to you the one week and the  
15 next time you give them to somebody else – 30 females within two weeks.

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Why did you do that?

**DOROTHY FRANKS:** That was the instruction from the DTG.

**ARBITRATOR JUSTICE MOSENEKE:** Dr Mahlamela – who is the DTG?

**DOROTHY FRANKS:** I don't know - it's a man, I can't remember what was his name, but Dr Mahlamela and them was also there, but he said...

**ARBITRATOR JUSTICE MOSENEKE:** Dr Mahlamela was also there?

**DOROTHY FRANKS:** Yes, but he is ...

5 **ARBITRATOR JUSTICE MOSENEKE:** ...and you were told the DTG gave his instructions. When were you told you will receive people from Life Esidimeni and now you are receiving people from CRC – did that surprise you?

**DOROTHY FRANKS:** Yes Justice, but I didn't know why I receive them from CRC.

**ARBITRATOR JUSTICE MOSENEKE:** Then you have people for two weeks and  
10 then they are bundled out of there – then they must go to Atteridgeville from Cullinan. Did they tell you why these people deserve that treatment?

**DOROTHY FRANKS:** As I was saying – it was just an instruction from the department.

**ARBITRATOR JUSTICE MOSENEKE:** ...and did you think that is the correct way  
15 to deal with mentally ill patients?

**DOROTHY FRANKS:** No, but they didn't give us any option because the Health Department must actually make sure that they are placed with another NGO.

**ARBITRATOR JUSTICE MOSENEKE:** Did you think that was the correct way to deal with mentally ill patients?

20 **DOROTHY FRANKS:** No, no Justice.

**ARBITRATOR JUSTICE MOSENEKE:** You did not think it was correct?

**DOROTHY FRANKS:** No, but you couldn't say anything.

**ARBITRATOR JUSTICE MOSENEKE:** Why not?

**DOROTHY FRANKS:** ...because it was an instruction from a higher – from the  
5 DTG.

**ARBITRATOR JUSTICE MOSENEKE:** ...but, you did not work for them. Why did  
you have to take instructions from the DTG? Was it that if you had to refuse, they  
wouldn't pay you?

**DOROTHY FRANKS:** Not actually, but just because it was from the Health  
10 Department that they actually know better than us – that's what I were told.

**ARBITRATOR JUSTICE MOSENEKE:** You thought it was right to do it, or you did  
it nonetheless. So the natural question is: *why did you do it?*

**DOROTHY FRANKS:** Just because it was an instruction from the Health  
Department.

15 **ARBITRATOR JUSTICE MOSENEKE:** You knew it was wrong, but because it was  
an instruction, you did it?

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** Why? Why would you do something  
knowingly wrong – you don't work for the department. First, you take men and  
20 women and put them in the same ward. Why would you do that? What were you  
afraid of?

**DOROTHY FRANKS:** I wasn't actually afraid, but they just gave us an instruction – it was actually because he said it and he said Hanna and Mr. Moghale must make sure they take the ladies out of that wards.

**ARBITRATOR JUSTICE MOSENEKE:** Counsel.

5 **ADV PATRICK NGUTSHANA:** Thank you. In line with what Justice Moseneke just asked you about – a series of questions – is it correct that you did not have a formal lease agreement with Cullinan?

**DOROTHY FRANKS:** Sorry Counsellor?

10 **ADV PATRICK NGUTSHANA:** Did you have a formal lease agreement with Cullinan?

**DOROTHY FRANKS:** No, I didn't .

**ADV PATRICK NGUTSHANA:** ...and how much were you paying for occupation of the premises there?

**DOROTHY FRANKS:** At that time I didn't pay anything yet.

15 **ADV PATRICK NGUTSHANA:** You didn't pay anything yet – so, you were basically at the mercy of these officials?

**ARBITRATOR JUSTICE MOSENEKE:** Why mercy – why were you at their mercy? If you didn't do what they wanted, you wouldn't have received R539 000.00 – isn't it?

20 **DOROTHY FRANKS:** Justice, if I can say – it was really not about the money, but I did it because they asked me to do it and I was really...

**ARBITRATOR JUSTICE MOSENEKE:** Why did you agree to do what they ask you to do? You see we are trying to understand what happened here.

**DOROTHY FRANKS:** Yes Justice. I am sure Counsel is going to take the number of people who died under your care – you know that – we are going to get there just  
5 now.

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** You know all the advocates are going to be asking you. After all this and the nice money, you made many many people died under your care in a very short space of time. So, why did you do this? Why did you  
10 do something that endangered the lives of these vulnerable patients?

**DOROTHY FRANKS:** If I may say, I don't know what did they decide in the Health Department, but we...

**ARBITRATOR JUSTICE MOSENEKE:** No! I want to know what you decide. I want to know why you did it and why did you assume to look after people over who you  
15 had no skill to look after – why did you do that?

**DOROTHY FRANKS:** Okay, I was looking after these patients, because I really cared for them.

**ARBITRATOR JUSTICE MOSENEKE:** You really cared for them?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** That is why you have squeezed 30 people into a ward of 25 and mixed men and women into this crowded circumstances? Where did they wash?

**DOROTHY FRANKS:** Dr. Mahlamela and Frans and Hanna – all the people from  
5 the Health Department actually helped us actually through it.

**ARBITRATOR JUSTICE MOSENEKE:** They instructed you to do this?

**DOROTHY FRANKS:** That is right.

**ARBITRATOR JUSTICE MOSENEKE:** Didn't you think and feel for them? How can you crown men and women into one space – having been moved from some  
10 institution and you just carry on – for at least 5 or 6 months? Is that how you cared for them?

**DOROTHY FRANKS:** I really really cared for them Justice, because the patients that was there with me, I really made them very comfortable.

**ARBITRATOR JUSTICE MOSENEKE:** Counsel.

**ADV PATRICK NGUTSHANA:** Thank you, Justice, and whilst you are still on ELA  
15 50 of this document and this 1, 2, 3, on the 4<sup>th</sup> page – can you explain what is that document?

**ARBITRATOR JUSTICE MOSENEKE:** This one...

**DOROTHY FRANKS:** This is the patients that was in our care.

**ADV PATRICK NGUTSHANA:** Yes? Is this the full list, or... what does it  
20 represent?

**DOROTHY FRANKS:** Yes Counsel.

**ADV PATRICK NGUTSHANA:** It is how many – for the record? Can you say that into the record?

**DOROTHY FRANKS:** Yes. 72.

5 **ADV PATRICK NGUTSHANA:** 72, between these two wards?

**DOROTHY FRANKS:** Yes, but the first on the 29<sup>th</sup> directly there were patients transferred to [inaudible] – they didn't even come in on my premises.

**ADV PATRICK NGUTSHANA:** Yes. So, this includes the patients which you were directed to transfer to Precious Angels?

10 **DOROTHY FRANKS:** Yes Counsel.

**ARBITRATOR JUSTICE MOSENEKE:** ...and why do you call your center a center of intellectual disabled or let's phrase it another way ...

**DOROTHY FRANKS:** ...mental ...

**ARBITRATOR JUSTICE MOSENEKE:** Were all the people who were under your  
15 care people who were to use your words *intellectually disabled*?

**DOROTHY FRANKS:** No Justice.

**ARBITRATOR JUSTICE MOSENEKE:** No? You took whatever came there?

**DOROTHY FRANKS:** Yes, they just ...

**ARBITRATOR JUSTICE MOSENEKE:** Whatever their disabilities were, you took  
20 them on?

**DOROTHY FRANKS:** Yes

**ARBITRATOR JUSTICE MOSENEKE:** Why did you do that again?

**DOROTHY FRANKS:** They were brought into me...

**ARBITRATOR JUSTICE MOSENEKE:** I beg your pardon?

5 **DOROTHY FRANKS:** Yes, those were the patients they brought in from Life.

**ARBITRATOR JUSTICE MOSENEKE:** Ja, but you claim to be a center for intellectually disabled people and why do you take just about any person who is brought to you?

**DOROTHY FRANKS:** Okay Justice, what I wanted to say is this – when they  
10 brought the patients in, I asked them if there is a patient that is not intellectual and there were patients who were not – who has to be in a hospital. So, according to them, they will sort it out afterwards.

**ARBITRATOR JUSTICE MOSENEKE:** So, you just listened to them – leaving people who did not fall into the category that you claim you want to look after.

15 **DOROTHY FRANKS:** They said they will come and fetch the people who are not suitable after everybody was just settled in.

**ARBITRATOR JUSTICE MOSENEKE:** Then why did you go along with all of this and endangered the lives of these patients? If it is not for money – then why – for what reason?

20 **ADV PATRICK NGUTSHANA:** Thank you Justice. Justice Moseneke, please be advised that it is 11:30.

**ARBITRATOR JUSTICE MOSENEKE:** We will adjourn until 12:00 midday.

30 October 2017

## **SESSION 2**

**ARBITRATOR JUSTICE MOSENEKE:** Thanks. You're still under your oath to tell  
5 the truth and nothing but the truth. Counsel?

**ADV TEBOGO HUTAMO:** Thank you Justice Moseneke. Mrs Franks.

**DOROTHY FRANKS:** Yes Counsel.

**ADV TEBOGO HUTAMO:** Yes, when we adjourned we were still on ELAH50.  
You had just placed on record that you had 72 patients in total within that space of  
10 two wards, and let's move now to ELAH51. That is the loose bundle of documents.  
Are you there?

**DOROTHY FRANKS:** Yes Counsel.

**ADV TEBOGO HUTAMO:** Yes, and that is 51. What is that document? Can you  
identify it for us for the record?

15 **DOROTHY FRANKS:** Okay, it's the deceased patients.

**ADV TEBOGO HUTAMO:** The deceased patients that is on the first page.

**DOROTHY FRANKS:** Yes.

**ADV TEBOGO HUTAMO:** And who are those, can you read them into the  
record?

**DOROTHY FRANKS**: Okay. It's Robert Sithile.

**ADV TEBOGO HUTAMO**: Yes.

**DOROTHY FRANKS**: Kenneth Tshoka.

**ADV TEBOGO HUTAMO**: Yes.

5 **DOROTHY FRANKS**: Sizwe Hlatswayo.

**ADV TEBOGO HUTAMO**: Yes.

**DOROTHY FRANKS**: Joseph Kumede.

**ADV TEBOGO HUTAMO**: Yes, and those are the only four you're aware of?

**DOROTHY FRANKS**: Yes Counsel.

10 **ADV TEBOGO HUTAMO**: **Don't** you have more patients who died at your institution?

**DOROTHY FRANKS**: Okay, that's what I found out afterwards that a patient was sent to hospital as unknown.

**ADV TEBOGO HUTAMO**: Yes.

15 **DOROTHY FRANKS**: When I was, as we were saying that they brought the patients in with no ID's or no files. So the patients were sent to hospital and I later find out with Daphne that it was Charity.

**ADV TEBOGO HUTAMO**: Charity Ratsotso.

**DOROTHY FRANKS**: Yes Counsel.

**ADV TEBOGO HUTAMO:** Okay, I will take you to that in a moment. Let's focus ourselves on the column under date of death. That is on the first page. ELAH51. Do you see that?

**DOROTHY FRANKS:** Yes Counsellor.

5 **ADV TEBOGO HUTAMO:** Yes, and the date of death of that patient is the 18<sup>th</sup> of July.

**DOROTHY FRANKS:** Yes Counsel.

**ADV TEBOGO HUTAMO:** 2016 and that will be within a space of how long after they were transferred to the facility? Remember you received the first patients on  
10 the 23<sup>rd</sup> of June 2016. That is a month before.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV TEBOGO HUTAMO:** So would that be the first patient to die from your facility?

**DOROTHY FRANKS:** Yes Counsellor.

15 **ADV TEBOGO HUTAMO:** And the next one will be on the 24<sup>th</sup> of the same month, that is July, Joseph Kumede. Do you see that?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV TEBOGO HUTAMO:** And that will be less than a month in fact. Then the next will be Kenneth Tshoka who died on the 16<sup>th</sup> of August 2016.

20 **DOROTHY FRANKS:** Yes Counsellor.

**ADV TEBOGO HUTAMO:** That is in less than two months, about two months. Then the next, less than three months on the 10<sup>th</sup> of September 2016 Sizwe Hlatswayo.

**DOROTHY FRANKS:** Yes Counsellor.

5 **ADV TEBOGO HUTAMO:** Yes, and this Kenneth, no this Ratsotso, let me take you to another bundle of documents. There's ELAH9. You should have ELAH9 there. It's not there.

**DOROTHY FRANKS:** I don't have it.

**ADV TEBOGO HUTAMO:** ELAH9 should be a report around the, around  
10 transferring of patients from LE, CCRC report.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV TEBOGO HUTAMO:** And at the bottom of that page on page 23, bottom right.

**DOROTHY FRANKS:** Yes Counsellor.

15 **ADV TEBOGO HUTAMO:** Are you there?

**DOROTHY FRANKS:** Yes.

**ADV TEBOGO HUTAMO:** Ja, in order to put this into its proper context. Go back to page 20 of that same document.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV TEBOGO HUTAMO:** On page 20 at the top there, Cullinan Care and Rehabilitation Centre death stats 2016 to April 2017. Then the first block of, the first block deals with CCRC until page 22. Then Siyabading NGO starts there until page 23. Then Anchor NGO starts from there and proceeds until the next page.

5 **DOROTHY FRANKS:** Yes Counsellor.

**ADV TEBOGO HUTAMO:** Do you see? For the record again, the first patient it's Tshoka to die, that is Tshoka Kenneth. Then the next is Gumede Joseph, Hlatswayo Sizwe, next is Sithole Robert, then there is Ratsotso Charity. Is that the patient that you're referring to that you learned of his name later on?

10 **DOROTHY FRANKS:** Yes Counsellor.

**ADV TEBOGO HUTAMO:** Okay, and how did you learn of this patient's name?

**DOROTHY FRANKS:** Okay. The social worker from CCRC went to the mortuary in Mamlodi and she identified the patient. She came and tell us that it was Charity.

15 **ADV TEBOGO HUTAMO:** And how did you identify him before this information which you received from the social worker?

**DOROTHY FRANKS:** I couldn't identify him because they didn't give us any information. We just said it was an unknown patient when he got sick and we went to the hospital.

20 **ADV TEBOGO HUTAMO:** So when this patient met his or her demise at your facility, he was referred to as an unknown person?

**DOROTHY FRANKS:** Unknwon patient, yes Counsellor.

**ADV TEBOGO HUTAMO:** And this unknown person when he or she met his or her demise, what happened to her?

**DOROTHY FRANKS:** Sorry, rephrase.

**ADV TEBOGO HUTAMO:** What happened after his or her death? Where did you  
5 transfer this patient to?

**DOROTHY FRANKS:** To Mamelodi.

**ADV TEBOGO HUTAMO:** To Mamelodi.

**DOROTHY FRANKS:** Yes.

**ADV TEBOGO HUTAMO:** Okay.

10 **DOROTHY FRANKS:** Day care.

**ADV TEBOGO HUTAMO:** Mamelodi, where?

**DOROTHY FRANKS:** Mamelodi Hospital.

**ADV TEBOGO HUTAMO:** Hospital.

**DOROTHY FRANKS:** Yes.

15 **ADV TEBOGO HUTAMO:** Why did you transfer the patient to Mamelodi Hospital after his death?

**DOROTHY FRANKS:** After his death?

**ADV TEBOGO HUTAMO:** Hm.

**DOROTHY FRANKS:** No, not after his death. He was having a fit.

**ADV TEBOGO HUTAMO:** Ja.

**DOROTHY FRANKS:** And it was in the evening and I actually wasn't there, but always when the patients got sick then they phone EMS.

**ADV TEBOGO HUTAMO:** Yes.

5 **DOROTHY FRANKS:** To transfer them to Mamelodi. So EMS took him to hospital.

**ADV TEBOGO HUTAMO:** So the patient, would I be correct that this patient died under your care, whilst still under your care?

**DOROTHY FRANKS:** Yes.

10 **ADV TEBOGO HUTAMO:** Okay, and are you able to tell us why these patients were referred to, that is on ELAH51 as well as ELAH59, died within such a short space of time?

**DOROTHY FRANKS:** Okay Counsellor. What I can think of, these patients wasn't hand over to us.

15 **ADV TEBOGO HUTAMO:** Yes.

**DOROTHY FRANKS:** In a proper way.

**ADV TEBOGO HUTAMO:** Yes, what does that mean?

**DOROTHY FRANKS:** Okay. As we could see that Cullinan didn't give us any information on the background of the patient where we didn't have files to know

what is actually wrong with that patient. They just give us the prescriptions and the discharge forms.

**ADV TEBOGO HUTAMO:** Yes, and would this include that you didn't know how best to take care of them, including the administration of medication?

5 **DOROTHY FRANKS:** Okay. The medication was according to the prescriptions.

**ADV TEBOGO HUTAMO:** Yes, and what does this improper transfer refer to? I want to understand.

**DOROTHY FRANKS:** Sorry?

**ADV TEBOGO HUTAMO:** What does this improper transfer to you from RCC  
10 refer to?

**DOROTHY FRANKS:** Okay. So we should have had that whole file with family members.

**ADV TEBOGO HUTAMO:** Yes.

**DOROTHY FRANKS:** And their backgrounds.

15 **ADV TEBOGO HUTAMO:** Yes.

**DOROTHY FRANKS:** So where did they come from, where did they, from CCRC or from Life. So we need to have all that information.

**ADV TEBOGO HUTAMO:** So without this information you didn't know how best to take care of these patients?

**DOROTHY FRANKS:** Okay. What we did, okay. They according to the medication we give it according to their prescriptions.

**ADV TEBOGO HUTAMO:** Yes.

**DOROTHY FRANKS:** But the food and stuff we did give proper care and wash  
5 and clean and do activities with them.

**ADV TEBOGO HUTAMO:** So proper care was not possible without the full background of these patients as you say.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV TEBOGO HUTAMO:** Okay. So whilst you are on that, let me refer you again  
10 to, I'm sorry I'm taking you all over the place. Refer you to there is a bundle of documents that is the Ombud's report. The Ombud's report, that is volume 1. It should be, what page is that?

**DOROTHY FRANKS:** What page is this Counsellor?

**ADV TEBOGO HUTAMO:** It should be, I'm looking at the correct page but the  
15 original page as it appears on the Ombud's report on the bottom is page 38, and the paginated page I'm not sure whether it's 44. Let me see.

**DOROTHY FRANKS:** 38?

**ADV TEBOGO HUTAMO:** It's 43. Page 43. That is on top of the page. Top  
right. Are you there?

20 **DOROTHY FRANKS:** Yes Counsellor.

**ADV TEBOGO HUTAMO:** Have you had sight of the health Ombudsman's report before this? Mrs Franks?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV TEBOGO HUTAMO:** Have you had sight of the health Ombudsman's report  
5 before today?

**DOROTHY FRANKS:** I haven't read this.

**ADV TEBOGO HUTAMO:** Okay. Let me read that for you. At the top of the page, that is the top left, there is a first paragraph and the second paragraph.

**DOROTHY FRANKS:** Yes Counsellor.

10 **ADV TEBOGO HUTAMO:** It reads:

*"The MEC HOD, the director of mental health and her team, the various directors of the three NGO's Precious Angels, CCRC, Anchor / Siyabadinga, Mosego / Takalane and the other NGO's all knew they had no capacity, no competent and qualified professional staff to look after such patients. Vulnerable patients were  
15 thus placed into circumstances that could not preserve their lives."*

Do you see there?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV TEBOGO HUTAMO:** In light of your admission that you could not administer proper care, owing to the insufficiency of the information at your disposal, would this  
20 be correct? Will you agree with me that this would be correct?

**DOROTHY FRANKS:** I'm not with you on this one. Let me just get clarity.

**ADV TEBOGO HUTAMO:** Yes. The health Ombud says:

*"Vulnerable patients were thus placed into circumstances that could not preserve their lives."*

5 Such circumstances refers to one, you were not furnished with the full records of the patients.

**DOROTHY FRANKS:** Yes.

**ADV TEBOGO HUTAMO:** And you had admitted that you could not administer proper care owing to the insufficiency of that information.

10 **DOROTHY FRANKS:** Yes Counsel.

**ADV TEBOGO HUTAMO:** Yes, and what I'm placing before you is that this would be correct, own to your admission.

**DOROTHY FRANKS:** Yes Counsellor.

**ARBITRATOR JUSTICE MOSENEKE:** You must have realised that the people  
15 placed under your care will not get proper care, isn't it?

**DOROTHY FRANKS:** Yes sir. Justice.

**ARBITRATOR JUSTICE MOSENEKE:** You must have realised it.

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** They were crowded.

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** They were with limited facilities. You must have known these people are in danger, isn't it.

**DOROTHY FRANKS:** Yes Counsellor. As far as I know, I tried my best to do that.

5 **ARBITRATOR JUSTICE MOSENEKE:** No, we are not criticising you. Let's not go there. I just want to understand what you realised.

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** At that time.

**DOROTHY FRANKS:** Yes Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** Where did the food come from?

**DOROTHY FRANKS:** Okay. From the time that I started, I bought food and on the 8<sup>th</sup> ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** With whose money?

**DOROTHY FRANKS:** With my money, and on ... [interjects]

15 **ARBITRATOR JUSTICE MOSENEKE:** And was there enough food for 72 people?

**DOROTHY FRANKS:** Yes, okay I didn't have 72 at that time.

**ARBITRATOR JUSTICE MOSENEKE:** Ja, but initially you had at least ... [interjects]

**DOROTHY FRANKS:** Yes, 69. Okay.

**ARBITRATOR JUSTICE MOSENEKE:** You had 69, isn't it?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** So you used your own money to buy them food?

5 **DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Was the food enough?

**DOROTHY FRANKS:** Yes Justice. I made sure that they had breakfast, snacks, lunch, supper. With the help of some of my family members we bought all the food.

10 **ARBITRATOR JUSTICE MOSENEKE:** We'll come back to, and when was your first payment in?

**DOROTHY FRANKS:** September.

**ARBITRATOR JUSTICE MOSENEKE:** In September.

**DOROTHY FRANKS:** Yes.

15 **ARBITRATOR JUSTICE MOSENEKE:** So from essentially from June to September you used your own money?

**DOROTHY FRANKS:** Yes, but in the interim where we went over to July, the hospital was the CEO said we mustn't provide food anymore, they will provide food. That was from the 12<sup>th</sup> of July.

**ARBITRATOR JUSTICE MOSENEKE:** Did these patients get medication?

20 **DOROTHY FRANKS:** Yes, the hospital ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** How did you know? You had no records, you didn't know who had to take what.

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** What medication did you give them?

5 **DOROTHY FRANKS:** We did, because the doctor from health department, there was especially the prescriptions, she checked all the prescriptions and then ...  
[interjects]

**ARBITRATOR JUSTICE MOSENEKE:** Who was the doctor and when did it happen?

10 **DOROTHY FRANKS:** I don't know was it Dr Sophie, I can't remember the surname. She and Rochelle Gordon was there just to check on that medications.

**ARBITRATOR JUSTICE MOSENEKE:** Do you know the first inspection that was made there, the Ombud tells us so shocked that they asked for Anchor to be shut down immediately. You remember that?

15 **DOROTHY FRANKS:** No, they didn't tell me.

**ARBITRATOR JUSTICE MOSENEKE:** How was the operation shut down?

**DOROTHY FRANKS:** Okay, because the CEO just called me and said because of the deaths they're gonna shut down.

**ARBITRATOR JUSTICE MOSENEKE:** Because of the what?

20 **DOROTHY FRANKS:** All the deaths.

**ARBITRATOR JUSTICE MOSENEKE:** Deaths?

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** What deaths?

**DOROTHY FRANKS:** The patient that die.

5 **ARBITRATOR JUSTICE MOSENEKE:** Oh, the deaths that you had.

**DOROTHY FRANKS:** Ja.

**ARBITRATOR JUSTICE MOSENEKE:** And did they order that you be shut down immediately?

**DOROTHY FRANKS:** Yes, and ... [interjects]

10 **ARBITRATOR JUSTICE MOSENEKE:** Then how many people had died?

**DOROTHY FRANKS:** It's that five patients.

**ARBITRATOR JUSTICE MOSENEKE:** Within one month, one patient had died. In fact within two weeks, one patient died. Isn't it? On the 23<sup>rd</sup> of June the first patient died. In the middle of July, isn't it so?

15 **DOROTHY FRANKS:** Yes. Until ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** And then from there there's another one who died on the 24<sup>th</sup> of July, and more followed. Why do you think they died?

**DOROTHY FRANKS:** I really can't explain that.

**ARBITRATOR JUSTICE MOSENEKE:** Hey?

**DOROTHY FRANKS:** I really can't explain it.

**ARBITRATOR JUSTICE MOSENEKE:** You can't explain it.

**DOROTHY FRANKS:** Ja, because normally when they got sick, I take them to the hospital or I go to the clinic and attend to the clinic.

5 **ARBITRATOR JUSTICE MOSENEKE:** Did they tell you why they were shutting your place down? Only because of the deaths.

**DOROTHY FRANKS:** Ja, they just said because of the deaths.

**ARBITRATOR JUSTICE MOSENEKE:** Weren't you shocked that people you were looking after died so quickly? In three months' time five of them died.

10 **DOROTHY FRANKS:** I was, but I said to them that the CRC because CRC actually check on all that and helped me through it. To make sure that ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** What did they pay you for? To do what?

**DOROTHY FRANKS:** I was managing the centre.

**ARBITRATOR JUSTICE MOSENEKE:** No, you were running your own business,  
15 isn't it?

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** Then why did you establish your own business when you were employed already? Why? Is there any answer forthcoming?

**DOROTHY FRANKS:** You know Justice, they asked me there is mental patients that need help. So that's why I tried to accommodate on that one.

**ARBITRATOR JUSTICE MOSENEKE:** On your logo I see that you've got an anchor.

5 **DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** On your logo.

**DOROTHY FRANKS:** Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Are you a religious person?

**DOROTHY FRANKS:** Yes Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** And before you started your own business you worked in a religious organisation?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Didn't you realise that these people won the clear risk of dying? 79 people in two wards? Where did they wash? Is there  
15 any answer forthcoming?

**DOROTHY FRANKS:** The 72 patients?

**ARBITRATOR JUSTICE MOSENEKE:** Yes, where did they wash?

**DOROTHY FRANKS:** There was in the two wards.

**ARBITRATOR JUSTICE MOSENEKE:** There was what in the two wards?

**DOROTHY FRANKS:** The two patients, the 72 patients.

**ARBITRATOR JUSTICE MOSENEKE:** They washed in two wards?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** How long did it take them for instance in  
5 the morning just to wash themselves?

**DOROTHY FRANKS:** How long?

**ARBITRATOR JUSTICE MOSENEKE:** Yes.

**DOROTHY FRANKS:** Did ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** 40 people in a ward and they have to  
10 wash. What facilities did you have to allow them just to wash?

**DOROTHY FRANKS:** Okay. There was showers and there was baths where they  
washed in, in the morning. All the caregivers they start washing them as they wake  
up.

**ARBITRATOR JUSTICE MOSENEKE:** Can you show us records of the  
15 medication you gave them?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** You had records, you entered them of  
what you gave every patient.

**DOROTHY FRANKS:** It is CCRC kept that records.

20 **ARBITRATOR JUSTICE MOSENEKE:** Did you take them to CCRC?

**DOROTHY FRANKS:** Ja, they actually what happened there, I had one nurse, a professional nurse and they were giving medications ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** But they gave you no records. Suddenly you have records to give them?

5 **DOROTHY FRANKS:** Ja, they gave us the layout of how we must, how they must get the medication. So they sign it off every day and every night.

**ARBITRATOR JUSTICE MOSENEKE:** But did you realise that the people under your care were at risk of dying?

**DOROTHY FRANKS:** No Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** Why didn't you realise that?

**DOROTHY FRANKS:** Because according to what I've seen there at the centre, that CRC was helping us with the medication and they even put Weskopies nurses in to make sure that they had the proper medication.

15 **ARBITRATOR JUSTICE MOSENEKE:** And you know, you had no family contact details. I have looked at this paperwork before me. What do you think they were going to do with the bodies of the people if they died?

**DOROTHY FRANKS:** Okay. When the people died, the CEO said I must give everything to her so that she can give it to the social worker to check on.

20 **ARBITRATOR JUSTICE MOSENEKE:** The social worker was here and said she never worked for you.

**DOROTHY FRANKS:** No, but the CEO said I must just give the records to her. She didn't work for us, but the CEO I don't know why did she say that.

**ARBITRATOR JUSTICE MOSENEKE:** And how will these people be visited by their families?

5 **DOROTHY FRANKS:** Okay. What, as we were going along I was trying to get, as you can see I was making a list where we could ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** I've seen the list. Most of the addresses are not there. They're absent.

10 **DOROTHY FRANKS:** Ja, because we checked according to files which we had and tried to track the family members.

**ARBITRATOR JUSTICE MOSENEKE:** But did you realise that the people would die?

**DOROTHY FRANKS:** No, the people who died, because it was four. I gave it to Daphne, because they didn't give me the files.

15 **ARBITRATOR JUSTICE MOSENEKE:** And how much more money did you receive after the R539 000-00?

**DOROTHY FRANKS:** On a monthly basis? We received R150 000-00 accordingly.

20 **ARBITRATOR JUSTICE MOSENEKE:** And you say you didn't do any of this for the money?

**DOROTHY FRANKS:** Yes, because as I said I was really, when I started I used most of my money and I was actually the caregivers, most of that money went to the caregivers and the professionals.

**ARBITRATOR JUSTICE MOSENEKE:** Counsel?

5 **ADV TEBOGO HUTAMO:** Yes. Mrs Franks, whilst on these issues raised with you, about 30 of them in fact 30 of them here as recorded, had no ID's. How did you identify these patients?

**DOROTHY FRANKS:** Okay, they took the ... [interjects]

**ADV TEBOGO HUTAMO:** For purposes of administering the medication required.

10 **DOROTHY FRANKS:** Okay. They took a picture of each patient and they brought it to us afterwards, yes.

**ADV TEBOGO HUTAMO:** From CCRC?

**DOROTHY FRANKS:** Yes.

**ADV TEBOGO HUTAMO:** Okay. That's how you administered medication?

15 **DOROTHY FRANKS:** That's right.

**ARBITRATOR JUSTICE MOSENEKE:** And how were the patients brought to you? By what means of transport?

**DOROTHY FRANKS:** Okay. From CCRC they just walked through the corridors there and they brought them through to us, but Life they brought them with the EMS  
20 busses.

**ARBITRATOR JUSTICE MOSENEKE:** With the what bus?

**DOROTHY FRANKS:** EMS busses. Emergency busses from Life. Health brought them there with Mr Mogale.

**ARBITRATOR JUSTICE MOSENEKE:** Counsel?

5 **ADV TEBOGO HUTAMO:** And when they were brought to you by this bus, that is the EMS bus.

**DOROTHY FRANKS:** That's right.

**ADV TEBOGO HUTAMO:** Were you expecting the number which you received on the day?

10 **DOROTHY FRANKS:** Well, what I said to them I can only host on this last one 30 and they brought in the 40.

**ADV TEBOGO HUTAMO:** They brought, you took 40 instead of 30?

**DOROTHY FRANKS:** Ja, they brought 40 but I said I can't wholesale 40.

15 **ADV TEBOGO HUTAMO:** Did you have a profile of each of the patients which you required for the purposes of your licence, the purposes of your experience, the purpose of your exposure.

**DOROTHY FRANKS:** They didn't had anything. They just said this was a patient that was still outstanding and then they brought it to us.

**ARBITRATOR JUSTICE MOSENEKE:** And the ladies you transferred to Precious Angels, did you ask for their permission? Did you ask them what they had hoped for and wished for? Or was it just orders that they must be taken?

**DOROTHY FRANKS:** Just by orders from health department, yes.

5 **ARBITRATOR JUSTICE MOSENEKE:** Admitted to your institution. You never went to any one of them and say why do you want to go or not, no?

**DOROTHY FRANKS:** Okay. What, on the 29<sup>th</sup> with the EMS bus as I'm saying there was no patients that I could host. So Dr Manamela and Frans said they will take them ... [interjects]

10 **ARBITRATOR JUSTICE MOSENEKE:** But the answer is no, you didn't ask these patients anything?

**DOROTHY FRANKS:** No.

**ARBITRATOR JUSTICE MOSENEKE:** You basically put them onto what? How were they taken? By bus, by ... [interjects]

15 **DOROTHY FRANKS:** They took them back with the bus to Precious Angels.

**ARBITRATOR JUSTICE MOSENEKE:** Without their consent?

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** Yes.

**ADV TEBOGO HUTAMO:** Yes. These payments, you said you received later in  
20 September of around 539 or 35, was it a back payment or what?

**DOROTHY FRANKS:** Yes Counsel.

**ADV TEBOGO HUTAMO:** It was a back payment.

**DOROTHY FRANKS:** Yes Counsel.

**ADV TEBOGO HUTAMO:** And until when did you receive payment, when you  
5 started receiving it?

**DOROTHY FRANKS:** Until February.

**ADV TEBOGO HUTAMO:** February 2017?

**DOROTHY FRANKS:** Yes Counsel.

**ARBITRATOR JUSTICE MOSENEKE:** But you were shut down on 31<sup>st</sup> of October  
10 2015. Why did you receive money up to February?

**DOROTHY FRANKS:** Okay. All the nurses and the caregivers was still working  
there, and that was what the CEO told us. That I must ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** Okay, the Ombud's report says you were  
shut down on the 31<sup>st</sup> of October.

15 **DOROTHY FRANKS:** 1<sup>st</sup> of?

**ARBITRATOR JUSTICE MOSENEKE:** 31<sup>st</sup> of October.

**DOROTHY FRANKS:** Okay, but ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** And you earned up to February, and so  
I'm asking why did you.

**DOROTHY FRANKS:** Okay. As I'm saying they said the contract was for until March. So they're gonna keep all the care workers, all the cleaners and all the nurses ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** Without patients?

5 **DOROTHY FRANKS:** No, the patients will still be under their care and I must still pay them.

**ARBITRATOR JUSTICE MOSENEKE:** No, but when they, weren't you shut down and patients transferred to CCRC?

**DOROTHY FRANKS:** Okay.

10 **ARBITRATOR JUSTICE MOSENEKE:** So the Ombud's report tells us.

**DOROTHY FRANKS:** Yes, but our care workers and nurses was still working under CCRC, but CCR didn't pay them. I paid them with that money. That was the agreement with the CEO. She not, it was not an agreement, but she told me it will happen like that.

15 **ADV TEBOGO HUTAMO:** Yes, and when you were shut down, when did you move out physically from these premises?

**DOROTHY FRANKS:** Okay, it was only myself that I was removed.

**ADV TEBOGO HUTAMO:** When was that?

**DOROTHY FRANKS:** I was actually on the 7<sup>th</sup> of November.

20 **ADV TEBOGO HUTAMO:** 7 November.

**DOROTHY FRANKS:** Yes Counsel.

**ADV TEBOGO HUTAMO:** Okay. So on the 7<sup>th</sup> of November you walk out of the premises and you leave your staff.

**DOROTHY FRANKS:** Yes Counsel.

5 **ADV TEBOGO HUTAMO:** And the staff would be employed by who, by CCRC or by you?

**DOROTHY FRANKS:** It was still employed by me.

**ADV TEBOGO HUTAMO:** I see, and why was that the arrangement, because you had been shut down. You had been told to remove your operations from the  
10 premises.

**DOROTHY FRANKS:** They said I must just remove myself.

**ADV TEBOGO HUTAMO:** Yes, I see and how many were these employees of yours at the time?

**DOROTHY FRANKS:** How many?

15 **ADV TEBOGO HUTAMO:** How many employees did we have at the time? Let's take it a step back. On the 23<sup>rd</sup> of June 2016 when you received your first patients, how many employees did you have?

**DOROTHY FRANKS:** I don't have the list here, but it was almost 44.

**ADV TEBOGO HUTAMO:** 44. When did you employ those?

**DOROTHY FRANKS**: Okay. When we were busy renovating there, we were busy with the interviewing of all the care workers and nurses.

**ADV TEBOGO HUTAMO**: Okay. Did you have social workers amongst them?

**DOROTHY FRANKS**: No, I didn't have a social worker.

5 **ADV TEBOGO HUTAMO**: Did you have nurses?

**DOROTHY FRANKS**: Yes, just ... [interjects]

**ADV TEBOGO HUTAMO**: How many?

**DOROTHY FRANKS**: One nurse on the 23<sup>rd</sup>, but on CCRC.

**ADV TEBOGO HUTAMO**: And doctors?

10 **DOROTHY FRANKS**: No, they said we must use the doctor from CCRC.

**ADV TEBOGO HUTAMO**: Okay.

**ARBITRATOR JUSTICE MOSENEKE**: They said. Who said that?

**DOROTHY FRANKS**: Okay, because we didn't have doctors there we have to use Dr Libelo from CCRC health department and if there is anything that we have to do  
15 in connection with the clinic, then we can take them to the clinic or to the Mamelodi day.

**ADV TEBOGO HUTAMO**: Tell me, what was your professional staff composition like? Like your nurses, dieticians, doctors and so on. How did you compose it or did you employ any professional staff?

20 **DOROTHY FRANKS**: Okay, as I said there was I employed a psychotic nurse.

**ADV TEBOGO HUTAMO:** Ja.

**DOROTHY FRANKS:** And there was staff nurses and ... [interjects]

**ADV TEBOGO HUTAMO:** One.

**DOROTHY FRANKS:** sorry?

5 **ADV TEBOGO HUTAMO:** You had one?

**DOROTHY FRANKS:** In the beginning on the 23<sup>rd</sup> there was one.

**ADV TEBOGO HUTAMO:** Yes.

**DOROTHY FRANKS:** But after because there was no payment nobody didn't want  
to work for us, because even the care workers said they don't get paid, so we can't  
10 go any further if they don't get paid.

**ADV TEBOGO HUTAMO:** Yes.

**DOROTHY FRANKS:** But in September we have a psychotic nurse, professional  
nurse.

**ADV TEBOGO HUTAMO:** Yes.

15 **DOROTHY FRANKS:** Staff nurses and normal nurses.

**ADV TEBOGO HUTAMO:** That is in September?

**DOROTHY FRANKS:** Yes.

**ADV TEBOGO HUTAMO:** Okay. So ... [interjects]

**DOROTHY FRANKS:** In the meantime health sent in the nurses from Weskopies and CRC.

**ADV TEBOGO HUTAMO:** Ja, and in September when?

**DOROTHY FRANKS:** Okay. Most of them start working in September from the 9<sup>th</sup>  
5 I think.

**ARBITRATOR JUSTICE MOSENEKE:** And you get shut within the month of that.

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** As a place dangerous for patients, so they  
get hurried out of there and you get paid up to febraury of the next year. I still don't  
10 know why?

**DOROTHY FRANKS:** Okay, because the nurses and the care workers was  
working there and they said ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** Why didn't they pay them directly,  
because you were gone?

**DOROTHY FRANKS:** Ja, they said they're not gonna pay them. They must ...  
15 [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** They, who are they? I want specifics.

**DOROTHY FRANKS:** The CRC, the CEO from Cullinan.

**ARBITRATOR JUSTICE MOSENEKE:** But who paid you? Was it the  
20 department?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Who from the department arranged for your payment whilst you stopped working and you were officially shut down?

**DOROTHY FRANKS:** Health department.

5 **ARBITRATOR JUSTICE MOSENEKE:** Who authorised your payments?

**DOROTHY FRANKS:** It was the finance department and the province.

**ARBITRATOR JUSTICE MOSENEKE:** Who in the finance department?

**DOROTHY FRANKS:** I think it was Paul Trina.

**ARBITRATOR JUSTICE MOSENEKE:** Who?

10 **DOROTHY FRANKS:** Paul Trina.

**ARBITRATOR JUSTICE MOSENEKE:** Paul Trina. How do you write Trina?

**DOROTHY FRANKS:** Sorry?

**ARBITRATOR JUSTICE MOSENEKE:** How do you spell Trina?

**DOROTHY FRANKS:** TRINA. Trina, Paul Trina.

15 **ARBITRATOR JUSTICE MOSENEKE:** Trina.

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** In the finance department?

**DOROTHY FRANKS:** Yes. So what they said we must make sure that all the patients was ,the patient list we must check the patient list and if patients was

transferred then we just lower every time on the patients was transfer or they passed on.

**ARBITRATOR JUSTICE MOSENEKE:** Did you share any of the money that you received? On your account, how much would you have received? 539 plus 5 hundred thousand a month up to February. How much was that? Over a million is it?

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** It is over a million. How much was the exact amount?

10 **DOROTHY FRANKS:** I can't remember because I don't have my bank statements here.

**ARBITRATOR JUSTICE MOSENEKE:** And that money was paid into your account?

**DOROTHY FRANKS:** No, in the centre.

15 **ARBITRATOR JUSTICE MOSENEKE:** The centre's account?

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** But you managed the account?

**DOROTHY FRANKS:** No we had a treasurer that managed that account.

**ARBITRATOR JUSTICE MOSENEKE:** But ultimately you were in control of the 20 account?

**DOROTHY FRANKS:** That's right yes.

**ARBITRATOR JUSTICE MOSENEKE:** It was your business.

**DOROTHY FRANKS:** Yes Justice.

**ADV TEBOGO HUTAMO:** Yes, and it appears to me that I think just a day before  
5 you employed this second professional nurse, the following day Sizwe Hlatswayo  
died. That is on 10 September 2016 and that was the fifth death already.

**DOROTHY FRANKS:** Yes Counsel.

**ARBITRATOR JUSTICE MOSENEKE:** On the list you could only inform under  
half of the people who died families, because you didn't know the contact details of  
10 the rest?

**DOROTHY FRANKS:** No, I didn't know the contact details.

**ARBITRATOR JUSTICE MOSENEKE:** Yes, what did you do with their bodies?

**DOROTHY FRANKS:** Okay.

**ARBITRATOR JUSTICE MOSENEKE:** They died in your hands. You didn't know  
15 who they were or who their family people were. How did you dispose of their  
bodies?

**DOROTHY FRANKS:** Okay. What happened, in when we sent them to Mamlodi it  
was in the Mamelodi Hospital. They were there and only Sizwe that I know,  
because that night when Sizwe died, he was, the mortuary at Cullinan didn't work,  
20 because we normally we must send it ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** What do you mean it didn't work?

**DOROTHY FRANKS:** Sorry?

**ARBITRATOR JUSTICE MOSENEKE:** What do you mean when you say the mortuary did not work?

5 **DOROTHY FRANKS:** Okay. They were explaining to me that the gas was, it was out of gas. So I couldn't send the body there.

**ARBITRATOR JUSTICE MOSENEKE:** Did the mortuary get cold? The chamber itself where the bodies are kept.

10 **DOROTHY FRANKS:** I really don't know because that night they just said to me the mortuary is out of order.

**ARBITRATOR JUSTICE MOSENEKE:** So what did you do with the body?

15 **DOROTHY FRANKS:** Okay. That night I phoned Mathilda Malasa, the CEO and I said to her, and Steve, the professional nurse that was in charge there. He said and I said to her that Steve said the mortuary doesn't work. She said yes, she knows about it and I asked her ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** The CEO said she knows that the mortuary does not work?

**DOROTHY FRANKS:** Yes. So I said ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** That is CEO Malasa?

**DOROTHY FRANKS:** Yes. Is there somewhere that we can take the body to Mamelodi day? So she said because he wasn't in Mamelodi, so they can't send him there. So I asked, I even phoned Rochelle Gordon and find out whether she can find out about a mortuary. In the meantime I got this number in my book for  
5 Avbob.

**ARBITRATOR JUSTICE MOSENEKE:** Number for what ma'am?

**DOROTHY FRANKS:** For Avbob.

**ARBITRATOR JUSTICE MOSENEKE:** Avbob.

**DOROTHY FRANKS:** Yes, and it's actually Dianne from Siyabadinga gave me  
10 that number and I asked him if he can help me with the body of Sizwe. So he came and took the body to Avbob and the next day they asked me to give the file of Sizwe to the CEO so that Daphne can follow it up and I said I don't have family members. I don't have an ID for Sizwe. So they must please ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** Why did you take patients whose family  
15 members you don't know? What do you say was the reason? Why did you do that?

**DOROTHY FRANKS:** You know what, this was really not a good decision. Because they just brought in the patients and we were asking all these things. Where is the ID's, where is the files. We keep on asking where is the ID's, where is  
20 the files so that we can follow up.

**ARBITRATOR JUSTICE MOSENEKE:** Why did you not refuse to take the patients?

**DOROTHY FRANKS:** Because they said that the place was there and everything was fine so we can just take them in according to health department, and they will  
5 sort out the ID's and the files on a later stage.

**ADV TEBOGO HUTAMO:** Thank you. There is on ELAH51, the last page there, I see you only have one patient whose family you could trace. That is Robert Sithole.

**DOROTHY FRANKS:** Yes, because ... [interjects]

**ADV TEBOGO HUTAMO:** And the rest were untraceable.

10 **DOROTHY FRANKS:** Yes Counsel.

**ADV TEBOGO HUTAMO:** And on the last column where you record body collected, under Robert Sithole you said yes. For Kenneth Tshoka, Joseph Gumedede it's no, no.

**DOROTHY FRANKS:** Yes, I couldn't trace that family members because I, there  
15 was a number for not Kenneth. On Kenneth's file there was no family members, and Joseph there was but I couldn't get through so I asked Daphne also whether she have anything for the families for Joseph Gumedede.

**ADV TEBOGO HUTAMO:** Yes. So these patients were left lying in the mortuaries without any ... [interjects]

20 **DOROTHY FRANKS:** Yes Counsel.

**ARBITRATOR JUSTICE MOSENEKE:** And you should have realised that when you took them under your care. How would you dispose of their bodies if they died?

**DOROTHY FRANKS:** Okay. I asked the help of the social worker for CRC and she said they will put it on ... [interjects]

5 **ARBITRATOR JUSTICE MOSENEKE:** No, no that's not the question. When you took the bodies onto your premises and got paid for looking after them, you should have realised that if they were to die, you wouldn't know how to dispose of their bodies and that actually happened.

10 **DOROTHY FRANKS:** It happened, but that's where I said I keep on asking that they can give me information on that. I asked the health department and I asked CRC.

**ARBITRATOR JUSTICE MOSENEKE:** But you took them in your care. You demanded payment, claimed forms, you got paid. Didn't you realise that you'll cause so much indignity and pain to their families? Bodies lying in mortuaries that  
15 don't work. You should have anticipated that, isn't it?

**DOROTHY FRANKS:** I should have, but there is as I'm saying I was trying to get hold of all these ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** Maybe you didn't care.

**DOROTHY FRANKS:** No.

20 **ARBITRATOR JUSTICE MOSENEKE:** Maybe you didn't just care what happens to these people.

**DOROTHY FRANKS:** No, I didn't because especially with the patients, I follow up with the mortuaries is the patient still there and I follow up with Daphne could she get any information for me.

**ADV TEBOGO HUTAMO:** Yes. In relation to finally this, that is on the medication  
5 and food as well as clothing, how did you before you were paid the R535 000-00 later, that is in September, how did you cater for those? That is medication, food, their clothing.

**DOROTHY FRANKS:** Okay.

**ADV TEBOGO HUTAMO:** That is from the 23<sup>rd</sup> of June, July, August. Almost  
10 three months.

**DOROTHY FRANKS:** Okay. As I was saying the food was taken over by CCRC and in July, and health department put an order in for us for bedding and they put an order in for food for these patients.

**ADV TEBOGO HUTAMO:** Yes.

15 **DOROTHY FRANKS:** And they said when we, the health department said when we received the payments, we will do the payment to these people.

**ADV TEBOGO HUTAMO:** And did you pay?

**DOROTHY FRANKS:** Yes, I did pay them.

**ADV TEBOGO HUTAMO:** Okay, and it appears that Dr ... [interjects]

20 **ARBITRATOR JUSTICE MOSENEKE:** Who did you pay?

**DOROTHY FRANKS:** The order that the health department put in for the bedding and for the food.

**ADV TEBOGO HUTAMO:** It appears that Dr Manamela's name is written all over what you had been doing, I think since the issue of the in fact from the 13<sup>th</sup> of  
5 November 2015 when you ... [inaudible]. An invitation was extended to you. When premises were looked for you. When the licence was issued, it's also Dr Manamela. When patients were discharged from CCRC to your centre, it was as per the instruction of Dr Manamela. It appears on the ELAH9 I had referred you, also in evidence by the social worker from CCRC, and you move from Kalafong  
10 Hights to Cullinan Centre where you had no formal lease agreement. In fact you were just instructed to go and open operations there. Why was Dr Manamela so instrumental in these arrangements throughout?

**DOROTHY FRANKS:** I really don't know why was she like that.

**ADV TEBOGO HUTAMO:** Ja, did you ask why was she actively involved in  
15 making these arrangements?

**DOROTHY FRANKS:** She just said that the patients must be transferred from Life. It's all I know.

**ADV TEBOGO HUTAMO:** Thank you Justice Moseneke.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you.

20 **ADV TEBOGO HUTAMO:** I will leave it at that.

**ARBITRATOR JUSTICE MOSENEKE:** Yes, you're going to be asked many questions ma'am by at least four advocates.

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** And we're going to start. Ms Stein,  
5 advocate Stein? Switch on.

**ADV NIKKI STEYN:** Thank you Justice. Good morning Mrs Franks. My name is Nikki Steyn and I'm part of a team representing families who lost their loved ones during this crisis. I'd like to start off by asking you a few questions around the licence which I know we already went to in your exam in chief, but if you could  
10 please turn back, it's in file 7 at page 2385. 2385.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** Have you got that in front of you?

**DOROTHY FRANKS:** 2385.

**ADV NIKKI STEYN:** Yes.

15 **DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** Okay. Mrs Franks, you testified earlier that the address indicated on the licence is different from the address where Anchor in fact operated.

**DOROTHY FRANKS:** Yes.

20 **ADV NIKKI STEYN:** Is that correct?

**DOROTHY FRANKS:** Yes Counsel.

**ADV NIKKI STEYN:** And you testified earlier as well that although your licence states that it's a child residential care facility, you were in fact accommodating adults in your facility?

5 **DOROTHY FRANKS:** Yes Counsel.

**ADV NIKKI STEYN:** I'd like you to look at the licence, just above where it says Child Residential Care Facility, and it is an issue that was raised earlier. It says:

*"For persons with severe or profound intellectual disability."*

Do you see that?

10 **DOROTHY FRANKS:** Yes Counsel.

**ADV NIKKI STEYN:** And you testified earlier that you accommodated severe mental patients. What does that mean? What kind of conditions does that include?

**DOROTHY FRANKS:** Okay, it's a severe mental patient that is really highly mental.

15 **ADV NIKKI STEYN:** Can you elaborate for us please?

**DOROTHY FRANKS:** Okay. Because I was looking after patients from 18 and upwards, it could be that they have, they're getting epileptic fits and that is where the severe mental patient came in.

**ADV NIKKI STEYN:** Okay. So we heard earlier in this arbitration from Nthombi Puti Dladla whose brother was Joseph Gumede, we have spoken about Joseph already today.

**DOROTHY FRANKS:** Yes.

5 **ADV NIKKI STEYN:** Joseph was diagnosed with a mental illness caused by an excessive use of marijuana.

**DOROTHY FRANKS:** He was what?

**ADV NIKKI STEYN:** He was diagnosed according to Mrs Dladla with a mental illness caused by the excessive use of marijuana. Do you have knowledge of that?

10 **DOROTHY FRANKS:** No, we didn't see anything in the file.

**ADV NIKKI STEYN:** Can you tell us about Joseph's condition?

**DOROTHY FRANKS:** Okay. As far as I know he was, he had sugar diabetes also. That's what I know.

**ADV NIKKI STEYN:** Is sugar diabetes a mental health condition?

15 **DOROTHY FRANKS:** No.

**ADV NIKKI STEYN:** And so did Joseph according to your knowledge have any mental health condition?

**DOROTHY FRANKS:** No, he didn't have because that was also bring to the attention of the health department.

**ADV NIKKI STEYN:** Okay. We're going to hear later from, and we spoke earlier about Charity Ratsotso. We're going to hear later from Mrs Jinono. Charity was a patient who, our client's testified had epilepsy. Do you have knowledge of that?

5 **DOROTHY FRANKS:** No, as I said it was an unknown patient and I don't know, I couldn't identify that it was Charity.

**ADV NIKKI STEYN:** Okay. We're then going to move on. Matlakala Elizabeth Motswae who was on the version of her daughter Mord, she was at Cullinan.

**DOROTHY FRANKS:** No, that was not under my care.

**ADV NIKKI STEYN:** She was not under your care?

10 **DOROTHY FRANKS:** No.

**ADV NIKKI STEYN:** If I could just refer you, sorry can I ask you as well just to speak closer to the microphone so that everyone can hear you. I'd like you to turn please to ELAH50 and to turn to page 2 of that annexure. This is a table of patients discharged to Precious ANGels. It's something you also discussed in your exam in  
15 chief.

**DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** The last entry on the table is Matlakala Motswae. Do you see that?

**DOROTHY FRANKS:** Yes, yes.

20 **ADV NIKKI STEYN:** And it indicates that she was admitted to Anchor ... [interjects]

**DOROTHY FRANKS**: Yes.

**ADV NIKKI STEYN**: On the 29<sup>th</sup> of the sixth 2016.

**DOROTHY FRANKS**: Yes.

**ADV NIKKI STEYN**: And transferred to Precious ANGels on the 6<sup>th</sup> of July.

5 **DOROTHY FRANKS**: Yes.

**ADV NIKKI STEYN**: 2016.

**DOROTHY FRANKS**: Yes Counsel.

**ADV NIKKI STEYN**: So she was briefly under your care.

**DOROTHY FRANKS**: No, I didn't see the name. Yes Counsellor, sorry for that.

10 **ADV NIKKI STEYN**: Okay, and okay. Her ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE**: Well, why did you first say she wasn't under your care?

**DOROTHY FRANKS**: Because I couldn't remember the name here. Sorry.

15 **ARBITRATOR JUSTICE MOSENEKE**: And what, what disability did she suffer from?

**DOROTHY FRANKS**: As I said some of these patients I didn't have the files and the ID's.

**ADV NIKKI STEYN**: If I could turn you to file 10, if somebody could assist you in getting file 10, and if you could turn then to page 3291.

**DOROTHY FRANKS:** Thank you. 3291?

**ADV NIKKI STEYN:** 3291.

**DOROTHY FRANKS:** 3291, yes.

**ADV NIKKI STEYN:** I'll just wait for everyone to get to the same page.

5 **DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** This is an affidavit from her daughter, Matlakala's daughter Mord Motswae. Do you see that?

**DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** If you turn over to page 3292 ... [interjects]

10 **ARBITRATOR JUSTICE MOSENEKE:** Counsel, it's Mord Gonyadiwe Motswae. I see you're taking a shortcut.

**ADV NIKKI STEYN:** Thank you Justice. Mord Gonyadiwe Motswae.

**ARBITRATOR JUSTICE MOSENEKE:** That's very good. Gonyadiwe Motswae. It's a beautiful name.

15 **ADV NIKKI STEYN:** I agree Justice, thank you.

**ARBITRATOR JUSTICE MOSENEKE:** Okay.

**ADV NIKKI STEYN:** Mrs Franks, if you turn to page 6, excuse me paragraph 6 on page 3292.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** You'll see there that the patient was diagnosed with Alzheimers.

**DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** Do you see that?

5 **DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** Okay. I'd like to finally take you to page 3382

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** And that's the affidavit of Thamsamka Phillip Nthembu whose sister was Emily Nthembu.

10 **DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** If you turn on to page 3383 at paragraph 5.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** You'll see that according to Mr Nthembu, Emily had epilepsy.

**DOROTHY FRANKS:** Yes Counsellor.

15 **ADV NIKKI STEYN:** Mrs Franks, do you appreciate that there's a distinction between mental illness and intellectual disability?

**DOROTHY FRANKS:** I see it, you mention it now to me. I can see.

**ADV NIKKI STEYN:** Sorry, would you mind speaking up?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** You said, I mentioned it to you now. Were you aware before today of that distinction?

**DOROTHY FRANKS:** Okay. I know if they have epilepsy they can be mentally also, and some of them can be only epilepsy.

5 **ADV NIKKI STEYN:** So are you saying that you were aware previously that there is a distinction between intellectual disability on the one hand and mental illness on the other?

**DOROTHY FRANKS:** Yes Counsellor.

10 **ADV NIKKI STEYN:** You were, and your licence authorised you, sorry I'm just getting back to your licence. On page 2385 your licence authorised you to care with persons with severe to profound intellectual disabilities.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** But you were in fact catering for people with mental illnesses. Do you agree?

15 **DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** So you were taking people in to Anchor who you were not qualified to care for.

**DOROTHY FRANKS:** Can I say this, because as far as I know ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** I think you should say yes first.

20 **DOROTHY FRANKS:** Okay, yes.

**ARBITRATOR JUSTICE MOSENEKE:** The question is you were not qualified to look after these people.

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** The answer is yes and you might have an  
5 explanation if necessary.

**DOROTHY FRANKS:** Yes Counsellor, but as I'm saying I don't know what did Dr Manamela and Hanna actually ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** How could you be a financial controller today and next time you go and look after people with a variety of mental  
10 disabilities? How do you get it right? One time you're doing something totally unrelated. Like me waking up on morning and ... [inaudible] a psychiatric clinic when I'm a judge. I know nothing about that. How do you get it right?

**DOROTHY FRANKS:** What?

**ARBITRATOR JUSTICE MOSENEKE:** Why do you do it?

**DOROTHY FRANKS:** What actually happened when I was at the AFM I was  
15 looking after these patients, epilepsy and mentally severe.

**ARBITRATOR JUSTICE MOSENEKE:** That was two years at most, isn't it?

**DOROTHY FRANKS:** And I was running them, yes.

**ARBITRATOR JUSTICE MOSENEKE:** ... [inaudible] two years on your evidence.

**DOROTHY FRANKS:** Yes, and nobody died there.  
20

**ARBITRATOR JUSTICE MOSENEKE:** Nobody died there.

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** And why do you think they died now?

**DOROTHY FRANKS:** You know what I think, it's because of the how can I say?

5 The ratio that they did for these patients.

**ARBITRATOR JUSTICE MOSENEKE:** Because of what?

**DOROTHY FRANKS:** The ratio that they did with these patients. What actually they said to us we could have gone to identify our patients.

**ARBITRATOR JUSTICE MOSENEKE:** Who are they?

10 **DOROTHY FRANKS:** Dr Manamela.

**ARBITRATOR JUSTICE MOSENEKE:** Okay.

**DOROTHY FRANKS:** Ja, and Hanna said that we can go there and identify our patients. But we didn't have the chance to go and do that. They just came and they give us all these patients.

15 **ARBITRATOR JUSTICE MOSENEKE:** But why do you think they died there?  
That was the question.

**DOROTHY FRANKS:** It's because the ratio wasn't right according to our ...  
[interjects]

**ARBITRATOR JUSTICE MOSENEKE:** The what wasn't right?

20 **DOROTHY FRANKS:** The ratio.

**ARBITRATOR JUSTICE MOSENEKE:** The ratio?

**DOROTHY FRANKS:** Ja.

**ARBITRATOR JUSTICE MOSENEKE:** What do you mean by ratio?

**DOROTHY FRANKS:** Okay. The ratio of the sicknesses that they had. Mental  
5 health and severe epilepsy.

**ARBITRATOR JUSTICE MOSENEKE:** So you think they died because they didn't  
get the proper care they deserved, isn't it?

**DOROTHY FRANKS:** Because we tried our best.

**ARBITRATOR JUSTICE MOSENEKE:** ... [inaudible], no I said they didn't get the  
10 care they deserved, isn't it? If they were properly cared for like you say you have  
done in the past, they would not have died?

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** You agree with that?

**DOROTHY FRANKS:** Yes Counsel.

15 **ARBITRATOR JUSTICE MOSENEKE:** You do agree. You can go ahead.

**ADV NIKKI STEYN:** Thank you Justice. And so you have just confirmed Mrs  
Franks that you were taking in people who you were not qualified to take in.  
Correct?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** You also testified earlier that you didn't read the licence and take note of its terms. Is that correct?

**DOROTHY FRANKS:** Yes, I just want to confirm that. The brought a licence to us and they said there is errors on the licence and they will rectify it. So this is the only  
5 licence that I had before.

**ADV NIKKI STEYN:** There were errors on the licence?

**DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** And you accepted that this licence was the one you should operate by even though you knew that there were errors?

10 **DOROTHY FRANKS:** Ja, because they had to gave us the correct licence afterwards.

**ADV NIKKI STEYN:** What errors were on the licence?

**DOROTHY FRANKS:** Well, they just said there is errors on the licences and they will rectify it and even the addresses they will rectify.

15 **ADV NIKKI STEYN:** Who is they Mrs Franks?

**DOROTHY FRANKS:** Okay, it's from the office of Frans and Dr Manamela.

**ADV NIKKI STEYN:** And so you didn't see fit to interrogate them as to what the errors were on this licence?

**DOROTHY FRANKS:** No, they didn't say that. They just said that they will rectify  
20 it.

**ADV NIKKI STEYN:** This was the licence that was giving you authority to look after these mental health care users?

**DOROTHY FRANKS:** Yes. This is the licence that they gave to us, to me actually.

**ADV NIKKI STEYN:** And so you knew there were errors on it.

5 **DOROTHY FRANKS:** And we were waiting for the correct ... [interjects]

**ADV NIKKI STEYN:** You knew there were errors on it.

**DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** You didn't know what those errors were. Is that correct?

10 **DOROTHY FRANKS:** I didn't check it with them because they said they will correct it then.

**ADV NIKKI STEYN:** And so you filed the licence away?

**DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** Can I ask you then Mrs Franks, what is the purpose of getting a licence to operate a facility like Anchor?

15 **DOROTHY FRANKS:** To operate under the ... [interjects]

**ADV NIKKI STEYN:** What's the point of the licence?

**DOROTHY FRANKS:** To operate under the correct licence details.

**ADV NIKKI STEYN:** But you weren't operating under the correct specifications.

**DOROTHY FRANKS:** Because it was a mistake on their side. I'm just thinking about that.

**ADV NIKKI STEYN:** But you knew that there was a mistake Mrs Franks.

**DOROTHY FRANKS:** Yes, and they said we will rectify it and we didn't get the  
5 correct one.

**ADV NIKKI STEYN:** But you continued to operate and to accept patients under an invalid licence?

**DOROTHY FRANKS:** Yes Counsel.

**ADV NIKKI STEYN:** Okay. I'll leave that point there. Thank you.

10 **ARBITRATOR JUSTICE MOSENEKE:** And what's more, they paid you whilst you were acting in contravention of the law. They paid you well over a million rand while you were acting unlawfully. Do you realise that?

**DOROTHY FRANKS:** I realise it Justice.

**ARBITRATOR JUSTICE MOSENEKE:** You do realise that. Counsel?

15 **ADV NIKKI STEYN:** Mrs Franks, you just testified a few minutes ago that the plan was for you to go to Life Esidimeni to select the patients, to identify patients and select who you wanted to take.

**DOROTHY FRANKS:** Yes, that's what we asked yes.

**ADV NIKKI STEYN:** In my mind and it's reflected in the Ombud's report, it brings  
20 up images almost like a market, a trade of human beings. Do you agree with me?

Perhaps to put it differently. Do you think that this method respects the patient's right to dignity?

**DOROTHY FRANKS:** Counsellor, I really can't answer on that one.

**ADV NIKKI STEYN:** Can I ask why you can't answer?

5 **DOROTHY FRANKS:** You know what, because this actually happened so fast and I don't know why they did it like that.

**ADV NIKKI STEYN:** At the moment Mrs Franks, I'm not asking for an explanation. I'm just asking if you think that that method of going to Life Esidimeni to identify the patients that you wanted, respects their dignity.

10 **DOROTHY FRANKS:** Yes, because as you're saying it respects their the patient dignity.

**ADV NIKKI STEYN:** To be almost lined up for the NGO's to come and select who they want and leave behind who they don't want?

**ARBITRATOR JUSTICE MOSENEKE:** I suggest you listen to the question  
15 carefully so you can answer it. Would you put it again Counsel?

**ADV NIKKI STEYN:** Thank you Justice. You testified that the plan was for Anchor and other NGO's to go to Life Esidimeni and to select the patients from Life Esidimeni to take back to their NGO's.

**DOROTHY FRANKS:** Yes Counsellor.

20 **ADV NIKKI STEYN:** So you were in effect deciding which patients you wanted and which patients you didn't want.

**DOROTHY FRANKS:** Ja, then we will select according to ... [interjects]

**ADV NIKKI STEYN:** And which patients would receive health care services and which patients you would not deliver health care services to?

**DOROTHY FRANKS:** Yes Counsellor.

5 **ADV NIKKI STEYN:** Do you think that that's consistent with the patient's right to dignity?

**DOROTHY FRANKS:** As I can see it that you will know what patient you can then help in this mental institute.

**ADV NIKKI STEYN:** So you would know which patients would meet your criteria.

10 **DOROTHY FRANKS:** Yes, because as I say I was actually must have 18 and upwards and the criteria that I worked before.

**ADV NIKKI STEYN:** Okay. I'm going to leave that there, thank you. I'd like to then move on. We heard earlier in this arbitration from Dianne Noyile who is the CEO for Siyabadinga.

15 **DOROTHY FRANKS:** Yes Counsel.

**ADV NIKKI STEYN:** Do you know Dianne?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** She testified for quite a long time at the arbitration and one of the issues that she dealt with in her testimony was that Dr Manamela herself came  
20 to the facility. Siyabadinga at that stage was in three wards, but Dr Manamela

moved beds herself to condense it into two overcrowded wards in order to make space for Anchor.

**DOROTHY FRANKS:** Yes, she did that but I didn't know why, because I don't know was it an agreement or what. I didn't know.

5 **ADV NIKKI STEYN:** Why was she so desperate to get Anchor into that facility?

**DOROTHY FRANKS:** I really don't know.

**ADV NIKKI STEYN:** And working so hard to make space for the NGO that you were running?

**DOROTHY FRANKS:** Okay. Apparently they said I must operate in two and she  
10 must operate in two, and I even said I'm not going in the next one because they operate in all three of them.

**ADV NIKKI STEYN:** And so to address that Dr Manamela herself moved beds from the third one to overcrowd the two wards in Siyabadinga.

**DOROTHY FRANKS:** Ja, that was, she discuss it with them.

15 **ADV NIKKI STEYN:** So your testimony is that you were not involved in any of that at all?

**DOROTHY FRANKS:** No.

**ADV NIKKI STEYN:** You just waited for two wards to become vacant.

**DOROTHY FRANKS:** That's all yes.

20 **ADV NIKKI STEYN:** And then you came in.

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** Had you known her before?

**DOROTHY FRANKS:** Sorry?

**ARBITRATOR JUSTICE MOSENEKE:** Had you know Dr Manamela before?

5 **DOROTHY FRANKS:** I didn't ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** In other words before December 2014,  
2015 sorry.

**DOROTHY FRANKS:** Only when we started with the meetings from ... [interjects]

10 **ARBITRATOR JUSTICE MOSENEKE:** Did you know anybody in the department  
before that?

**DOROTHY FRANKS:** Yes, because I was submitting documents and like Paul  
Trina I know.

**ARBITRATOR JUSTICE MOSENEKE:** I beg your pardon?

**DOROTHY FRANKS:** Paul Trina where we went to ... [interjects]

15 **ARBITRATOR JUSTICE MOSENEKE:** But the person at the finances you had  
known before ... [interjects]

**DOROTHY FRANKS:** Because I was doing the admin of the previous ...  
[interjects]

**ARBITRATOR JUSTICE MOSENEKE:** Of the previous one?

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** And you were the finance controller there.

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** So you knew the finance people at the  
5 department?

**DOROTHY FRANKS:** Yes Counsel.

**ARBITRATOR JUSTICE MOSENEKE:** And Paul Trina is the one who paid you  
right through to February?

**DOROTHY FRANKS:** Yes Counsellor.

10 **ARBITRATOR JUSTICE MOSENEKE:** 2017, ja.

**DOROTHY FRANKS:** But I did submit the documents accordingly.

**ARBITRATOR JUSTICE MOSENEKE:** Ja. Despite the formal shut down which is  
recorded by the Ombud in October 2015. Mr Paul Trina paid you over R100 000-00  
a month, even after you were shut down between October and February. October  
15 2016 and February 2017. Is that right?

**DOROTHY FRANKS:** Yes, but the documents must be checked by Gauteng also  
before any payment go through.

**ARBITRATOR JUSTICE MOSENEKE:** Why did you submit claims after you had  
been told your operations were not up to standard and had been shut down?

**DOROTHY FRANKS:** Okay, because that was the agreement with the CEO that we will then pay the workers there.

**ARBITRATOR JUSTICE MOSENEKE:** If the operation is done, it is done.

**DOROTHY FRANKS:** Well, I don't ... [interjects]

5 **ARBITRATOR JUSTICE MOSENEKE:** It is shut down because it doesn't meet the measures ... [interjects]

**DOROTHY FRANKS:** That's what they agree on, and ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** Who are they who agreed on that?

**DOROTHY FRANKS:** Okay, well the CEO Mathilda Malasa said that the workers  
10 will still be working under me, but and I must pay them so I must do the submissions accordingly.

**ARBITRATOR JUSTICE MOSENEKE:** Counsel?

**ADV NIKKI STEYN:** Thank you Justice. Sorry. I'm going to continue on that issue and just to confirm. You testified that in September you received about R535 000-  
15 00 of back pay.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** And that every month you received about R150 000-00.

**DOROTHY FRANKS:** Yes Counsel.

**ADV NIKKI STEYN:** Even in the period November 2016 to February 2017 when  
20 the facility was shut down.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** And that that was because you kept care workers, cleaners, nurses, you were still paying the workers.

**DOROTHY FRANKS:** Yes Counsellor.

5 **ADV NIKKI STEYN:** So how was that money distinguished? You were still receiving the same amount every month.

**DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** As what you were receiving before October.

**DOROTHY FRANKS:** Yes Counsellor.

10 **ADV NIKKI STEYN:** Before october, am I correct in saying you spent the money on care workers, cleaners, nurses, food ... [interjects]

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** Bedding, medication, cleaning products.

**DOROTHY FRANKS:** Yes Counsellor and I sometimes I buy clothes for the ...  
15 [interjects]

**ADV NIKKI STEYN:** And clothes.

**DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** After the 31<sup>st</sup> of october 2017, after the shut down of the facility, the need for these food, medication, clothes would no longer be there. Am I  
20 correct?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** But you continued to receive the same amount?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** Can you give us an explanation as to why that was the case,  
5 what the amount was for?

**DOROTHY FRANKS:** Okay. I have paid the workers every month and if you can see all the workers money work almost out on R100 000-00 and if all the money that after we close down in February, money that was over I the surplus I gave back to the health department.

10 **ADV NIKKI STEYN:** How much money was left over?

**DOROTHY FRANKS:** Sorry?

**ADV NIKKI STEYN:** How much money was there left over.

**DOROTHY FRANKS:** So on the surplus?

**ADV NIKKI STEYN:** Yes.

15 **DOROTHY FRANKS:** It was R46 000-00, I don't know how much.

**ADV NIKKI STEYN:** R46 000-00?

**DOROTHY FRANKS:** R46 000-00 something, two hundred and something.

**ADV NIKKI STEYN:** Okay, and the staff were costing you R150 000-00 per month?

**DOROTHY FRANKS:** Okay, the staff is almost R124 000-00.

**ADV NIKKI STEYN:** R124 000-00?

**DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** Mrs Franks, do you have records of your income and  
5 expenditure during this time?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** Would you be prepared to make these available to the  
arbitration?

**DOROTHY FRANKS:** Yes. To the arbitration, because I gave it to the special  
10 investigations already.

**ADV NIKKI STEYN:** To the special investigations unit investigating the NGO's?

**DOROTHY FRANKS:** That's right, yes. I gave all my ... [interjects]

**ADV NIKKI STEYN:** My ... [interjects]

**DOROTHY FRANKS:** Sorry?

15 **ADV NIKKI STEYN:** My understanding Justice is that that doesn't preclude us  
from having access to those income and expenditure records and so if you could  
make those available to us Mrs Franks, that would be ... [interjects]

**DOROTHY FRANKS:** So I must make copies of all ... [interjects]

**ADV NIKKI STEYN:** Please.

**DOROTHY FRANKS:** I'll do so.

**ARBITRATOR JUSTICE MOSENEKE:** ... [inaudible] you investigating, did they tell you what investigations were they doing?

**DOROTHY FRANKS:** Ja, they gave me a list for the finances and for reporting.

5 **DOROTHY FRANKS:** There's a whole list that they gave me.

**ARBITRATOR JUSTICE MOSENEKE:** Ja.

**DOROTHY FRANKS:** Maybe I can just give you the list then.

**ARBITRATOR JUSTICE MOSENEKE:** They must have told you what were they investigating.

10 **DOROTHY FRANKS:** That's right yes.

**ARBITRATOR JUSTICE MOSENEKE:** What did they say?

**DOROTHY FRANKS:** No, they just gave me the list and I had to submit each and every document.

**ARBITRATOR JUSTICE MOSENEKE:** Did they tell you what were they investigating? What offence or conduct were they investigating?

**DOROTHY FRANKS:** They just say mostly on the finance.

**ARBITRATOR JUSTICE MOSENEKE:** Okay.

**ADV NIKKI STEYN:** Thank you Justice. Mrs Franks, did you hold any funeral policies for any of the patients at Anchor?

20 **DOROTHY FRANKS:** No.

**ADV NIKKI STEYN:** Did you hold any life insurance policies for any of them?

**DOROTHY FRANKS:** No, it was a short period. The period was too short before I could actually decide to do all these things.

**ADV NIKKI STEYN:** Was your intention to take out life insurance policies?

5 **DOROTHY FRANKS:** Not at the moment.

**ADV NIKKI STEYN:** Were you receiving any SASSA payments for any of the patients?

**DOROTHY FRANKS:** Yes Counsel. Not for all of them.

**ADV NIKKI STEYN:** How many of the patients?

10 **DOROTHY FRANKS:** I think it was 29.

**ADV NIKKI STEYN:** 29, and you had those ID documents, their ID documents for that purpose?

**DOROTHY FRANKS:** I gave it back to CCRC.

**ADV NIKKI STEYN:** You've given them back to CCRC.

15 **DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** When did you receive SASSA grants, what was the last date on which you received SASSA grants?

**DOROTHY FRANKS:** It was March ... [interjects]

**ADV NIKKI STEYN:** March ... [interjects]

**DOROTHY FRANKS:** When we closed down, yes.

**ADV NIKKI STEYN:** 2017?

**DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** But your facility was shut down according to the Ombud on  
5 the 31<sup>st</sup> of October 2016.

**DOROTHY FRANKS:** Yes, I asked them to close all the SASSA's in March.

**ADV NIKKI STEYN:** So you continued receiving money for five months.

**DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** And what did you do with that money?

10 **DOROTHY FRANKS:** Well, I bought clothes for them and I ... [interjects]

**ADV NIKKI STEYN:** Mrs Franks, this is after the facility has shut down.

**DOROTHY FRANKS:** Yes, and I bought snacks and stuff because sometimes  
they said I must bring ... [interjects]

**ADV NIKKI STEYN:** Who were you buying clothes and snacks for?

15 **DOROTHY FRANKS:** For the users.

**ADV NIKKI STEYN:** After the facility is shut down?

**DOROTHY FRANKS:** Yes, and roll on, okay.

**ADV NIKKI STEYN:** Sorry, and?

**DOROTHY FRANKS:** Roll on and all the necessities.

**ADV NIKKI STEYN:** So you continued to purchase things for mental health care users after the facility shut down?

**DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** And what prompted you to stop these payments in March?

5 **DOROTHY FRANKS:** Okay, because they said I must close down in March.

**ARBITRATOR JUSTICE MOSENEKE:** They. Who are they?

**DOROTHY FRANKS:** Mrs Malasa, the CEO.

**ADV NIKKI STEYN:** And where are those SASSA cards now?

**DOROTHY FRANKS:** It doesn't work because we close it down.

10 **ADV NIKKI STEYN:** Have you still got the physical cards?

**DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** You haven't returned them to the families?

**DOROTHY FRANKS:** No, I gave it to Daphne. Only the ID's.

**ADV NIKKI STEYN:** So Daphne still holds the identity documents.

15 **DOROTHY FRANKS:** That's right.

**ARBITRATOR JUSTICE MOSENEKE:** You withdrew 29 SASSA grants at how much per month?

**DOROTHY FRANKS:** Hundred and, one thousand five hundred.

**ARBITRATOR JUSTICE MOSENEKE:** One thousand five hundred times 29.  
That's nearly R35 000-00 every month and you bought what with it?

**DOROTHY FRANKS:** Okay, what they need like roll on and ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** But why would you do that? Your  
5 operation is shut down by law. You were visited by inspectors from national health  
office and you were required to stop operating what was an unlawful operation and  
you continued to be paid by the department and you continued to take money which  
was meant to look after the patients. Why did you do that?

**DOROTHY FRANKS:** What I can say also the professional psychotic nurse  
10 actually we also pay a few rands out of SASSA, because she charge us, because  
she was a psychotic nurse.

**ARBITRATOR JUSTICE MOSENEKE:** You take people's ... [inaudible] grant and  
you go and pay your employees salaries. Is that what you said?

**DOROTHY FRANKS:** Ja, for the psychotic nurse.

15 **ARBITRATOR JUSTICE MOSENEKE:** The psychotic nurse employed by whom?

**DOROTHY FRANKS:** By us.

**ARBITRATOR JUSTICE MOSENEKE:** But you were shut down.

**DOROTHY FRANKS:** She was still working.

**ARBITRATOR JUSTICE MOSENEKE:** For CCRC?

20 **DOROTHY FRANKS:** No. She was still working for us.

**ARBITRATOR JUSTICE MOSENEKE:** But you were told you are unlawful. You may not operate, not look after any patients and you must shut down the operation.

**DOROTHY FRANKS:** But the workers must still work.

**ARBITRATOR JUSTICE MOSENEKE:** For who?

5 **DOROTHY FRANKS:** And I must pay them.

**ARBITRATOR JUSTICE MOSENEKE:** Why? Why must you pay them?

**DOROTHY FRANKS:** Because of the ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** They are working at CCRC and you pay them. Why?

10 **DOROTHY FRANKS:** They said the workers will stay and I must pay them.

**ARBITRATOR JUSTICE MOSENEKE:** Who are they? Let's stop talking about hey.

**DOROTHY FRANKS:** Okay, sorry Justice. The CEO from Cullinnan.

**ARBITRATOR JUSTICE MOSENEKE:** So Mrs Malasa is the one who said  
15 continue to draw these grants.

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** Of 29 people.

**DOROTHY FRANKS:** And then I must ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** And then you must ... [interjects]

**DOROTHY FRANKS:** All my workers must stay there and I must pay them accordingly.

**ARBITRATOR JUSTICE MOSENEKE:** But the department was also paying you for your workers.

5 **DOROTHY FRANKS:** Yes, but the payments for certain people wasn't enough to ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** You just said that you paid enough and you were left with some money pout of the 150.

**DOROTHY FRANKS:** Ja, on the health department.

10 **ARBITRATOR JUSTICE MOSENEKE:** Oh.

**DOROTHY FRANKS:** On the health department records, because they have a certain amount that you have to pay, and ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** Who and what told you that SASSA grants are meant to pay salaries?

15 **DOROTHY FRANKS:** Okay, not all of them because we bought all the, for the patients. We bought food and we bought ... [interjects]

**ARBITRATOR JUSTICE MOSENEKE:** You bought food or you paid salaries?

**DOROTHY FRANKS:** We did everything out of that SASSA which we can't get out of health. Health gives you a certain amount that you must use and everything you  
20 have extra, you can pay it out of that.

**ARBITRATOR JUSTICE MOSENEKE:** Counsel, you go on.

**ADV NIKKI STEYN:** Thank you Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Before I say something I might regret.  
You go ahead.

5 **ADV NIKKI STEYN:** Thank you Justice. I see that it's also one thirty, but would you be happy for me to finish this issue before we take the adjournment?

**ARBITRATOR JUSTICE MOSENEKE:** Yes, I'm happy for you to finish the issue.

**ADV NIKKI STEYN:** Thank you. Mrs Franks, you testified that you left Anchor on the 7<sup>th</sup> of November 2016. Is that correct?

10 **DOROTHY FRANKS:** Sorry?

**ADV NIKKI STEYN:** You testified that you left anchor on the 7<sup>th</sup> of November 2016.

**DOROTHY FRANKS:** Yes Counsel.

**ADV NIKKI STEYN:** But that you continued to receive on behalf of Anchor the  
15 subsidies from the Department of Health.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** And the SASSA grants.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** And you continued to take instructions from Mrs Malasa as to  
20 what you should do about the payment of the nurses and about the SASSA grants.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV NIKKI STEYN:** You continued to do this even after you had left as the CEO of Anchor.

**DOROTHY FRANKS:** Yes Counsellor.

5 **ADV NIKKI STEYN:** On what basis did you continue to follow instructions from the Department of Health?

**DOROTHY FRANKS:** Because they said I've got an agreement for a year.

**ARBITRATOR JUSTICE MOSENEKE:** They.

**ADV NIKKI STEYN:** Who was they Mrs Franks?

10 **DOROTHY FRANKS:** Okay. According to health I've got an agreement from April to March, to continue with the work until my contract ended.

**ADV NIKKI STEYN:** But were you not only supposed to be paid when you were looking after patients.

**DOROTHY FRANKS:** But the workers was all there to look after the patients.

15 **ADV NIKKI STEYN:** What were the workers doing?

**DOROTHY FRANKS:** They were looking after the patients.

**ADV NIKKI STEYN:** But there was no patients there.

**DOROTHY FRANKS:** On?

**ADV NIKKI STEYN:** I'm just struggling to understand Mrs Franks, if the facility was closed on the 31<sup>st</sup> of October were patients there staying in an unlawful facility or were there no patients and staff there essentially doing nothing?

5 **DOROTHY FRANKS:** Okay, what happened the patients was there and the workers.

**ADV NIKKI STEYN:** And so the facility was shut down on the 31<sup>st</sup> of October.

**DOROTHY FRANKS:** They just said I must leave the premises, but the patients will stay there and the workers will stay there.

**ADV NIKKI STEYN:** So you left the premises on the 7<sup>th</sup> of November.

10 **DOROTHY FRANKS:** Yes.

**ADV NIKKI STEYN:** But you still continued to run the facility remotely.

**DOROTHY FRANKS:** That's right.

**ADV NIKKI STEYN:** Okay. I think I'll leave it there if you're happy too Justice and we can return after lunch.

15 **ARBITRATOR JUSTICE MOSENEKE:** I'm not happy at all. We're going to adjourn. I will try to teach you a few things in ... [inaudible] language and you're not doing badly Counsel.

**ADV NIKKI STEYN:** Thank you Justice.

**ARBITRATOR JUSTICE MOSENEKE:** [Vernacular 01:28:22]. So we're going to adjourn now and we might get an interpreter for a few cents to tell you what I just said.

**ADV NIKKI STEYN:** I'll look around for one thank you Justice.

5 **ARBITRATOR JUSTICE MOSENEKE:** We adjourn till two thirty.

### **SESSION 3**

**ARBITRATOR, JUSTICE MOSENEKE:** Hi, be seated please. You still under your previous oath, Counsel.

10 **ADV. NIKKI STEIN:** Thank you, Justice. Mrs. Franks, we were dealing before the lunch adjournments with the payments that you received from the Department of Health and you testified that you were receiving from September 2016 R150,000 per month?

**DOROTHY FRANKS:** Yes –

15 **ADV. NIKKI STEIN:** -and you testified that your monthly expenses for your staff members, were a hundred and twenty R124 000.00, per month?

**DOROTHY FRANKS:** Yes.

**ADV. NIKKI STEIN:** Yes. More or less? Our team has done some calculations over the lunch period and I'd like to just get you a response that leaves us with R26  
20 000.00 per month for the other running costs, all of the costs other than staff at Anchor House.

Do you agree with me now if we take the maximum amount of 73 patients whose needs must be met by R26 000.00? Our calculation is that that leaves us with about R11.87, per patient, per day. For things like food, toiletries, clothing, linen, medication. Can I have your comment on that?

5 **DOROTHY FRANKS:** Okay, as I said CCRC helped us with a food after that, and and I bought toiletries for them what if I don't have enough I use SASSA money, and the clothes, I didn't buy any, any, every month clothes I tried to bought them, all the same sweaters, so that we can identify them quickly.

**ADV. NIKKI STEIN:** So, what you're saying Mrs. Franks is that this amount of  
10 money you were receiving sufficient funds to keep Anchor House going?

**DOROTHY FRANKS:** That's right.

**ADV. NIKKI STEIN:** -and that it allowed you to provide sufficient food to the patients and a good environment for them to live in?

**DOROTHY FRANKS:** Yes.

15 **ADV. NIKKI STEIN:** I'm going to take you now to the evidence of some of the patient's families, who section 27 is representing, and in that regard, I'd like you to turn in file 9 to page 3019.

**DOROTHY FRANKS:** Which file? 3019?

**ADV. NIKKI STEIN:** 3019. That's correct.

20 **DOROTHY FRANKS:** Yes, counsellor.

**ADV. NIKKI STEIN:** This is the affidavit of Bongani Sithole, who was the brother of the late Bekumuzi Robert Sithole and it's not necessary to go through the affidavit in detail. I'll--I'll highlight the key aspects of it for you. Mr. Sithole, states that he knew

that his brother was going to be discharged from Life Esidimeni but the next he heard about his brother was the call that he had passed away, and I just like to read to you from paragraph seven of the affidavit.

Starts at page 3020, he says on, 18 July I received a call from a woman who  
5 identified herself as Dorothy. She called from the number 072 8030302 she told me that Beki was dead, and he was at the morgue at Mamelodi Hospital and I must go collect him. I went to Mamelodi, the next day, 19 July. I arrived in the morning and spoke to the reception. Dorothy was not there. I got in contact with her and she said she would come by at 15 o'clock, she never arrived. Eventually, I spoke to a person  
10 working in the morgue and he said that because Dorothy was not there to provide Beki's ID, I should go to the police station to make an affidavit. I did so when I saw Beki he had a bandage on his head and bruises on his shoulder, arm and leg. I took Beki and we made funeral arrangements and buried Beki our whole family was devastated. I'd like you then to turn to page 027. Which is Mr. Sithole's, notice of  
15 death and if you could have next you to compare ELAH51. ELAH 51 includes Robert Sithole as one of the one of the people who passed away at Anchor, and lists lung infection as type of death or I would assume cause of death.

The death notice on page 3027 states that the cause of death in the middle is cardio-pulmonary, I'm sorry I can't actually read the cause of death. It's the cause of  
20 death although not easily legible lists some cardio pulmonary arrest and then on the next line, unfortunately the first word is illegible but then it reads lung disease.

So that appears to be consistent with ELAH51, lung infection. I'd like to get your comments on a few things, Mrs. Frank the-

**DOROTHY FRANKS:** Yes.

**ADV. NIKKI STEIN:** -the first is would you agree with me, that a death caused by lung infection is consistent with an environment of neglect?

**DOROTHY FRANKS:** Environment meaningly?

5 **ADV. NIKKI STEIN:** Would you agree with me that if the patients had been in a well-ventilated, healthy environment, that the risk of lung disease could have been controlled?

**DOROTHY FRANKS:** I really don't know about that.

**ADV. NIKKI STEIN:** So, if I say to you that the cause of death was related to the  
10 neglect of Mr. Sithole would you agree or disagree.

**DOROTHY FRANKS:** I really disagree, because I didn't see it in that sense.

**ADV. NIKKI STEIN:** How did you see it-

**DOROTHY FRANKS:** Because there was air conditioners and he was warm  
enough.

15 **ADV. NIKKI STEIN:** and so your indication is that you disagree with that proposition?

**DOROTHY FRANKS:** Yes, because I didn't see in that sense because we were really looking after them.

Okay

20 **ARBITRATOR, JUSTICE MOSENEKE:** well whatever the course was you you had no skills and knowledge to to deal with it isn't it, counsel, we're dealing with somebody with no proficiency in the particular area.

**ADV. NIKKI STEIN:** yes justice

**ARBITRATOR, JUSTICE MOSENEKE**: no amount of proposition like that would  
would take us anywhere isn't it so you either took a work that you really knew  
frankly nothing about.

**DOROTHY FRANKS**: But as I said the nurses was there for Cullinan and for  
5 Westkoppies

**ARBITRATOR, JUSTICE MOSENEKE**: but who the nest - with the cardiovascular  
arrest you tell me

**DOROTHY FRANKS**: okay they should have pick it up and then report it

**ARBITRATOR, JUSTICE MOSENEKE**: they should have picked it up and reported  
10 it and why did you do this why'd you gamble with other people's lives take them in a  
second look after you and well over a million take their grant money and they die in  
your hands. why'd you do that without a proper license have the wrong premises  
without professional staff. without their medical records but you just went on an end  
an end an end month after month and you want us to believe you are innocent how  
15 do we get to that conclusion? is there any response from?

I don't --I really--really don't because, I as I'm saying as far as I know, they we  
actually try to keep them in an healthy condition-

**ARBITRATOR, JUSTICE MOSENEKE**: and you failed, here didn't you? At least,  
five people died in your hands in in three months. do you think that's a great record  
20 it's a great outcome?

**DOROTHY FRANKS**: no I'm—no Justice.

**ARBITRATOR, JUSTICE MOSENEKE**: I'm just thinking over lunch why did you  
simply go ahead and put female patients and male patients all in one ward?

**DOROTHY FRANKS:** Actually, they was put in there by Health

**ARBITRATOR, JUSTICE MOSENEKE:** because they were pushing you?

**DOROTHY FRANKS:** Health Department, yes.

**ARBITRATOR, JUSTICE MOSENEKE:** Come again? Health Department brought  
5 them in and we just have to separate them in

**ARBITRATOR, JUSTICE MOSENEKE:** No, but you were happy to go along and  
charge a fee and file claim forms. Why didn't you to say this is wrong?

**DOROTHY FRANKS:** We were really pressurizing on that.

**ARBITRATOR, JUSTICE MOSENEKE:** And what about your Christian values?  
10 Here human beings are vulnerable and you-- realize on your evidence that the harm  
might come to them. Why don't you do the right thing, rather just take the money  
month after month after month long after your contract continue, just drawing money  
why did you do that and not do the right thing and say I can't do this this people at  
risk the human beings? They have dignity they deserve to be looked after in the  
15 proper place. Why did that come to your mind?

**DOROTHY FRANKS:** Okay, there was things that we said to Health because if in  
enough one ward they must help us in all the way and they said like sometimes the  
air-conditioners doesn't go on something-

**ARBITRATOR, JUSTICE MOSENEKE:** I don't know what you're saying. I'm saying  
20 to you. Why didn't you put your foot down and say I won't do something that would  
lead to the death of other people?

**DOROTHY FRANKS:** As you saying, I should have done it they didn't.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, the question is why didn't you do?  
And if you did that you would have stopped earning, isn't it?

**DOROTHY FRANKS:** It's right, yes.

**ARBITRATOR, JUSTICE MOSENEKE:** That is right. What was your answer?

5 **DOROTHY FRANKS:** **DOROTHY FRANKS:** Yes, Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** yes

**DOROTHY FRANKS:** I should have done that.

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, and did you draw money of grunts on  
patients who have died? Isn't it? You continued drawing money of patients, who  
10 have died. What is your answer?

**DOROTHY FRANKS:** Yes, Justice.

**ARBITRATOR, JUSTICE MOSENEKE:** I can hear no answer.

**DOROTHY FRANKS:** Yes, Justice.

**DOROTHY FRANKS:** Yes.

15 **ARBITRATOR, JUSTICE MOSENEKE:** You're going to answer the question?

**DOROTHY FRANKS:** Yes, but I couldn't help, I were working on that.

**ADV. NIKKI STEIN:** Thank You, Justice. Before we move on Mrs. Frank's you said  
to the justice we were really pressurized. Who pressurized you?

**DOROTHY FRANKS:** Health department, came and they said you must do this  
20 you must do that you must-

**ADV. NIKKI STEIN:** Who in the Health Department?

**DOROTHY FRANKS:** Okay, every time when they come and do an inspection it's  
Dr. Manemella and the MEC, was also there once.

**ADV. NIKKI STEIN:** so you were pressurized by the MSE and dr. Minami?

**DOROTHY FRANKS:** Like that you must just do as they say.

**ADV. NIKKI STEIN:** and your testimony is that you didn't resist that pressure because you were scared that you would stop earning?

5 **DOROTHY FRANKS:** My testimony is that I had workers there to be paid.

**ADV. NIKKI STEIN:** You had workers that had to be paid?

**DOROTHY FRANKS:** That's right the workers was was not paid for three months.

**ADV. NIKKI STEIN:** And you're saying that you weren't worried that you would stop receiving money for your own benefit from the Department of Health? Once you put  
10 it differently my proposition, is that your concern was that you would stop receiving money and benefiting from the Department of Health?

**DOROTHY FRANKS:** Let me just get it clear

**ADV. NIKKI STEIN:** You didn't resist that pressure from, Dr Manamela and MEC, Mahlangu, because if you had done so if you had said no, you would have stopped  
15 receiving money for your own benefit?

**DOROTHY FRANKS:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** She has said yes, already.

**ADV. NIKKI STEIN:** I'd like to take it into file 10. I think if somebody could assist you to get that file.

20 **DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** and to turn to page 3382.

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** This is the affidavit we referred to it earlier of Tamsanka Phillip Mthembu, who was the brother of Emmy Mthembu. And Emily like other patients, her family did not know where she had been transferred to but eventually her family found her at Anchor and I'd like to read to you from paragraph 16 of that  
5 affidavit which is a page 3385. Thandi and I went to see CCRC, at the end of April-

**DOROTHY FRANKS:** Sorry. 3385?

**ADV. NIKKI STEIN:** 3385.

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** Thandi and I went to CCRC at the end of April we discovered  
10 that Emily was at the time in the hospital section of the facility as she was not feeling well, but that she had been placed at Anchor NGO within the CCRC.

Emily was clean and smelled good but was screaming and would not allow us to touch her. We didn't know what was wrong, but I found the screaming very disturbing and couldn't manage more than a 10-minute visit. Thandi stayed with  
15 Emily for longer. Emily's face looked fine, but her body was very thin. When we visited Emily again we brought her a six-pack of Danone yogurts.

She ate all of them, one after the other. She was clearly very hungry. We didn't have any more food to give her. She drank a lot of water that we gave to her. Before we move on the proposition based on their client's evidence, is that there was in  
20 fact insufficient food and water at Cullinan, excuse me Anchor. Can I have your response to that?

**DOROTHY FRANKS:** What was the date on that?

**ADV. NIKKI STEIN:** This was the end of April 2016.

**DOROTHY FRANKS:** End of April?

**ADV. NIKKI STEIN:** That's correct.

**DOROTHY FRANKS:** April? I didn't--the end of April.

**ADV. NIKKI STEIN:** If I can just take instructions. I'm sorry. I made a mistake  
5 there. It appears that that Emily was discharged to CCRC and then moved to  
anchor and that was around June 2016.

**DOROTHY FRANKS:** June 2016? I didn't have patients, yet.

**ADV. NIKKI STEIN:** You had no patients? Do you remember Emily Mthembu?

**DOROTHY FRANKS:** I just want to check on my list.

10 **DOROTHY FRANKS:** Sorry. What's the surname?

**ADV. NIKKI STEIN:** Mthembu.

**DOROTHY FRANKS:** I can't find it on my list.

**ADV. NIKKI STEIN:** Yeah.

**DOROTHY FRANKS:** Mthembu.

15 **ADV. NIKKI STEIN:** Her family has testified that they were told she was placed at  
Anchor do you dispute that?

**DOROTHY FRANKS:** I disputed that. I don't see the surname on my list. Can you  
spell the surname for me?

**ADV. NIKKI STEIN:** M, T, H-

20 **DOROTHY FRANKS:** M, T, H?

**ADV. NIKKI STEIN:** E, M, B, U.

**DOROTHY FRANKS:** Was she discharged from CRC—CCRC

[crosstalk/inaudible]

**DOROTHY FRANKS:** Cause this the list that I have. I don't see her name on my list here.

**ARBITRATOR, JUSTICE MOSENEKE:** Well, let's put the proposition to the witness, you want to make. The witness just might be able, unable to give a  
5 definitive answer.

**ADV. NIKKI STEIN:** Thank You justice. The first proposition is that there was insufficient food and water at Anchor.

**DOROTHY FRANKS:** Was that the date on the 16th of June.

No, I'm sorry. My proposition to you, moving on from the list is that there was  
10 insufficient food and water at Anchor House, if you could respond to that?

**DOROTHY FRANKS:** Not as far as I know.

**ADV. NIKKI STEIN:** Not as far as you know? Okay. We heard earlier in the arbitration also Mrs. Frank's from Ntombi Phuthi Dladla and her loved one was Joseph Gumede, who is listed on ELAH 51. Having passed away on the 24th of  
15 July 2016.

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** Emily T--excuse me and Ntombi Phuti, testified earlier in this arbitration that she last saw her brother in December 2015. That she was visiting him once a month while she was at Life Esidimeni and that she eventually only  
20 found out on the 10th of February 2017, that he had passed away on the 24th of July 2016. Can I have your comment on that please?

**DOROTHY FRANKS:** Yes, Counsellor. As far I know that in the file, we couldn't find any family members and I gave the file also to Daphney, just to check for me on

social media and she said she'd follow up on that and I've got mails, that I send to Daphney just to check for me.

**ADV. NIKKI STEIN:** ELAH 51 reflects that the family was not traceable, but our client has testified, Mrs. Dladla, has testified that her contact details were on Mr.

5 Gumedede's patient file and that she visited regularly while he was at Life Esidimeni and so those contact details were up-to-date.

**DOROTHY FRANKS:** Well as far as I know, we couldn't trace the family.

**ADV. NIKKI STEIN:** What steps did you take to trace the family?

**DOROTHY FRANKS:** Okay. As I'm saying when we check on the file and we gave  
10 the file over to Daphne. If she maybe add some information on Joseph's further information Joseph Gumedede, then she must trace it for me on social media.

**ADV. NIKKI STEIN:** Mrs. Franks are you referring when you talk about Daphne – are you referring to Daphne Ndlovu?

**DOROTHY FRANKS:** Yes, Counsellor.

15 **ADV. NIKKI STEIN:** According to her testimony she was not employed at Anchor House, she was employed by Cullinan.

**DOROTHY FRANKS:** Yes, but according to the CEO, all the files which we had problems on tracing, we must give to the CEO then she will give it over to Daphne to clarify that for us

20 **ADV. NIKKI STEIN:** -and so you placed reliance on the social worker of another institution to trace the families?

**DOROTHY FRANKS:** Yes, I did.

**ADV. NIKKI STEIN:** I'd like to refer you now to Mrs. Jabulile[?] Hlatswayo who hasn't yet testified. She will testify later in this arbitration and she's going to testify about the death of her stepson, Sizwe Hlatswayo, who was moved to Odiwile then to Anchor House then to CCRC. Like many of our other clients Mrs. Hlatswayo will  
5 testify that she only found out where Siphos was after—where Sizwe, was after he had passed away. Sizwe's was recorded in ELAH 51. Do you see him there?

**DOROTHY FRANKS:** Wait 51.

**ADV. NIKKI STEIN:** Yes.

**DOROTHY FRANKS:** Yes, Counsellor.

10 **ADV. NIKKI STEIN:** Do you see that the date of Sizwe's death, is 10 September 2016?

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** Do you see that there are contact details for Jabulile, her name is there. Mrs. Hlatswayo and a contact number. Do you see that on that same page  
15 one column to the left of the date of death?

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** So, despite having the contact details Mrs. Hlatswayo, testimony will be that you only advised her of Sizwe's death on the 3rd of October 2016.

20 **DOROTHY FRANKS:** Yes, Counsellor. I'm sorry but this we filled in after we--we got Daphney got a hold of her.

**ADV. NIKKI STEIN:** You filled this in after Daphney, got hold of Mrs. Hlatswayo?

**ADV. NIKKI STEIN:** That's right, yes.

**ADV. NIKKI STEIN:** Okay. Mrs. Hlatwayo, will come and testify about the way that she found where Sizwe was and the way that she found out that he had passed away. I'd like to just--sorry if you could give me a moment? So, an affidavit from Mrs. Hlatwayo, appears in file nine. If somebody could assist you to get file nine.

5 You've got it, okay? At page 3201.

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** This is the affidavit of Mrs. Hlatwayo and I'd like you to turn over to page 3205.

**DOROTHY FRANKS:** Yes, Counsellor.

10 **ADV. NIKKI STEIN:** I'm not going to read out this whole paragraph to you, but on 3206, it appears that despite Mrs. Ndlovu having said that there were no medical files and no contact details for the Hlatwayo family, Mrs. Hlatwayo, saw that they were in fact two files for him on her desk. One of which had come from Life Esidimeni and had Sizwe's discharge information on it.

15 **DOROTHY FRANKS:** On whose desk, wasn't it?

**ADV. NIKKI STEIN:** It was on Mrs. Ndlovu's desk.

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** At Cullinan.

**DOROTHY FRANKS:** Yes, Counsellor.

20 **ADV. NIKKI STEIN:** I put it to you then that you don't have the family contact details.

**DOROTHY FRANKS:** No, the files, as she saw it on Daphne's desk, that files wasn't given to us.

**ADV. NIKKI STEIN:** And so, you were at anchor house-

**DOROTHY FRANKS:** Yes.

**ADV. NIKKI STEIN:** -and your patient files were at another institution.

**DOROTHY FRANKS:** I really don't know what because we will keep on asking for  
5 the files and for the I. D's and they didn't supply us with it.

**ADV. NIKKI STEIN:** You kept asking for the files and for the I. D's they kept them at  
Cullinan and that was the reason you couldn't identify  
some of your patients?

10 **DOROTHY FRANKS:** That's right, is because they didn't give us any files.

**ADV. NIKKI STEIN:** It was the reason you couldn't provide some of your patients  
with the medication that they needed?

**DOROTHY FRANKS:** Okay the medication they gave us as prescription.

**ADV. NIKKI STEIN:** But it was also the reason that you couldn't contact family  
15 members after the death of some of the patients. I'd like you to turn now to page  
3213, which lists Sizwe's cause of death in the middle of the page it states that his  
immediate cause of death is pneumonia. do you see that?

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** My proposition to you, Mrs. Franks is that the neglect at  
20 Anchor House contributed she sees we're contracting pneumonia which was his  
cause of death.

**DOROTHY FRANKS:** Okay, as far as I know we took him to the

hospital and the hospital gave us a prescription--document that says he's got thret[?] infection.

**ADV. NIKKI STEIN:** A infection?

**DOROTHY FRANKS:** Yes.

5 **ADV. NIKKI STEIN:** But his cause of death is listed as pneumonia?

**DOROTHY FRANKS:** I don't know because that's what we got from the hospital.

**ARBITRATOR, JUSTICE MOSENEKE:** Was he seen by any doctor before going to Mamelodi?

**DOROTHY FRANKS:** Dr. Labelo. just checked them all but not that day-

10 **ARBITRATOR, JUSTICE MOSENEKE:** But he was ill, was he seen by a doctor?

**DOROTHY FRANKS:** No, not at a center.

**ARBITRATOR, JUSTICE MOSENEKE:** There was none, isn't it? No doctor to see him.

**DOROTHY FRANKS:** No. and so we took him

15 **ARBITRATOR, JUSTICE MOSENEKE:** Anyway, let's go ahead, Counsel.

**ADV. NIKKI STEIN:** And so, nobody, none of the care works picked up that he could have had pneumonia and needed to be referred to a doctor?

**DOROTHY FRANKS:** No, because he was just complaining of a stomach ache so that's why we took him to the hospital and check so the hospital tell us that he's got

20 trait

Infections.

**ADV. NIKKI STEIN:** and he didn't improve on his antibiotics, first that we receive antibiotics for his throat infection?

**DOROTHY FRANKS:** **DOROTHY FRANKS:** From the hospital, yes.

**ADV. NIKKI STEIN:** and did he improve after that?

**DOROTHY FRANKS:** Just a little bit then he goes down again and because of the ID, that night. the doctor doesn't want to keep him there, the hospital.

5 **ADV. NIKKI STEIN:** What do you mean because of the ID?

**DOROTHY FRANKS:** They said because he doesn't get a ID, He's just gonna check him and just give him medication and come home.

**ADV. NIKKI STEIN:** Did you apply for identity documents for those patients that didn't have IDs?

10 **DOROTHY FRANKS:** No, because Health Department and all the others were linked with one another with Life and CRC said, they will see that we will have their IDs-

**ADV. NIKKI STEIN:** How many-

**DOROTHY FRANKS:** At later stages.

15 **ADV. NIKKI STEIN:** How many patients didn't have identity documents?

**DOROTHY FRANKS:** Almost 30.

**ADV. NIKKI STEIN:** And so, am I correct in saying that for all of those patients there would have been a restriction in hospital care?

**DOROTHY FRANKS:** Well we had problems, if we take them to the hospital I must  
20 actually like kneel down and say please can you just take this patient for me.

**ADV. NIKKI STEIN:** So, for almost 30 patients the hospital was refusing to take them because they didn't have ID?

**DOROTHY FRANKS:** Okay I didn't do all them, all of them, yes.

means in the event that all 30 of them were ill?

**DOROTHY FRANKS:** I don't know whether they will refuse it because we took it up Health Department and say we will be picking our problems at the hospital that they don't want to take the patients if there's no I.D and identification

5 **ADV. NIKKI STEIN:** -And so in light of these problems your solution was to wait for those ID books to be issued those ID cards to be issued?

**DOROTHY FRANKS:** Yes, they said they will send it over to us to receive it.

**ADV. NIKKI STEIN:** So, if you took no proactive steps to make sure that they could be issued as soon as possible no I didn't apply for IDs. I'm going to refer you now to  
10 the evidence of Christian Nqgodwane, who testified earlier in the arbitration. He was the father of Vuyo Nqgodwane.

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** The family testified that they excuse me Mr. Nqgodwane, I testified that the family was advised that Vuyo, was moved to Cullinan but you'll see  
15 ELAH 9, in front of you-

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** -And the report entitled Cullinan Care and Rehabilitation Center report around transferring of patients from Life Esidimeni, dated 19 April 2017. This document records that Vuyo was actually at Anchor House can you  
20 confirm that he was at Anchor House?

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** You can? Mr. Christian Nqgodwane, testified that he saw Vuyo Anchor and that when he saw him he had lost a lot of weight. His complexion

was very dark and that Mr. Nqgodwane was concerned that he wasn't being properly looked after. He then testified that when Vuyo passed away he went to the mortuary notice that the thermometer was not working and that Vuyo was bleeding from the mouth there was a ball of cotton wool in his mouth. Now that's consistent  
5 with your evidence

that there was a stage at which the mortuary as you said was not working is that correct?

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** -and Vuyo Nqgodwane, body was stored in a mortuary that  
10 wasn't fully operational?

**DOROTHY FRANKS:** Okay because I can mention there on that time I wasn't there. I have left already when Vuyo died.

**ADV. NIKKI STEIN:** but as the CEO of anchor do you take responsibility for that issue?

15 **DOROTHY FRANKS:** No, because I wasn't there, they said I must leave.

**ARBITRATOR, JUSTICE MOSENEKE:** And you were quite happy to receive the money every month and to say your employees are still there?

**DOROTHY FRANKS:** Yes, because the CEO Mathilda Malasa said I mustn't come near any place-

20 **ARBITRATOR, JUSTICE MOSENEKE:** You're only good to receive the money not to take responsibility for anything

**DOROTHY FRANKS:** She said she will now check all the patients and she have enough nursing staff-

**ARBITRATOR, JUSTICE MOSENEKE:** -and you just receive the money?

**DOROTHY FRANKS:** Because I had to pay my care workers just the care workers cause the nursing staff was from Cullinan-

**ADV. NIKKI STEIN:** but the Care workers- Sorry, Justice.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Your proposition, Counsel, go on.

**ADV. NIKKI STEIN:** The care workers were still reporting to you?

**DOROTHY FRANKS:** That's correct, yes but she actually it was they were there and she will make sure that they report to the operational manager.

**ADV. NIKKI STEIN:** But they were still reporting to you as well?

10 **DOROTHY FRANKS:** I just had to pay them you.

**ADV. NIKKI STEIN:** You just had to pay them and, so you were their Employer?

**DOROTHY FRANKS:** That's what she said so I said she will make sure that they reported her to the matron's office

15 **ADV. NIKKI STEIN:** So, you employed the care workers you received the money but you don't take responsibility for storing the bodies, of our clients loved ones in a mortuary that wasn't working?

**DOROTHY FRANKS:** As I said, that I didn't put them there because she was responsible for that.

20 **ARBITRATOR, JUSTICE MOSENEKE:** But even when you were there the mortuary was not working?

**DOROTHY FRANKS:** Yeah, that's why I took one of my patients not there.

**ARBITRATOR, JUSTICE MOSENEKE:** Ja. So, are we wasting time on this. The mortuary was not working when you were then you know about it

**DOROTHY FRANKS:** but I didn't know they took Vuyo the mortuary, because they didn't inform me.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Counsel.

**ADV. NIKKI STEIN:** I'd like to refer you to ELAH 41.

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** This is a post-mortem report in respect of Vuyo Nqgodwane and on page 2 of that report we see the chief post mortem findings which I'm going  
10 to read to you the body is that of an adult black male with flexion deformities of both knees and ankle joints and associated thickening and hyperpigmentation of the skin of the dorsal aspects of these joints in keeping with restricted ante-mortem mobility muscle wasting is also present involving the thighs and lower legs the distribution of which alludes to disuse atrophy of these muscles examination of the stomach  
15 content reveals a large piece of orange plastic sheeting resembling what could possibly be part of a plastic bag microscopic examination of line sections reveals foreign material with the hope I'm pronouncing this properly parenchyma with associated inflammation. The cause of death was determined to be aspiration pneumonia do you have a comment on that?

20 **DOROTHY FRANKS:** I really don't have-

**ADV. NIKKI STEIN:** -my proposition. Sorry continue-

**DOROTHY FRANKS:** -because, as I has been saying, I was already out there.

**ADV. NIKKI STEIN:** We also heard earlier in this arbitration from Christine [?] whose sister Virginia Makgaphela, passed away at Precious Angels but was briefly at Anchor House. Miss. Nxumalo, testified that she received an SMS on the 30th of June 2016, to say that her sister had been transferred to Cullinan on that day. I'd like you to turn to ELAH 50-

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** On the third page of that annexure, sorry of that document, towards the bottom of the page, five lines from the bottom, we see an entry for it says Virginica, but I assume that's a typo, and that it should read Virginia Makgaphela.

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** It shows that she was admitted to Anchor-

**DOROTHY FRANKS:** Is it Virginia?

**ADV. NIKKI STEIN:** Virginia.

15 **DOROTHY FRANKS:** Yes

**ADV. NIKKI STEIN:** It shows that she was admitted to Anchor on the 29th of June 2016 and transferred straight to Precious Angels on the 29<sup>th</sup> of June 2016.

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** The information given to Mrs. Nxumalo, though was that she was transferred to Cullinan and not to Anchor and that she was transferred there on the 30th of June and there was no information regarding a further transfer to Precious Angels.

**DOROTHY FRANKS:** Okay, what I of know the life patients came in with a bus, EMS and as I said I didn't have any space for all the patients so when Dr. Manamela and Frans and Hanna and Rochelle Gordon, came in there I said I can't accommodate all these patients. She said "not to worry. Ethel is coming and Frans and Dr. Manamela and they will take these patients that's not that will overcrowd me directly were the same bus to Ethel place, that's why they will transferred, immediately I didn't even know some of the patients.

**ADV. NIKKI STEIN:** -and nobody took responsibility for informing the families as to the correct locations of their loved ones.

10 No, actually Hannah or Rochelle, should have done it because they said they they will take responsibility for that.

**ADV. NIKKI STEIN:** But nobody in fact notice but why did-

**DOROTHY FRANKS:** Yes.

**ARBITRATOR, JUSTICE MOSENEKE:** Why did you record her as having been admitted Anchor?

**DOROTHY FRANKS:** I'm marked it off-

**ARBITRATOR, JUSTICE MOSENEKE:** Why—why—why is Ms. Makgaphela on your list?

**DOROTHY FRANKS:** Okay, according to to the patients that came in that's why I marked it off that the 29<sup>th</sup>. These patients came in and then I marked off when today exactly go to me-

**ARBITRATOR, JUSTICE MOSENEKE:** But she come in and became part of your patient list, I don't want waste too much time on this. Why is she on your list? Was she admitted to you? And then transferred to Precious Angels?

**DOROTHY FRANKS:** I made this list because it's an in-and-out.

5 **ARBITRATOR, JUSTICE MOSENEKE:** Did you come onto your premises and leave again?

**DOROTHY FRANKS:** Yes, immediately. Yes, justice.

**ADV. NIKKI STEIN:** Thank You, Justice. Mrs. Frank's, the the last person I want to talk to you about is Charity Watsoso. I know that we've spoken about Charity quite a  
10 bit today. We're going to hear later in this arbitration from charity sister, Noon, who will testify that the family thought the Charity was at Cullinan that they went to visit him at Cullinan on a few occasions and that when they went to visit him the staff at Cullinan said "Oh, we're not sure where Charity is." There was some telephonic exchange during which they  
15 continued to say they're not sure where charity is. What had in fact happened was that he had moved to Anchor.

He passed away there on the 11th of July 2016 and his family was informed in December 2016. What is your response to that?

**DOROTHY FRANKS:** Yes, Counsellor. As I was saying according to us charity--we  
20 didn't--he wasn't identified by us, because we didn't even know we have a Charity there. That's why it was told with Cullinan and we asked in numerous time that they must give us the file so that we can identify and when charity got sick that night, I didn't know it was Charity, according to us there was unknown patients that we

couldn't identify and we took him to the hospital and when we took him to the hospital the referral letters that was given to Cullinan and gave the referral letter to the EMS and took him to the hospital and he was then later, I don't know I heard from Daphne that they called, Cullinan, to say the unknown patient passed away but

5 I didn't know that was Charity.

**ADV. NIKKI STEIN:** Okay. so, at the time of his death you still didn't know charities yes that is that the reason Mrs. Frank's the Charity doesn't appear on the list of deceased ELAH 51?

**DOROTHY FRANKS:** Yes, Counsellor.

10 **ADV. NIKKI STEIN:** Wisconsin he does however appear on the Ombuds list of deceased on ELAH4.

**DOROTHY FRANKS:** Yes, because Daphne, went and she identify him in the mortuary Mamelodi. And she said that is Charity.

**ADV. NIKKI STEIN:** When was ELAH 51 that was from December 2016 is that  
15 correct?

**DOROTHY FRANKS:** ELA?

**ADV. NIKKI STEIN:** ELAH 51

**DOROTHY FRANKS:** Yes, that's why I didn't put it on the list because I heard it is an unknown patient.

20 **ADV. NIKKI STEIN:** Okay. One of the issues were struggling with in this arbitration Mrs. Franks is two to finalize a list of deceased and where

all of those deceased were and so we're just trying to work out what information was available when did you advise the Ombuds, that Charity had passed away at Anchor?

**DOROTHY FRANKS:** I—Daphne advised them because I didn't advise him  
5 because I didn't know what was the name of the patient, yet.

**ADV. NIKKI STEIN:** Okay, and that's, that's the reason that he is on the Ombudsman-

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** and not on the list that you prepared?

10 **ADV. NIKKI STEIN:** Charity-

**ARBITRATOR, JUSTICE MOSENEKE:** But where did she die? where did charity die?

**DOROTHY FRANKS:** In the hospital.

**ARBITRATOR, JUSTICE MOSENEKE:** From your facility?

15 **DOROTHY FRANKS:** That's right, yes.

**ARBITRATOR, JUSTICE MOSENEKE:** How did you know her name?

**DOROTHY FRANKS:** Counsellor, as I was saying, he we as they were putting all the pushing all the patients in I keep on saying, they must come and identify nobody had identification on them and we were just trying to sort it out according to the  
20 prescription list, as we go through to the prescriptions list, we ask "Who's this? and  
"Who's this? and we couldn't find our Charity's identity-

**ARBITRATOR, JUSTICE MOSENEKE:** Somebody comes into your facility yours supposed to look after them you don't even know their name until they die. How did that happen?

**DOROTHY FRANKS:** Because Cullinan. We asked them to come and identify, but  
5 when he got sick, we just said to take him to the hospital as  
an unknown patient.

**ADV. NIKKI STEIN:** Mrs. Frank's charity wasn't the only unidentified person at Cullinan excuse me at Anchor, was he?

**DOROTHY FRANKS:** As far as I know only, Charity.

10 **ADV. NIKKI STEIN:** As far as you know only Charity and so there could be no reconciliation to work out that the unidentified patient you had was in fact Charity Watsoso.

**DOROTHY FRANKS:** Sorry I'm not clear.

**ADV. NIKKI STEIN:** You didn't have sufficient records to work out it is one  
15 unidentified patient and one patient whose whereabouts are unknown that that could be Charity?

**DOROTHY FRANKS:** No, we couldn't the post mortem reports there were two post-mortem reports that were prepared after Charity's death one was a state post mortem report and then the family sought the services of a private pathologist as  
20 well-

**ARBITRATOR, JUSTICE MOSENEKE:** Just remind me of the last name?

**ADV. NIKKI STEIN:** Watsoso.

**ARBITRATOR, JUSTICE MOSENEKE:** Thank you,

**ADV. NIKKI STEIN:** Mrs. Frank's again, we have a death caused at Anchor by pneumonia and in that regard, I'd like you to turn, if I can just find it, we're in file 11.

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** I'd like you to turn to page 3881.

5 **DOROTHY FRANKS:** 38

**ADV. NIKKI STEIN:** 3881.

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** This is the report—report on a medical legal post-mortem examination. So, this is the post-mortem report that the Watsoso family obtained  
10 from the state. If you can see at the bottom it says um just about the signature, in keeping with food aspiration complicated by necrotizing pneumonia. That's recorded as the cause of death do you see that?

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. NIKKI STEIN:** I'd now like you to turn to page 3899,

15 **ARBITRATOR, JUSTICE MOSENEKE:** What is the question about that?

**ADV. NIKKI STEIN:** I'm getting there, Judge. If I can if I can just ask one more question and then I'll put the proposition to the witness, if that's, okay?

**ARBITRATOR, JUSTICE MOSENEKE:** Yes, Counsellor.

**DOROTHY FRANKS:** Yes, Counsellor.

20 **ADV. NIKKI STEIN:** Page 3899, is the post mortem report that the family procured privately, and we see on page 3901 that the cause of death is consistent with pneumonia, do you see that? 3901, is the cause of death.

**DOROTHY FRANKS:** 3901?

Of course, you can put it to the witness that in the two reports, this is what it is.

**DOROTHY FRANKS:** Yes, Counsellor.

Then you can see whether she can dispute it. I don't think she can and you can.

And then put the question.

5 **ADV. NIKKI STEIN:** Thank You. Justice. The two-post mortem reports therefore confirm that the cause of death was pneumonia do you agree?

**DOROTHY FRANKS:** That's right it shows here.

**ADV. NIKKI STEIN:** I then have to ask you Mrs. Franks if there were five deaths at Anchor and three of them were caused by pneumonia can you please provide us an

10 explanation for that?

**DOROTHY FRANKS:** I really don't have an explanation cause I didn't know they were dying of pneumonia

**ADV. NIKKI STEIN:** You didn't know that they were dying of pneumonia.

**DOROTHY FRANKS:** No, no, no. Until we had the post mortem.

15 **ARBITRATOR, JUSTICE MOSENEKE:** Well you can put frankly to the witness your conclusion and she can respond to that. She's not an expert witness you can't talk about cause of death effectively, but your conclusion is that this is a sign of neglect of care to the patients.

**ADV. NIKKI STEIN:** Thank You, Justice, it is.

20 I ask you to put it to the witness and she must tell you whether she denies that if she does why does she deny it.

**ADV. NIKKI STEIN:** Mrs. Franks my proposition is that the prevalence of pneumonia among these patients shows is evidence of neglect at Anchor House can you respond to that?

I'm thinking you know what—what--what could have happened because there was  
5 two wards. I know the one ward, didn't had aircon and the other one did. So, maybe that's where  
because we keep on asking FMU to to fix her, but they were actually kept warm and everything.

**ADV. NIKKI STEIN:** Those are my questions, Justice, thank you.

10 **ARBITRATOR, JUSTICE MOSENEKE:** Adv. Crouse.

**ADV. LILLA CROUSE:** Thank You, Justice Moseneke. Miss Frank's, hi, my name's Lilla Crouse. I appear with Nzama Skibi, for the survivors of the marathon project. Let us start off by asking you to look please at ELAH 51, it's a document that--that you've brought to the fore. The second

15 page of that document, the healthcare user number 40 on that document do you see it, Sizwe Nkosi?

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. LILLA CROUSE:** Can you remember him?

**DOROTHY FRANKS:** Yes, Counsellor.

20 **ADV. LILLA CROUSE:** His sister visited him, quite often. Is that so?

**DOROTHY FRANKS:** Yes, Counsellor.

**ADV. LILLA CROUSE:** I must put it to you that he sisters full of praise for what you've done for him she said that you cared with limited resources very well for him do you have any comment to that.

**DOROTHY FRANKS:** I can just say thank you.

5 **ADV. LILLA CROUSE:** She also said that you use your own transport to to go to clinics and hospitals in your own car 40 kilometres away, is--would that be a true reflection?

**DOROTHY FRANKS:** Yes, Counsellor. Only to the clinics.

**ARBITRATOR, JUSTICE MOSENEKE:** The patient is who Bafana Nkosi?

10 **ADV. LILLA CROUSE:** Sizwe Nkosi. Number 40.

**ARBITRATOR, JUSTICE MOSENEKE:** Number 40. Thank you.

**ADV. LILLA CROUSE:** -and she also indicated that you used your own money to supply food for the patient's is that so?

**DOROTHY FRANKS:** Yes, Counsellor.

15 **ADV. LILLA CROUSE:** Just from her side she want to thank you for that.

**DOROTHY FRANKS:** Thank you, Counsel.

**ADV. LILLA CROUSE:** Can I just--I've listened to your evidence and it's been a very long day and I don't want to tie you further. I think we can understand despite this praise coming to you, that you were overwhelmed you didn't you weren't  
20 competent to undertake this task. Would you agree with me? Looking back now you wouldn't have done it again if you had that option?

**DOROTHY FRANKS:** I won't do it again, yes.

**ADV LILLA CROUSE:** Yes and the reason for that was that you were iniquity to handle this large numbers of patients, wouldn't you agree?

**DOROTHY FRANKS:** Yes, counselor.

**ADV LILLA CROUSE:** I just want to understand the timeline of what happened, and  
5 we have been through this a few times. So I don't want to delay the point, as I understand your evidence and correct me if I'm not correct your contract was effectively ended on the 31<sup>st</sup> of October 2016, is that right the Anchors contract? Just yes or no at this stage I'll give you time to explain.

**DOROTHY FRANKS:** Yes.

10 **ADV LILLA CROUSE:** And you left the premises on the 7<sup>th</sup> of November 2016?

**DOROTHY FRANKS:** Yes.

**ADV LILLA CROUSE:** But all of your patients remained behind?

**DOROTHY FRANKS:** Yes, councillor.

**ADV LILLA CROUSE:** And all of your staff remained behind?

15 **DOROTHY FRANKS:** Yes, councillor.

**ADV LILLA CROUSE:** But you were removed from the premises?

**DOROTHY FRANKS:** Yes.

**ADV LILLA CROUSE:** Can I just understand what happened to Seat Bedinga, you said that you met the owner of Seat Bedinga?

20 **DOROTHY FRANKS:** Yes, councillor.

**ADV LILLA CROUSE:** According to her evidence she left and it seems to me patients remained on this 12<sup>th</sup> of July 2016? Is that what happened?

**DOROTHY FRANKS:** Yes, councillor.

**ADV LILLA CROUSE:** So after the 12<sup>th</sup> of July Seat Bedinga was no more there?

5 **DOROTHY FRANKS:** Yes.

**ADV LILLA CROUSE:** Who cared for those patients?

**DOROTHY FRANKS:** CCRC was supposed to do that.

**ADV LILLA CROUSE:** And your patients that remained behind, who cared for them?

10 **DOROTHY FRANKS:** The care workers form CCRC professionals did care for them.

**ADV LILLA CROUSE:** Because what I want to put to you is that this mental health care use Sesiswe Nkosi, his sister said that he was starved after you left. Would you agree with that or cant you?

15 **DOROTHY FRANKS:** I don't know about that.

**ADV LILLA CROUSE:** Did you ever enter into a service level agreement with the department?

**DOROTHY FRANKS:** Yes, counselor.

**ADV LILLA CROUSE:** Do you know when?

20 **DOROTHY FRANKS:** I can't remember the exact date now.

**ADV LILLA CROUSE:** It seems to me if I listen to what you have testified that you have had some personal losses?

**DOROTHY FRANKS:** Yes, counsel.

**ADV LILLA CROUSE:** Can you tell us about that?

5 **DOROTHY FRANKS:** The personal losses that I had, is when I went to Calaforn and I renovated the place there.

**ADV LILLA CROUSE:** So you expanded on renovation in a place that you could not use?

**DOROTHY FRANKS:** Yes.

10 **ADV LILLA CROUSE:** How much was that more or less?

**DOROTHY FRANKS:** More or less 20 to 25.

**ADV LILLA CROUSE:** Yes, what else?

**DOROTHY FRANKS:** And then I went to Cullinan and they asked me to also, because there was sealing was not right and all that and I fixed all. I did some  
15 renovations also there. That was not a lot it was almost 5 to 6 thousand.

**ADV LILLA CROUSE:** And the money that you were paid later, could you refund yourself for that?

**DOROTHY FRANKS:** No council.

**ADV LILLA CROUSE:** I just want to refer and this has also been dealt with before, I just want to make sure that I understand this. We have the losses that was given to you that is dated 1 April, you had it before you many times today?

**DOROTHY FRANKS:** Yes.

5 **ADV LILLA CROUSE:** And you said that Rochel Gordon brought it to you at the time?

**DOROTHY FRANKS:** Yes, councillor.

**ADV LILLA CROUSE:** Can you remember when was this, because if wouldn't have been on the first of April because you weren't registered. So I'm just trying to  
10 get the timeline if you can help us, was it still in April or was it in May, or was it in June when you had your patients?

**DOROTHY FRANKS:** Sorry, they dated it on April but brought it I think it was at the beginning of June when I was busy under 16 of June.

**ADV LILLA CROUSE:** I'm sorry you are not speaking into the microphone, can you  
15 just repeat?

**DOROTHY FRANKS:** I said they were in a meeting where they said they will bring our licenses to us, so the licenses is already finalized. So that is why she brought it to me around about 16 or 17 June.

**ADV LILLA CROUSE:** 2016?

20 **DOROTHY FRANKS:** Yes.

**ADV LILLA CROUSE:** So although the license are dated the first of April, you only received that ... you must wait until I finish otherwise you don't know what you are saying yes to. It is only in the middle of June 2016 that you have received it?

**DOROTHY FRANKS:** Yes, counselor.

5 **ADV LILLA CROUSE:** And you knew the license wasn't right, can I think or can I suggest to you that you thought you can continue because of the department is okay with you continuing?

**DOROTHY FRANKS:** Yes, counselor but they said they will finalize it to the new addresses.

10 **ADV LILLA CROUSE:** But you know now, you realized that it was wrong?

**DOROTHY FRANKS:** Yes, councillor.

**ADV LILLA CROUSE:** Can I just also, and I'm going back in time I'm sorry I don't want to confuse you. But you remember the first meeting that you had, you were invited to the meeting on I think the 9<sup>th</sup> of November and then you attended the  
15 meeting on 13<sup>th</sup> of November 2015, do you remember that meeting?

**DOROTHY FRANKS:** Yes, counsellor.

**ADV LILLA CROUSE:** What reason was given in that meeting to move the Life Esidimeni patients?

**DOROTHY FRANKS:** Ok. I, they didn't elaborate on the reason. They just said that  
20 they have got a project that Life Esidimeni patients will be moved to different NGO's.

**ADV LILLA CROUSE:** But I just want to understand what went on in your head, what happened in that meeting to convince you to without the necessary expertise to go and register and NPO, what happened there that made you want to be part of this?

5 **DOROTHY FRANKS:** Ok. What happened there just that I wanted to help in this sense.

**ADV LILLA CROUSE:** Did they offer any rewards at all?

**DOROTHY FRANKS:** No.

10 **ADV LILLA CROUSE:** Was there pressure put on you to make you offer your services or what will make a person without the necessary competent do this, I just want to understand that?

**DOROTHY FRANKS:** Ok. As I was saying I did work with these patients that is why I thought it would be good, just to render my services for them.

**ADV LILLA CROUSE:** So you didn't experience any pressure at that meeting?

15 **DOROTHY FRANKS:** No.

**ARBITRATOR JUSTICE MOSENEKE:** But why did you want to do it simply from your employer at the time, have this happened before, once again I want to know why?

**DOROTHY FRANKS:** Justice, there wasn't any space on the previous one.

20 **ARBITRATOR JUSTICE MOSENEKE:** Why did you look for space under your employers name, but not your own?

**DOROTHY FRANKS:** Because this was a church project and they had the house of the church which they used there for their project.

**ARBITRATOR JUSTICE MOSENEKE:** Why do you expand the churches project and keep it under the church rather than keeping it under yourself?

5 **DOROTHY FRANKS:** I didn't think of that sorry Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Was it because it was obviously going to be lucrative, you were going to get money?

**DOROTHY FRANKS:** No, Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** Per patient. To ask for a license for 150 people...

**DOROTHY FRANKS:** Health department had a list of patients...

**ARBITRATOR JUSTICE MOSENEKE:** No, just answer me quick. Did you ask for a license for 150 people?

**DOROTHY FRANKS:** Did I ask sorry Justice?

15 **ARBITRATOR JUSTICE MOSENEKE:** Did you apply for a license to look after 150 people?

**DOROTHY FRANKS:** No, what happened they first had to inspect the place and see how many you can accommodate. So that is why in Calaforn...

20 **ARBITRATOR JUSTICE MOSENEKE:** So you applied for a license of 150 people, because what was issued or did the department put that on you?

**DOROTHY FRANKS:** Yes, because they were looking at the place and they said this place will accommodate 150.

**ARBITRATOR JUSTICE MOSENEKE:** So you did apply?

**DOROTHY FRANKS:** For the 150?

5 **ARBITRATOR JUSTICE MOSENEKE:** Yes, 150 people.

**DOROTHY FRANKS:** As I am saying they came and looked at Calaforn...

**ARBITRATOR JUSTICE MOSENEKE:** Yes, you are putting it on everyone else. I want to know that you gave them the number 150?

**DOROTHY FRANKS:** They came and check how many spaces...

10 **ARBITRATOR JUSTICE MOSENEKE:** No but you applied, did you say how many people you wanted?

**DOROTHY FRANKS:** No I didn't say that.

**ARBITRATOR JUSTICE MOSENEKE:** Whether they have said 72 did you apply for 150?

15 **DOROTHY FRANKS:** They didn't say, they first inspect how many patients you can accommodate in Calaforn. And then...

**ARBITRATOR JUSTICE MOSENEKE:** Ok. How many did you say you could accommodate in your application?

**DOROTHY FRANKS:** I didn't give them an amount.

20 **ARBITRATOR JUSTICE MOSENEKE:** So they wrote in the number 150?

**DOROTHY FRANKS:** Ja, according to the space in California.

**ARBITRATOR JUSTICE MOSENEKE:** And that was going to be DR. Mahlamela?

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** Who picked the number for you. Now when  
5 I look and you were going to earn R3490.00 per person per month times 150, what  
amount is that? If it would have come through, it would have been how much? A  
100 would have been 3.4 million an half of that would have been 1.2 million.

**DOROTHY FRANKS:** For the 150, Justice?

**ARBITRATOR JUSTICE MOSENEKE:** For the 150, isn't it? You're a financial  
10 person.

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** So that would have been nearly 3,490 plus  
half of that, that would have been 172. 1.72 million nearly. What is your calculation  
council?

15 **ADV LILLA CROUSE:** 6 282 000.

**ARBITRATOR JUSTICE MOSENEKE:** 6 282 000.00 If the full quota had been  
given to you, this is what you would have earned isn't it?

**DOROTHY FRANKS:** Yes, Justice.

**ARBITRATOR JUSTICE MOSENEKE:** You can continue council.

**ADV LILLA CROUSE:** Thank you, Justice. It seems to me if I have regard to the evidence that MS Jacobs introduced you to the people to CCRC on the day that your first patients came. Was that the first time that you were at the premises ready to receive some patients?

5 **DOROTHY FRANKS:** Yes, council.

**ADV LILLA CROUSE:** Did you have any personnel at that stage?

**DOROTHY FRANKS:** Yes, councillor.

**ADV LILLA CROUSE:** Can you just tell us who you had?

**DOROTHY FRANKS:** Sorry what did you say councillor?

10 **ADV LILLA CROUSE:** What personnel did you have at that stage on the 23<sup>rd</sup> of June 2016 when you first got your first patients?

**DOROTHY FRANKS:** Ok. I had 26 care workers and 1 professional nurse.

**ADV LILLA CROUSE:** And they were working shifts?

**DOROTHY FRANKS:** That is right councillor.

15 **ADV LILLA CROUSE:** How many per shift?

**DOROTHY FRANKS:** I am not sure now, but we tried to work it out 7,7,7,7.

**ADV LILLA CROUSE:** 7 care workers per shift?

**DOROTHY FRANKS:** Yeah but when you start yes councillor.

**ADV LILLA CROUSE:** And how was the laundry done?

**DOROTHY FRANKS:** Ok. Firstly we did the laundry in our in the bathroom.

**ADV LILLA CROUSE:** With or without a washing machine?

**DOROTHY FRANKS:** With a washing machine. But the next week they said that we must go to the laundry room.

5 **ADV LILLA CROUSE:** I have it that the former MEC in July 2017 came to you and said that Anchor and Seat Bedinga must use the same hospital kitchen, and use the same, and they needed a washing machine and stove. What do you say to that, could you remember that date happen?

**DOROTHY FRANKS:** Sorry, what date was that?

10 **ADV LILLA CROUSE:** In July, end of July 2017. Oh 2016 sorry.

**DOROTHY FRANKS:** Yes, councillor. She just came and do inspections because Seat Bedinga did not want to share the kitchen with us, because they were working there. And we were using our small kitchen to cook in, and so she said that is not acceptable, we must use a big or we must use together the kitchen and the laundry.

15 **ADV LILLA CROUSE:** But at that stage Seat Bedinga wasn't really actually there, it was CCRC, doing it on their behalf at the end of July?

**DOROTHY FRANKS:** Yes, councillor.

**ADV LILLA CROUSE:** So it was CCRC that didn't want to share with you?

**DOROTHY FRANKS:** Ok. But after she left on the 12<sup>th</sup> of July...

**ADV LILLA CROUSE:** According to the ombuds report it was the end of July that the MEC visited there?

**DOROTHY FRANKS:** No, I am not sure about the date. But Seat Badinga left on the 12<sup>th</sup> CCRC provide us with food.

5 **ADV LILLA CROUSE:** And where you told to build a cold room by the MEC?

**DOROTHY FRANKS:** No they said the cold room we can use on top where the kitchen is.

**ADV LILLA CROUSE:** So you weren't told to build a cold room?

**DOROTHY FRANKS:** No.

10 **ADV LILLA CROUSE:** Thank you. Just lastly if you can assist us, you have got your first patients on the 23<sup>rd</sup> of June, and then a second bunch of patients on the 29<sup>th</sup> of June?

**DOROTHY FRANKS:** Yes, councillor.

**ADV LILLA CROUSE:** At that stage it must have gone very hectic?

15 **DOROTHY FRANKS:** Yes, councillor.

**ADV LILLA CROUSE:** And your first patient Charity Legotso passed away on the 11<sup>th</sup> of July a few days later?

**DOROTHY FRANKS:** Yes, councillor.

**ADV LILLA CROUSE:** That must have been a wake up call, wasn't it?

20 **DOROTHY FRANKS:** Yes it was councillor.

**ADV LILLA CROUSE:** Did you not try to seek help at that stage?

**DOROTHY FRANKS:** Yes, I did.

**ADV LILLA CROUSE:** What did you do?

**DOROTHY FRANKS:** I asked the health department please to come and assist with  
5 the ID and the [inaudible] and everything.

**ADV LILLA CROUSE:** To whom did you ask that?

**DOROTHY FRANKS:** I asked Hanna and Rochel Godren because...

**ADV LILLA CROUSE:** That is Hanna Jacoba and Rochel Gorden?

**DOROTHY FRANKS:** That is right, counsel.

10 **ADV LILLA CROUSE:** And what reply did you get?

**DOROTHY FRANKS:** Ok. They said that they will come and sort it out, but...

**ADV LILLA CROUSE:** It didn't happen?

**DOROTHY FRANKS:** Yes.

**ADV LILLA CROUSE:** And the next death MR. Rabort Sithole was on the 18<sup>th</sup> of  
15 July a few days later, then you really knew that you were in trouble, didn't you?

**DOROTHY FRANKS:** Yes, councillor.

**ADV LILLA CROUSE:** What did you do then?

**DOROTHY FRANKS:** As I am saying I was always screaming out for help but...

**ADV LILLA CROUSE:** But we need to know to whom otherwise we cant...

**DOROTHY FRANKS:** Ok especially with CCRC also I asked them to come and check the wards out and help with the...

**ADV LILLA CROUSE:** So CCRC did you ask the department of health again?

**DOROTHY FRANKS:** I did.

5 **ADV LILLA CROUSE:** To whom did you speak?

**DOROTHY FRANKS:** I did talk to DR. Mahlamela and I'm not sure who was it now if it was Rochel.

**ADV LILLA CROUSE:** Did you speak to DR. Mahlamela herself?

**DOROTHY FRANKS:** Yes.

10 **ADV LILLA CROUSE:** Did you phone her or did you...?

**DOROTHY FRANKS:** No, as they were coming in I tell them or if they can help us with this, because the aircon didn't work and if they can just fix the aircon for us. Because we keep on asking CRC to fix the aircon and they said they will place a call and they will come out.

15 **ADV LILLA CROUSE:** Miss Franks the aircons seems now a little bit small after your patients have died, what other help did you seek?

**DOROTHY FRANKS:** What we have done?

**ADV LILLA CROUSE:** Nowhere did you seek help to ensure that you don't lose another patient?

**DOROTHY FRANKS:** What we were trying to do , I was asking CRC whether the doctor can come and see all the patients.

**ADV LILLA CROUSE:** And on the 25<sup>th</sup> of July a few days later MR Josef Komeded died, you must have then realized that this cant continue, is that so?

5 **DOROTHY FRANKS:** Yes.

**ADV LILLA CROUSE:** So what did you do about that at that stage?

**DOROTHY FRANKS:** I really asked them because my patients cant, or let me say who did they ask. I asked DR. Mahlamela as they come for the visits because we cant carry on like this there is no doctors on the premises. And DR. Labelo just  
10 came out on certain times.

**ADV LILLA CROUSE:** I'm not sure that I understand you correctly. It seems to me as you after each patient died you realized there were a problem, but you didn't do anything proactively to approach the department. You were waiting for the department to come to you, is that what you were saying?

15 **DOROTHY FRANKS:** Its right, they said that they will come back to me.

**ADV LILLA CROUSE:** Is there a reason why you didn't proactively pursue to get assistance?

**DOROTHY FRANKS:** Meaning that I pursue the doctors to come out or health to come and help us?

**ADV LILLA CROUSE:** Was there a reason why you didn't phone DR. Mahlamela, phone the premier, phoned the president and say I am over my head here, please come and help me?

**DOROTHY FRANKS:** I didn't phone the MEC, I just made a note that they must  
5 come and help me because...

**ADV LILLA CROUSE:** You made a note where?

**DOROTHY FRANKS:** I, for myself that they must come and help me.

**ADV LILLA CROUSE:** Thank you, Justice. I have gone through the questions.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you, Council. Advocate Groenewald?  
10 I heard a noise from somewhere but it seems like it is still you, you can go ahead.

**ADV DIRK GROENEWALD:** Its is still me, thank you, Justice. I am the last one or  
well the second last one to ask questions. So I have bruised my list of questions  
and it seems that most of the questions was asked from my colleagues. But there is  
just a few outstanding issues, first thing the, it is my instruction that you signed the  
15 agreement with the department on the 11<sup>th</sup> of July 2016, your service level  
agreement and that we will be able to hand out the document stating that it was  
signed on the 11<sup>th</sup> of July 2016. Do you deny that or can you confirm that?

**DOROTHY FRANKS:** Is it the service level agreement?

**ADV DIRK GROENEWALD:** Yes, your service level agreement between yourself  
20 and the department in respect of what services you are required to render.

**DOROTHY FRANKS:** On which date, sorry councillor?

**ADV DIRK GROENEWALD:** The 11<sup>th</sup> of July 2016.

**DOROTHY FRANKS:** If I can remember correctly yes.

**ADV DIRK GROENEWALD:** That is correct?

**DOROTHY FRANKS:** Yes.

5 **ADV DIRK GROENEWALD:** So it was on the 11<sup>th</sup> of July 2016, and you already received patients on the 27<sup>th</sup> June 2016?

**DOROTHY FRANKS:** Yes, councillor?

**ADV DIRK GROENEWALD:** All right, so you operated in a period of one month, you operated without an license and without a service level agreement without the  
10 department?

**DOROTHY FRANKS:** Ok...

**ADV DIRK GROENEWALD:** That is your testimony ma'am, I am not trying to trick you its just your testimony.

**DOROTHY FRANKS:** Ok. I just want to say on that one that I remember the  
15 service level agreement the first time when I went in, they said to me that the copies wasn't clear. So I must just come back again and reapply for that.

**ADV DIRK GROENEWALD:** Ok. But it was signed on the 11<sup>th</sup> of July 2016?

**DOROTHY FRANKS:** Yes,

**ADV DIRK GROENEWALD:** And doctor Mahlamela the HOD, all the high ranking  
20 officials including the previous MEC, where they aware of the fact that you did not

have a license at the time that you accepted patients, that you did not have a service agreement in place at the time that you accepted the patients?

**DOROTHY FRANKS:** I really don't know they should have checked it.

**ADV DIRK GROENEWALD:** Ma'am its again not a trick question. You signed the  
5 agreement with the department only on the 11<sup>th</sup> of July, you testified that you were only provided with your license at the end of June. So those officials were responsible for that so they must have known that you did not have a license at your agreement?

**DOROTHY FRANKS:** That is right.

10 **ADV DIRK GROENEWALD:** You agree thank you. Now, ma'am, I want to take you past 7, page 2629. If someone could just assist you in file 7. Thank you, can you just confirm what document is that 2629? Is it an order checklist for Anchor centre?

**DOROTHY FRANKS:** Yes, councillor.

**ADV DIRK GROENEWALD:** Now am I correct that this was in the respect of order  
15 done in September 2016, 19<sup>th</sup> of September 2016? Let me start by asking, are you aware when the department conducted audits at your facility at Anchor centre?

**DOROTHY FRANKS:** Yes, but that was in July, in June I'm not sure about the dates.

**ADV DIRK GROENEWALD:** In June, well this document you will note there it is  
20 date the 19<sup>th</sup> of September 2016. But I will just like to take you through some of the issues that has been highlighted there...

**ARBITRATOR JUSTICE MOSENEKE:** Somebody said that I was looking for a glass, thank you.

**ADV DIRK GROENEWALD:** You are on page 2629?

**DOROTHY FRANKS:** 2626?

5 **ADV DIRK GROENEWALD:** 2629.

**DOROTHY FRANKS:** Yes councillor.

**ADV DIRK GROENEWALD:** Alright, thank you, ma'am. So we know this is an audit that was done in September 2016. So you have already been at that point in time you have been operational for July, August nearly 3 months. Do you agree?

10 **DOROTHY FRANKS:** Yes, counsellor.

**ADV DIRK GROENEWALD:** I want to highlight just a few issues there which I would like to get your comment on. 1.1.11 building and grounds, it deals with the building and grounds...

**DOROTHY FRANKS:** 1.1?

15 **ADV DIRK GROENEWALD:** 1.1.11. was any application for the construction of the facilities admitted and approved if so, is any approved documentation left. But still have to do renovations, so 3 months after your operating there was still renovations that needed to be concluded?

**DOROTHY FRANKS:** Yes.

20 **ADV DIRK GROENEWALD:**1.1.14.

**ARBITRATOR JUSTICE MOSENEKE:** Haven't you paid R5000 to do renovations?

**DOROTHY FRANKS:** No that was before we go in. But there was still like the aircons and certain things that they said sorry, said that Cullinan will fix.

**ARBITRATOR JUSTICE MOSENEKE:** \_And if you listen to the council he has a lot  
5 of questions to ask on this audit report, please go ahead.

**ADV DIRK GROENEWALD:** \_Thank you Justice. 1.1.14 has the facility been  
inspective to the municipality to check whether the space complies with regulations  
in terms of health and safety, no. page 2630. do you have any comment on that  
ma'am?

10 **DOROTHY FRANKS:** No, the municipality wasn't there to do inspections it is only  
Cullinan.

**ADV DIRK GROENEWALD:** You say they didn't do a inspection?

**DOROTHY FRANKS:** they didn't do any inspections.

**ADV DIRK GROENEWALD:** 1.2.3

15 **ARBITRATOR JUSTICE MOSENEKE:** \_You see what I say, you are saying this  
report does not rise in the inspection of your premises, what is your answer to the  
council?

**DOROTHY FRANKS:** The municipality didn't do inspection.

**ARBITRATOR JUSTICE MOSENEKE:** \_I see that is a item of the municipality I  
20 understand that ok. Please proceed.

**ADV DIRK GROENEWALD:** So there si no confirmation as to whether or not it met the health and safety regulations, 1.2.3 is there adequate and functional furniture for users, bed, toys, bed, dining room, furniture not sufficient can you comment on that?

5 **DOROTHY FRANKS:** Yes, there was beds enough because we brought enough beds. It is only maybe chairs and dining, we need some more tables because we just had tables around the walls.

**ADV DIRK GROENEWALD:** So there was beds but not enough tables and chairs?

**DOROTHY FRANKS:** Yes.

10 **ADV DIRK GROENEWALD:** Is there adequate to 1.3.1 access to basic communities 1.3.1. The centre has access to running water not always, boiler something?

**DOROTHY FRANKS:** Yes, there was a problem with the water sometimes.

**ADV DIRK GROENEWALD:** So there was...

15 **DOROTHY FRANKS:** The boiler didn't provide us with warm water.

**ADV DIRK GROENEWALD:** Ok. So again ma'am this is the 19<sup>th</sup> of September 2016, 3 months into your operation. How long did this last and what did you do about it?

**DOROTHY FRANKS:** Ok. They know about it and I asked FMU and health  
20 department, FMU from CRC they said that they will fix everything for us. The things that we couldn't.

**ADV DIRK GROENEWALD:** Ok. But how long did this last ma'am?

**DOROTHY FRANKS:** Till the time I actually left.

**ADV DIRK GROENEWALD:** Until the time you left?

**DOROTHY FRANKS:** Yes. We tried to...

5 **ADV DIRK GROENEWALD:** And no one did anything about it?

**DOROTHY FRANKS:** Yes.

**ADV DIRK GROENEWALD:** Access to electricity 1.3.2 except admin office issue?

**DOROTHY FRANKS:** Yes, there was a problem with the one sealing and they came actually and renovate it late in August, Sep, October. In October.

10 **ADV DIRK GROENEWALD:** So that was what 4 months into your operation?

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** What he meant is [inaudible] in the admin office?

**DOROTHY FRANKS:** Yes, in the admin office one light didn't work properly. We  
15 keep on asking them to come and fix it for us and I was really on them because it didn't work in the admin office.

**ADV DIRK GROENEWALD:** Then I would like to go to page 2631, 3.3.6 now this deals with general administration at management. Now once again ma'am your NGO's was operating for 3 months, incident records, no. Did you have any incident

records? According to me that is quite important knowing what happened to patients and how it happened and so on, incident records. Did you have incident records?

**DOROTHY FRANKS:** Well we draw up a incident report records. But there wasn't anything filled in into the bundle.

5 **ADV DIRK GROENEWALD:** 3.3.7 policies dealing with the [inaudible] management of users who relapse admission procedures. First aid procedures no, you will agree ma'am that once again those are quite essential documentation for your institution that provides health service.

**DOROTHY FRANKS:** Sorry point?

10 **ADV DIRK GROENEWALD:** 3.3.7.

**DOROTHY FRANKS:** Ok. That policies we actually finalized all fo them most in September.

**ADV DIRK GROENEWALD:** Finalised that in September?

**DOROTHY FRANKS:** Yes.

15 **ARBITRATOR JUSTICE MOSENEKE:** But at the time of the inspection there was no such policies?

**DOROTHY FRANKS:** Not all of them, Justice.

**ADV DIRK GROENEWALD:** Then I would like to take you to pages 2631 the same page, Human Resources management, number of caregivers with post metric I just  
20 want to confirm there if that correspond with your calculations. Number of

caregivers with post metric education 22. That is your total staff, your caregivers was 22?

**DOROTHY FRANKS:** Yes.

**ADV DIRK GROENEWALD:** Ok. Does the centre has access accessibility to the  
5 nearest clinical hospitals for services such as speech therapy, OT medical services on site. It's an issue to which I will return I just want to highlight it, the utilized number of the CCRC facilities?

**DOROTHY FRANKS:** Yes, normally we turn to the CCRC clinic first and if not then we refer them to the hospital.

10 **ADV DIRK GROENEWALD:** 5.14 on the next page, is this correct that they state here that the staff is trained in the credited first aid techniques, none only paramedic?

**DOROTHY FRANKS:** I sit the caregivers?

**ADV DIRK GROENEWALD:** Well, ma'am it says your staff, nobody is trained in  
15 first aid there is only a paramedic it seems. Do you have a comment on that?

**DOROTHY FRANKS:** We had caregiver that was trained with the health Niko training centre. Which they have all the caregiving training there.

**ADV DIRK GROENEWALD:** There is a number of issues that I can highlight here but I would, just one last one on this 8.1.6...

20 **ARBITRATOR JUSTICE MOSENEKE:** Before you leave 2632 I see that the recording here is that you are a new NGO so you had no proper budget, you

couldn't reflect a surplus or a shortfall, there was no account, there where no proper accounts of money received, no financial records available... banking accounts. Is that true?

**DOROTHY FRANKS:** We had a banking account...

5 **ARBITRATOR JUSTICE MOSENEKE:** But can you see all of those things recorded in 6.3 to 6.10?

**DOROTHY FRANKS:** Yes councillor.

**ARBITRATOR JUSTICE MOSENEKE:** Besides the banking account, are they true?

10 **DOROTHY FRANKS:** Yes, we had a banking account for the centre.

**ARBITRATOR JUSTICE MOSENEKE:** Besides the banking account is that record true?

**DOROTHY FRANKS:** Sorry which one Justice?

**ARBITRATOR JUSTICE MOSENEKE:** 6.2 to 6.10.

15 **DOROTHY FRANKS:** No, we didn't have a budget for a shortfall because I used my own money on that one.

**ARBITRATOR JUSTICE MOSENEKE:** And 8.1.6 that is where you are now counsel?

**ADV DIRK GROENEWALD:** Yes, indeed sir.

20 **ARBITRATOR JUSTICE MOSENEKE:** Please go ahead.

**ADV DIRK GROENEWALD:** Thank you, Justice. Point 8 deals with medication ma'am. 8.1.6 are all legal requirement including for telephonic order followed, no. Now this is quite a concerning remark here, are all legal requirements followed, no. So by implication, they are conducting unlawful activities. Any response to that?

5 **DOROTHY FRANKS:** No comment.

**ADV DIRK GROENEWALD:** In the acre of clients just highlight that again and it is a point to which I will return, but 8.3.1.5 on page 2633. Availability for sickbay for ill ff[inaudible] no, use hospital. So you are going to treat ill patients there at Anchor?

10 **DOROTHY FRANKS:** We just take them to the clinic there was a sickbay in Cullinan.

**ADV DIRK GROENEWALD:** At CCRC?

**DOROTHY FRANKS:** CCRC yes.

**ADV DIRK GROENEWALD:** Ok. It is a point to which I shall return. Admission 9.2 have they been assessed by professionals in the health system, no.

15 **DOROTHY FRANKS:** No.

**ADV DIRK GROENEWALD:** So when you received the patients from CCRC and Life Esidimeni they weren't assessed?

**DOROTHY FRANKS:** No, councillor.

20 **ADV DIRK GROENEWALD:** And there is one concerning issue, well there is another but on the same page you will go down there at addendum one physical environment, there is a number of issues.

**ARBITRATOR JUSTICE MOSENEKE:** But before you go council, 9.1 the second question.

**ADV DIRK GROENEWALD:** Ja

**ARBITRATOR JUSTICE MOSENEKE:** Copies of admission documents available,  
5 including list of users submitted – no?

**DOROTHY FRANKS:** No Justice.

**ARBITRATOR JUSTICE MOSENEKE:** You may proceed.

**ADV DIRK GROENEWALD:** I think the statement just made here by the authorities  
who conducted the audit is that you could not provide them with the list of admitted  
10 patients at your facility – is that correct?

**DOROTHY FRANKS:** A list? I did provide it.

**ADV DIRK GROENEWALD:** According to the department, it was NO.

**DOROTHY FRANKS:** Sjoe

**ADV DIRK GROENEWALD:** Physical environment – there is a number of issues  
15 there, Ventilation – we have now just heard my colleague referred to a number of  
patients and their illnesses...

**DOROTHY FRANKS:** Yes

**ADV DIRK GROENEWALD:** The third one from the top : ventilation suitable – no,  
hygienic – no, maintained – no. So, with all due respect m'am, it's quite evident why  
20 the people got ill. Once again, it is reported there is the problem with the boiler, but

here is the issue: toilets – no seats, no cover and I put it to you that you only had 6 toilets at Anchor.

**DOROTHY FRANKS:** Yes.

**ADV DIRK GROENEWALD:** Am I correct?

5 **DOROTHY FRANKS:** Yes.

**ADV DIRK GROENEWALD:** 6 toilets for how many patients?

**DOROTHY FRANKS:** Okay, between the two wards ... and 3 here – that's right

**ADV DIRK GROENEWALD:** 6 toilets plus by 60 patients – no seats, no cover. All right. There are a number of issues here m'am, but the long and the short is, this is  
10 the audit conducted on the 19<sup>th</sup> of September 2016. Now, 2365 – it says recommended for licencing – not recommended for licencing – recommended only when approved after second audit. It has not been circled here, so hopefully we are going to get somebody to answer these questions, but the long and the short – this  
15 audit needs and you can confirm and you can agree with me that this audit actually needed to be conducted prior to Anchor receiving any patients and unless this audit was a clean audit that confirms that Anchor Centre had the necessary resources, no patients should have been admitted to Anchor Centre.

**DOROTHY FRANKS:** Okay, I helped conducting this, so they should have made the decision that they made the decision that they didn't send any patients.

20 **ARBITRATOR JUSTICE MOSENEKE:** Just lift your voice please.

**DOROTHY FRANKS:** I said, I helped conduct in this audit, so they should have made the note that they didn't bring the patients in.

**ADV DIRK GROENEWALD:** So you then agree they shouldn't have sent the patients to Anchor Centre.

5 **DOROTHY FRANKS:** Yes.

**ADV DIRK GROENEWALD:** You agree with that?

**DOROTHY FRANKS:** Yes.

**ARBITRATOR JUSTICE MOSENEKE:** If you remember, this Dr Reinbrecht who came to your premises and who signed off here? Actually that you shouldn't have had a licence. Do you remember the discussion with him or ...?

**DOROTHY FRANKS:** Okay, this Dr – yes, she came they came and check all our bedding.

**ARBITRATOR JUSTICE MOSENEKE:** Was it a lady doctor?

**DOROTHY FRANKS:** A lady – yes.

15 **ARBITRATOR JUSTICE MOSENEKE:** Do you remember having a discussion with her?

**DOROTHY FRANKS:** No, she just came and checked whether we had bedding.

**ARBITRATOR JUSTICE MOSENEKE:** Okay.

**DOROTHY FRANKS:** Yes – for all the patients.

20 **ARBITRATOR JUSTICE MOSENEKE:** So she was there and compiled a report?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Counsel proceed.

**ADV DIRK GROENEWALD:** Thank you Justice. Now I want to take you further on in the document – at pages 2640 – if I am correct and I will refer you to it – this is  
5 now an audit that was conducted in around about the same time and it refers to medical officers, psychiatrists, psychologists, social workers, social workers assistance, occupational therapists, physiotherapists, physiotherapist assistant, utilise Cullinan Care and Training Centre or Rehab Centre. You had none of those facilities as well?

10 **DOROTHY FRANKS:** Yes, we utilised Cullinan.

**ADV DIRK GROENEWALD:** And I now just would like to summarise and I would like to understand, because it seems to me that you made use of the CCRC's facilities in respect of rehabilitation – you made use of their sickbay – you made use of their kitchen – you required and requested doctors from them if there was any  
15 problem. The health department admitted and discharge patients from Anchor as they pleased and ... so, what was it exactly that Anchor did? Your linen – if I am not mistaken – your linen was also done by CCRC?

**DOROTHY FRANKS:** No, no.

**ADV DIRK GROENEWALD:** You've washed the linen, but you washed it in their  
20 laundry?

**DOROTHY FRANKS:** Yes.

**ADV DIRK GROENEWALD:** So, in essence m'am, if you can summarise for us – what is it that Anchor Centre did for the patients?

**DOROTHY FRANKS:** Okay, the patients they actually cared for the patients, they – in the morning they washed them and made sure that they go to bed ...

5 **ADV DIRK GROENEWALD:** ...and on that issue – you can confirm that you had 2 baths and 6 showers at Anchor?

**DOROTHY FRANKS:** Ja.

**ADV DIRK GROENEWALD:** 2 baths 6 showers 60 patients

10 **DOROTHY FRANKS:** 2 baths and I am just checking on that, because it was different wards – because the other 30 that is in a different ward – Ward 1 B and the others were in Ward 1 A.

**ADV DIRK GROENEWALD:** But at your facility – do you confirm or deny that you had 2 baths and 6 showers.

**DOROTHY FRANKS:** Yes.

15 **ADV DIRK GROENEWALD:** 60 patients

**DOROTHY FRANKS:** Yes

**ADV DIRK GROENEWALD:** I'm just going to take instructions here ... m'am, I just want to confirm – when did the MEC or the previous MEC actually came to visit your Anchor Centre?

20 **DOROTHY FRANKS:** It was in – I am not sure, but it was in July.

**ADV DIRK GROENEWALD:** It was only that once at the end of July?

**DOROTHY FRANKS:** Ja, it was in July.

**ADV DIRK GROENEWALD:** End of July, but according to what you tell us now, there was an audit conducted in July as well.

5 **DOROTHY FRANKS:** Yes.

**ADV DIRK GROENEWALD:** So July an audit and we know now what was the outcome of the September audit.

**DOROTHY FRANKS:** Yes Counsellor.

10 **ADV DIRK GROENEWALD:** So, in July the MEC – the previous MEC – should have been and must have been aware of the circumstances at Anchor Centre – you can agree?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV DIRK GROENEWALD:** You can confirm?

**DOROTHY FRANKS:** Yes.

15 **ADV DIRK GROENEWALD:** Thank you Justice – no further questions.

**ARBITRATOR JUSTICE MOSENEKE:** Okay, thank you. Please look at 2636 – do you know who compiled that document?

**DOROTHY FRANKS:** 2636?

20 **ARBITRATOR JUSTICE MOSENEKE:** 2636 – it looks like an application – was it compiled by you?

**DOROTHY FRANKS:** No, this is that one for Rochelle Gordon and that doctor that was there.

**ARBITRATOR JUSTICE MOSENEKE:** Is it Rochelle Gordon that wrote this?

**DOROTHY FRANKS:** Sorry Justice

5 **ARBITRATOR JUSTICE MOSENEKE:** Was this document compiled by Rochelle Gordon?

**DOROTHY FRANKS:** Gordon and that doctor, yes.

**ARBITRATOR JUSTICE MOSENEKE:** Look at page 2649 – everything is ticked at Yes, Yes, Yes, Yes, Yes, Yes, Yes – can you see that? Look at page 2648 – is the  
10 diet nutritionally balanced – Yes, is the menu varied – Yes, are diets appropriate – Yes, medical conditions – Yes, culture – Yes, religious beliefs – Yes, Can you see that?

**DOROTHY FRANKS:** Yes doctor, Counsellor, I mean Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Who wrote that?

15 **DOROTHY FRANKS:** Was this not Rochelle?

**ARBITRATOR JUSTICE MOSENEKE:** Is this Rochelle Brown? I mean Gordon, sorry.

**DOROTHY FRANKS:** Yes sir.

**ARBITRATOR JUSTICE MOSENEKE:** Go back – linen, page 2648 – are there  
20 clean supplies of bed linen, blankets – Yes, towels – Yes, facecloths – Yes,

toothbrushes – Yes, Program activities : are there daily program activities available  
– Yes.

**DOROTHY FRANKS:** Yes, we did daily programs with them – we would draw up a  
daily program for them.

5 **ARBITRATOR JUSTICE MOSENEKE:** And, did you supply this information for  
them to complete this form?

**DOROTHY FRANKS:** They were checking on all our documents there Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Care of clients – look at page 2645 :  
nourishment – Good, cleanliness – Good, present sores – None, open wounds –  
10 None, respiratory infection – Good, none – what is that? Clothing – Good, emotional  
state and content of clients’ average, sign of warmth and care – Good. Did you  
provide that information?

**DOROTHY FRANKS:** They came and checked everything.

**ARBITRATOR JUSTICE MOSENEKE:** Who did?

15 **DOROTHY FRANKS:** Rochelle

**ARBITRATOR JUSTICE MOSENEKE:** On the 19<sup>th</sup> of September?

**DOROTHY FRANKS:** Yes doctor

**ADV DIRK GROENEWALD:** Justice

**DOROTHY FRANKS:** Yes Justice

20 **ADV DIRK GROENEWALD:** If I might be of assistance there?

**ARBITRATOR JUSTICE MOSENEKE:** Yes, please do.

**ADV DIRK GROENEWALD:** It is just my understanding of the documentation and one of the reasons why it didn't take to registry – it seems that from pages 2651 that this inspection was done in November 2016 – so, that was the time when ...

5 **DOROTHY FRANKS:** I left.

**ADV DIRK GROENEWALD:** When Anchor wasn't anymore – it wasn't there anymore. So, ja.

**ARBITRATOR JUSTICE MOSENEKE:** If I look at page 2636, it says name of facility – Anchor House. Can you see that? 2636 – Centre Manager: Dorothy  
10 Francis – do you know who that is?

**DOROTHY FRANKS:** It is me Justice.

**ARBITRATOR JUSTICE MOSENEKE:** It is you. Inspection conducted by Rochelle Gordon - MR Gordon and Mr Makhudu. Did you provide this information to them which appears or were they there physically?

15 **DOROTHY FRANKS:** They were there physically and checked everything.

**ARBITRATOR JUSTICE MOSENEKE:** Anyway.

**ADV DIRK GROENEWALD:** Justice, my apologies – there is one last question.

**ARBITRATOR JUSTICE MOSENEKE:** Yes Counsel, please go ahead.

**ADV DIRK GROENEWALD:** M'am, you've confirmed now that there is a number of  
20 responsibilities that you actually required CCRC to conduct – rehab, nurses –

you've confirmed that some of the nurses had to assist you – you have confirmed that the doctors had to assist you – the sickbay, the kitchen, the laundry, etc. etc. Now, as my literate colleague also pointed out – Siyabadinga was closed on the 12<sup>th</sup> of July 2016.

5 **DOROTHY FRANKS:** Yes, that's right.

**ADV DIRK GROENEWALD:** We have heard the testimony that those patients – 73 of them – 73 of them had to be transferred back to CCRC.

**DOROTHY FRANKS:** Yes Counsellor.

10 **ADV DIRK GROENEWALD:** Now you were there, you were present and I would just like to get your view and your opinion – will you agree with me that at the time that Siyabadinga closed there was not enough staff, personnel, facilities, resources at CCRC and or Anchor to care for and properly look after those patients?

**DOROTHY FRANKS:** Yes Counsellor, we couldn't help them, but they asked they put more professionals on our side and we just helped with some health care givers  
15 on that side,

**ADV DIRK GROENEWALD:** So you agree with me?

**DOROTHY FRANKS:** Yes Counsellor.

**ADV DIRK GROENEWALD:** Thank you m'am, thank you Justice.

20 **ARBITRATOR JUSTICE MOSENEKE:** Thank you. I would like you to look at – I was given a document called ELA 11. Can someone help the witness to get to that document, please?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you. This is a schedule – its name appears at the top: Cullinan Care and Rehabilitation Centre – Master document of Life Esidimeni mental health care users : CCRC – can you see that?

5 **DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** And then the sub-title is : Mental Health Care Users received from Life Esidimeni – can you see that?

**DOROTHY FRANKS:** Yes Justice.

10 **ARBITRATOR JUSTICE MOSENEKE:** Now, the name of your facility appears often, and I would like to take you to some of those. Do you remember, for instance, this Mr Johannes Boshof? He was admitted to your facility on the 23<sup>rd</sup> of June 2016.

**DOROTHY FRANKS:** Johannes Boshof?

**ARBITRATOR JUSTICE MOSENEKE:** Yes, you can see number 3 there on the schedule.

15 **DOROTHY FRANKS:** I don't know if we have, but I cannot remember a Johannes Boshof that I was sent to.

**ARBITRATOR JUSTICE MOSENEKE:** ...and he went to Anchor Life on the 23<sup>rd</sup> of June 2016. Discharged, in other words, from CCRC to yourselves – can you see that?

20 **DOROTHY FRANKS:** I just want to make sure of this Johannes Boshof.

**ARBITRATOR JUSTICE MOSENEKE:** ...and seemingly went to Ward 5, but was readmitted to Cullinan in the October 2016. Can you remember any of that?

**DOROTHY FRANKS:** Johannes Boshof? He doesn't even appear on my list. As far as I think of Johannes Boshof, that was at Siyabadinga. I'll just check in my list.

5 **ARBITRATOR JUSTICE MOSENEKE:** ...but, can you see that the schedule says that he came to you in October – seemingly when you were shut down he was readmitted to CRC - do you see that?

**DOROTHY FRANKS:** Yes, but I don't know about Johannes Boshof.

**ARBITRATOR JUSTICE MOSENEKE:** You don't know anything about that. Well,  
10 let's try again – let's move at Cecelia Erasmus.

**DOROTHY FRANKS:** Yes Justice

**ARBITRATOR JUSTICE MOSENEKE:** Do you remember her?

**DOROTHY FRANKS:** Cecelia I know.

**ARBITRATOR JUSTICE MOSENEKE:** Was she one of your patients?

15 **DOROTHY FRANKS:** Yes Justice

**ARBITRATOR JUSTICE MOSENEKE:** Admitted on the 23<sup>rd</sup> of June 2016.

**DOROTHY FRANKS:** Yes Justice

**ARBITRATOR JUSTICE MOSENEKE:** ...and, what happened to her?

**DOROTHY FRANKS:** Okay, Cecelia was one of the patients that – she was a lady  
20 who was transferred to Athol(?) Precious Angels.

**ARBITRATOR JUSTICE MOSENEKE:** Transferred to where?

**DOROTHY FRANKS:** Precious Angels

**ARBITRATOR JUSTICE MOSENEKE:** ...but, let's move on – and then thereafter we see several people : Quinton Jansen van Vuuren – admitted to you 23<sup>rd</sup> of June  
5 and readmitted back to Cullinan to CCRC on October 16<sup>th</sup>. Can you see that?

**DOROTHY FRANKS:** Yes Justice

**ARBITRATOR JUSTICE MOSENEKE:** You remember that?

**DOROTHY FRANKS:** Yes, I remember Quinton

**ARBITRATOR JUSTICE MOSENEKE:** Now I want to take you to line by line – look  
10 at the number of people who were admitted on June 23<sup>rd</sup> by you and were readmitted to Cullinan in October 2016. Can you see those dates?

**DOROTHY FRANKS:** Yes Justice

**ARBITRATOR JUSTICE MOSENEKE:** Let's go over to the next page, you'll find that there are more people there. Somebody admitted quite early – for instance like  
15 Cherry Chiachocho(?) readmitted 11<sup>th</sup> July 2016 and went back to CCRC – do you see that?

**DOROTHY FRANKS:** Yes Justice

**ARBITRATOR JUSTICE MOSENEKE:** According to the schedule, and we can go on – there are many others. Do you see that large number of people who were  
20 readmitted October into CCRC? When we go to the next page, you can see the

same pattern. Some were admitted later, only in January – is it October or January?  
Explain that to me.

**DOROTHY FRANKS:** Okay

**ARBITRATOR JUSTICE MOSENEKE:** In October, what had happened? Why are  
5 all these many people readmitted to CCRC?

**DOROTHY FRANKS:** Okay, what happened – I was working every day actually at  
Anchor Centre and the CEO asked me to take leave in that space (October) and I  
must take leave and I don't know whether they did this when I was on leave and in  
November they said I must leave.

10 **ARBITRATOR JUSTICE MOSENEKE:** ...and only a few of your patients were  
admitted CRC in January, but the rest were done in October. Do you see that on  
this schedule? ...and, here comes the question: why do they have to continue  
paying you when almost all of your patients had been readmitted in October into...

**DOROTHY FRANKS:** Okay, what happened was, they utilised...

15 **ARBITRATOR JUSTICE MOSENEKE:** CRC?

**DOROTHY FRANKS:** Sorry Justice. What happened they utilised all the workers in  
the different wards when they moved ...

**ARBITRATOR JUSTICE MOSENEKE:** I am sorry, I know it's a long day, but you  
have to make it a little higher for me to hear you.

20 **DOROTHY FRANKS:** Okay, what happened they moved all our workers in  
different wards where they moved these patients before I leave.

**ARBITRATOR JUSTICE MOSENEKE:** ...but the real cutting end of the question is – why did they continue paying you, when on their records they have readmitted almost all your patients, except 3, who really died in January?

**DOROTHY FRANKS:** They admitted the patients, but as I said, they still used all  
5 our staff, with regard that I must pay them.

**ARBITRATOR JUSTICE MOSENEKE:** Counsel.

**ADV. PATRICK NGUTSHAN:** Thank you Justice. We have no questions for this  
witness

**ARBITRATOR JUSTICE MOSENEKE:** Yes. Re-examination?

10 **ADV. PATRICK NGUTSHAN:** Thank you Justice Moseneke. Just in relation with  
your staff complement and on the date on which you've received your licence, but it  
is in April 2016. Remember your licence is dated 1<sup>st</sup> April 2016 – when did you  
apply for this (for the record again)?

**DOROTHY FRANKS:** Sorry Counsellor, which record is that?

15 **ADV. PATRICK NGUTSHAN:** When did you apply for the licence?

**DOROTHY FRANKS:** For the licence?

**ADV. PATRICK NGUTSHAN:** Yes.

**DOROTHY FRANKS:** From the Health Department

**ADV. PATRICK NGUTSHAN:** Yes.

**DOROTHY FRANKS:** Okay, what happened – if they got all our documents, like the SLA, your NPO and then they...

**ADV. PATRICK NGUTSHAN:** When was that? When was that?

**DOROTHY FRANKS:** Okay, according to the licence it was the 1<sup>st</sup> of April.

5 **ADV. PATRICK NGUTSHAN:** Okay, and I see here that is on the 22<sup>nd</sup> of February 2016 – I think some time before you received your licence, the department – specifically Dr Mahlamela – had information that Anchor House has no actual – that is 150 – no actual beds, but you are recorded to have 18 care workers, 2 cooks, 2 cleaners, 2 registered nurses, 2 enrolled nurses on the 22<sup>nd</sup> of February. Where  
10 was that information obtained from?

**DOROTHY FRANKS:** Okay, when I went to Colourful, actually I bought beds and I asked for beds from different hospitals and I stored everything there and the care workers, I actually liaised with them that they will come and work if we open up.

**ADV. PATRICK NGUTSHAN:** So, you already had everybody by this time?

15 **DOROTHY FRANKS:** I didn't employ them yet – I just note them that if we are going to start, they must come and work for us.

**ADV. PATRICK NGUTSHAN:** Okay. So, according to this minute, it would be a misinterpretation for Dr Mahlamela to record on 22<sup>nd</sup> of February 2016 that you already had 18 care workers, 2 cooks, 2 cleaners, 2 registered nurses, 2 enrolled  
20 nurses, and for the record – let me clarify you where this appears – that is on Volume 8 of a minute which appears on page 2765 and this specific page is 2767.

**DOROTHY FRANKS:** 2767?

**ADV. PATRICK NGUTSHAN:** Ja, that is where Anchor House is referred to.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you.

**DOROTHY FRANKS:** 2767?

5 **ADV. PATRICK NGUTSHAN:** That's correct.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV. PATRICK NGUTSHAN:** That's where this misrepresentation is presented before you appears – do you see that? Under Anchor House.

**DOROTHY FRANKS:** Yes Counsellor.

10 **ARBITRATOR JUSTICE MOSENEKE:** Let's ask the witness if she was at the meeting – it's a meeting of between NGO's and the department and it is on the 22<sup>nd</sup> of February 2016.

**ADV. PATRICK NGUTSHAN:** Were you at this meeting?

**DOROTHY FRANKS:** On the 22<sup>nd</sup> of February – I am really not sure about that, but  
15 as far as I know that records was contract to the patients that they have to take in.

**ADV. PATRICK NGUTSHAN:** Was....?

**DOROTHY FRANKS:** The records that they put there...

**ADV. PATRICK NGUTSHAN:** Yes

**DOROTHY FRANKS:** ...because I know only about the care workers – that I’ve said that I’ve got care workers from Healthnikon(?) and the beds and all that was stored there at Colourful, which we’ve transferred, but the other information that you have just mentioned that we have to have – these enrolled nurses and registered  
5 nurses.

**ARBITRATOR JUSTICE MOSENEKE:** No, but were you at the meeting – the idea is to find out ....

**DOROTHY FRANKS:** Sure, I have to...

**ARBITRATOR JUSTICE MOSENEKE:** We have to find out how this information  
10 came into these minutes...

**DOROTHY FRANKS:** I am not sure.

**ARBITRATOR JUSTICE MOSENEKE:** ...of the NGO’s and the department. Did you provide that information?

**DOROTHY FRANKS:** I really am not sure if I was at that meeting or not – I just  
15 have to make sure.

**ADV. PATRICK NGUTSHAN:** You’ve referred to 150 beds – where did they come from?

**DOROTHY FRANKS:** As I was saying – I bought some beds from MediClinic and I asked the other hospitals whether they could supply us with beds that they not use.

**ADV. PATRICK NGUTSHAN:** Okay, we know now that you’ve signed the service  
20 level recommendation in July, that is 11<sup>th</sup> July.

**DOROTHY FRANKS:** Yes Counsellor.

**ADV. PATRICK NGUTSHAN:** I'm sure you would want to see the specific passage where it appears – let me refer you to it. It's on Volume 6 page 2010 the signature is on 2041 of that document.

5 **DOROTHY FRANKS:** Yes Counsellor – can you rephrase?

**ADV. PATRICK NGUTSHAN:** Your service level recommendation was signed on the 11<sup>th</sup> of July 2016.

**DOROTHY FRANKS:** Yes Counsellor

10 **ADV. PATRICK NGUTSHAN:** Already by 22<sup>nd</sup> February 2016, there was all this information about Anchor House – how did they know about this of Anchor House or how did they know that you comply with this requirement – the status requirements – or if you would have a licence?

**DOROTHY FRANKS:** Okay, this information that they gave us that we must get ready for when we open up.

15 **ADV. PATRICK NGUTSHAN:** You had already applied by then – 22<sup>nd</sup> of February?

**DOROTHY FRANKS:** Is that for the NPO?

20 **ADV. PATRICK NGUTSHAN:** Yes. Why at the meeting of 22<sup>nd</sup> February – that is about 2 months before you would be issued with a licence and some 4 months before 4 / 5 months before the service level recommendation was signed by you – your NGO was discussed at the meeting of the department and which meeting

produced this minute that you'll have around 150 beds – although you don't have the actual beds and you'll have this staff complement that were referred to – how did they come about that – your name was discussed at this meeting?

**DOROTHY FRANKS:** Okay, because we went and applied already...

5 **ADV. PATRICK NGUTSHAN:** Yes?

**DOROTHY FRANKS:** ...in March – February / March, but we didn't have the NPO yet...

**ADV. PATRICK NGUTSHAN:** Yes

**DOROTHY FRANKS:** ... and that's when I gave them the name, because I apply  
10 under that name.

**ADV. PATRICK NGUTSHAN:** Oh, I see. So, this information came from you?

**DOROTHY FRANKS:** Yes

**ADV. PATRICK NGUTSHAN:** Oh, I see. Justice Moseneke, I don't have anything else on this. Thank you.

15 **ARBITRATOR JUSTICE MOSENEKE:** Miss Franks, it has been a long day – for you and for us and again I thank you for having had the courage to come here and come and tell us what happened. So, you should know, it is necessary for – hopefully closure – of family members whose loved one died under your care.

**DOROTHY FRANKS:** Yes Justice

**ARBITRATOR JUSTICE MOSENEKE:** The next question is: *how did the people die?*

**DOROTHY FRANKS:** Sorry I don't...

**ARBITRATOR JUSTICE MOSENEKE:** I say : the constant question from family  
5 members would be : *how did their loved ones die?* A normal question everybody  
asks – everyone asks when they lost a loved one. Under what circumstances did  
they die? We didn't have much help from you today. We don't know yet how those  
people – who were in your care – died. I just give you a last opportunity to tell us –  
what do you think – how did the 5 people, who died at Anchor Centre, die? What do  
10 you think are the contributory causes towards their death?

**DOROTHY FRANKS:** Okay, what I think was the environment as we were noted  
that the aircons and the place wasn't finalised with the “munisipaliteit”

**ARBITRATOR JUSTICE MOSENEKE:** ...and what else do you think could have  
caused – contributed to the deaths of the deceased – those in your care in  
15 particular?

**DOROTHY FRANKS:** That's what I can think of.

**ARBITRATOR JUSTICE MOSENEKE:** I beg your pardon.

**DOROTHY FRANKS:** I say, that is what I can think of – maybe the environment or  
maybe the placement, when they were placed there – it will interrupt their way,  
20 because they were stable at Life and now they were interrupt when transferred to  
us.

**ARBITRATOR JUSTICE MOSENEKE:** You've already said that you would not do it again if you were asked to do it again.

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** ...and why not?

5 **DOROTHY FRANKS:** ... because, as I was saying, this project was too fast on us and this project was just – they brought it down to us too fast – there was – they should have done it systematically – they should have done it systematically.

**ARBITRATOR JUSTICE MOSENEKE:** ...and did you realise that without that density documents, medical records and the inevitable crowding that was forced on  
10 you?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** That it would pose a risk to the wellbeing of your patients?

**DOROTHY FRANKS:** It's just that everything was just too fast for us.

15 **ARBITRATOR JUSTICE MOSENEKE:** ...but did you realise that this would pose a risk to the wellbeing of your patients?

**DOROTHY FRANKS:** The wellbeing yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Did you make any profit out of this exercise?

20 **DOROTHY FRANKS:** No Justice.

**ARBITRATOR JUSTICE MOSENEKE:** ...and all of the money that you've earned from the – the grand car and from the department – was it not enough to meet your expenses?

**DOROTHY FRANKS:** No Justice, because we couldn't hire doctors – we couldn't  
5 do sufficient professionals, because we had to go to the clinics and to the hospital.

**ARBITRATOR JUSTICE MOSENEKE:** Did you make any profit out of it?

**DOROTHY FRANKS:** No Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Why not?

**DOROTHY FRANKS:** Because it is a non-profitable organisation and I didn't make  
10 any profit, because the money that I held – the surplus – I gave back.

**ARBITRATOR JUSTICE MOSENEKE:** You are allowed to make your profit, so long as you didn't put it in your pocket. So, I would like to know if your organisation made any profit after paying these expenses, was it left with a surplus?

**DOROTHY FRANKS:** Yes, it was left with a surplus, because as we went through  
15 that Cullinan was taking nurses over at certain times then we withdraw and that's why the surplus was there.

**ARBITRATOR JUSTICE MOSENEKE:** ...and what do you want to say – if anything? This is your opportunity – do you want to talk to the family members who are here – do you want to talk to anybody who is listening to you about the project  
20 and its outcomes?

**DOROTHY FRANKS:** Okay, I just want to say that it is really sad that this project was done – how can I say – unprofessionally. Not only from our side, but from health department too.

**ARBITRATOR JUSTICE MOSENEKE:** ...and, do you have any personal regrets?

5 **DOROTHY FRANKS:** I do have, because I didn't expect that this would have happened to us. So, ...

**ARBITRATOR JUSTICE MOSENEKE:** ...us, being who?

**DOROTHY FRANKS:** Well, us – the whole at Anchor Centre who worked there, and because it is it was really not a good thing that we could just when we went in  
10 there it wasn't – I don't know how to explain properly – it wasn't explained to us properly it wasn't done properly and now we stand in this situation that we didn't expect it would have happened to us. So, if I have to go further on I just have to have – make sure that everything must be in place before you start anything and I am really sorry for the families that this thing happened to them and to us, because I  
15 also feel sad about what happened.

**ARBITRATOR JUSTICE MOSENEKE:** Is there anything else you would like to say?

**DOROTHY FRANKS:** So, I just want to ask them for their forgiveness if I did anything wrong.

20 **ARBITRATOR JUSTICE MOSENEKE:** Do you think you did anything wrong?

**DOROTHY FRANKS:** Well, from my point of view – I've tried my utmost best to...

**ARBITRATOR JUSTICE MOSENEKE:** ...but, do you think you did anything wrong?

**DOROTHY FRANKS:** No Justice, because everything was...

**ARBITRATOR JUSTICE MOSENEKE:** No. Have you made any statement to the  
5 Police so far?

**DOROTHY FRANKS:** Sorry Justice

**ARBITRATOR JUSTICE MOSENEKE:** Have you made any statement to the  
Police so far?

**DOROTHY FRANKS:** Yes Justice, I did.

10 **ARBITRATOR JUSTICE MOSENEKE:** Which Police?

**DOROTHY FRANKS:** Sorry?

**ARBITRATOR JUSTICE MOSENEKE:** Which Police.

**DOROTHY FRANKS:** It think it is – it is in Pretoria.

**ARBITRATOR JUSTICE MOSENEKE:** When was this?

15 **DOROTHY FRANKS:** It was – they were still busy with it last week also. It's from  
September / October – from March.

**ARBITRATOR JUSTICE MOSENEKE:** Very well. Are you done with what you  
want to tell us?

**DOROTHY FRANKS:** Yes Justice.

**ARBITRATOR JUSTICE MOSENEKE:** You are excused from there. You may leave.

**DOROTHY FRANKS:** Thank you Justice.

**ARBITRATOR JUSTICE MOSENEKE:** Thank you. We have some work to do in  
5 Chambers. Is there any Counsel who wants to say something now before we adjourn?

**ADV. PATRICK NGUTSHAN:** Justice Moseneke, all I want to say for now is that we will adjourn for today and resume on the 8<sup>th</sup> of November – that is next month at the same time, 09:30.

10 **ARBITRATOR JUSTICE MOSENEKE:** Ja, it is a little bit over a week and we will adjourn to the 8<sup>th</sup> of November and accordingly we will hear more evidence with a wide variety then. Anything else that the Counsel would like to say about that? Well, we stand adjourned until the 8<sup>th</sup> of November at 09:30.

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