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**FINAL**

20

**PROCEEDINGS ON 4 JUNE 2019**

**CHAIRPERSON:** Good morning Ms Norman, good morning everybody.

**ADV NORMAN SC:** Good morning Mr Chairman.

**CHAIRPERSON:** Are you ready?

**ADV NORMAN SC:** Yes we are ready thank you.

**CHAIRPERSON:** Thank you.

**ADV NORMAN SC:** Thank you. Mr Chairman maybe just before we proceed with the witness we have just placed another presentation file before you which is Exhibit CC1(e). We will deal with it later but this is  
10 the affidavit of Mr Williams which was submitted yesterday. Now it has been properly paginated.

**CHAIRPERSON:** Oh yes.

**ADV NORMAN SC:** It has been placed before you. Yes.

**CHAIRPERSON:** Yes thank you.

**ADV NORMAN SC:** Thank you.

**CHAIRPERSON:** Thank you.

**ADV NORMAN SC:** Thank you. May Mr Sundaram be reminded that he is still under oath?

**CHAIRPERSON:** Well we have not been reminding ...(intervenes).

20 **ADV NORMAN SC:** Anyone oh.

**CHAIRPERSON:** Them but he knows that he has taken an oath to give his evidence truthfully and honestly and that applies until he has finished his evidence.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** Yes.

**CHAIRPERSON**: Yes thank you.

**ADV NORMAN SC**: Thank you.

**CHAIRPERSON**: Before you start Ms Norman.

**ADV NORMAN SC**: Yes.

**CHAIRPERSON**: I just want to – yesterday I referred to part of the evidence that was given by Mr Themba Maseko.

**ADV NORMAN SC**: Yes.

**CHAIRPERSON**: Before this Commission when I noted Mr Sundaram's evidence in his statement, excuse me, which was to the effect that I  
10 think Mr Atul Gupta said that he could get any national or provincial minister to come to the breakfast ...(intervenes).

**ADV NORMAN SC**: The breakfast briefing.

**CHAIRPERSON**: Briefings.

**ADV NORMAN SC**: That is correct yes.

**CHAIRPERSON**: That they held. I said I seem to remember that Mr Themba Maseko gave evidence to the effect that in his meeting with Mr Ajay Gupta, Mr Ajay Gupta told him that he or they, that is the Gupta family, could get any minister to or could call any minister – I just want to – I think I did find the ...(intervenes).

20 **ADV NORMAN SC**: The reference?

**CHAIRPERSON**: The reference and I just want to read it so that I do not misrepresent.

**ADV NORMAN SC**: Yes.

**CHAIRPERSON**: What Mr Themba Maseko said. It is at paragraph 28 of his statement which is at Exhibit E1.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Paragraph – page 18 of Exhibit E1 before this Commission. Before paragraph 28 Mr Maseko deals with the fact that he explained to Mr Ajay Gupta how things worked in regard to advertisement from the government side. Then he says at paragraph 27 and 28:

10 “He dismissed by explanation and proceeded to tell me that my job is to go and identify, collect and allocate all the communication budget amounts in the various departments to his company.”

Paragraph 28 – that was 27: Paragraph 28 he says:

“He, that is Mr Ajay Gupta then told me that I should let him know if any department or minister gives me any problems and he would deal with them directly. I asked him to elaborate and he told me that he will personally summon and deal with any minister who does not co-operate in this regard.”

Then he says:

20 “I then objected to the way he was talking about ministers in such derogatory terms. He seemed oblivious to the point I was making and emphasised that he could deal with any minister who did not co-operate.”

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** So the part that I was interested in is the one where

Mr Maseko said Mr Ajay Gupta said he could personally summon and deal with any minister.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Who did not co-operate.

**ADV NORMAN SC:** Thank you Mr Chairman.

**CHAIRPERSON:** Okay. I just wanted to make sure I am not ...(intervenes).

**ADV NORMAN SC:** Yes to place it on record.

**CHAIRPERSON:** Misrepresenting what Mr Maseko said.

10 **ADV NORMAN SC:** Yes thank you.

**CHAIRPERSON:** Yes thanks you may proceed.

**ADV NORMAN SC:** Thank you Mr Chairman. Thank you. Mr Sundaram will you please turn – look at Exhibit CC1(a) and (b).

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** We go back to your main statement again.

**MR SUNDARAM:** Yes.

20 **ADV NORMAN SC:** At the part – you have covered all of the evidence that is in paragraphs 1 right up to 17 and this morning we – I would like to refer you to paragraph 18 where you deal with the SABC archive deal.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Yes. Could you just tell the Chairperson what was your understanding of this deal?

**MR SUNDARAM:** Um.

**CHAIRPERSON:** I am sorry you referred to paragraph 18?

**ADV NORMAN SC:** Paragraph 18, 18.

**CHAIRPERSON:** Of his statement?

**ADV NORMAN SC:** Of his – yes of his main statement.

**CHAIRPERSON:** Oh okay.

**ADV NORMAN SC:** It is got a sub-heading.

**CHAIRPERSON:** Thank you. *Ja* I found it.

**ADV NORMAN SC:** You found it. Okay thank you.

**MR SUNDARAM:** Chairman so this was a deal that I got to know of  
10 when I was in India and Mr Laxmi Goel said that they had a very sweet  
deal for archives because that was one of my worries when you set up  
a station you need archives to start with otherwise you know especially  
when you are – when you have an environment where you have rivals  
who existed for many years. So they had a very reversed archive. So  
that was one of my worries. So what Mr Laxmi Goel said was that the  
Gupta brothers and Mr Nazeem Howa have had a very sweet deal with  
the SABC where about 100 hours of footage would be given at throw  
away prices. What he described as peanuts that we get that at peanuts  
and he said one of my immediate priorities would be to hire an archivist  
20 a professional archivist who could take that footage which was on  
analogue with SABC and convert it into a digital format. And he said  
that should be done as soon possible you know with the – that Nazeem  
would have the Editorial team from the TNA sat down and make a list of  
all the archive historical value that is required. Also contemporary  
footage for instance of the Marikana incident of recent news makers

like Julius Malema for instance and all of that list was created by Mr Nazeem Howa with the Editorial staff at the TNA. And this was given out to a person called Rahul Singh. Now Rahul Singh was an archivist who has many years of experience had come from India. He is currently the Chief Archivist at the India Today Group which is one of the largest television networks. So he was asked to go with what are known as mini DV tapes because the – and go to SABC over a period of about a month and record for about eight hours footage that was there and get that back to the office. Over the weekends he would digitise it

10 which is basically taking it from tape and putting it on a server so that it could be used for broadcast. Now this was a little surprising for me because the SABC was set to launch its own television station and we were potentially a rival for that station. For them to at that point take a policy decision to give a huge supply of oxygen to a potential rival through this archival footage was something that came to me as – you know I was very puzzled about why they would do it. Also I was told by Nazeem in discussions you know so he would boast about it that you know this is a deal that he got done through his influence that they did not have to pay a lot of bribes it was done oh well taking people out for

20 a meal or buying them drinks. Because just the name of the Gupta's that they are behind it and the fact that the whole world knew that they had the blessings and the backing of the President would make things very easy for them. So he was very excited about the fact that he had got such a brilliant deal. What was also making – you know when we had conversations in the Executive Committee or otherwise was the

fact that he said they are so stupid that they have given us a deal where – which involves two parts. One was the actual purchase at a price but also every time that ANN7 used that footage there was some royalties to be paid to SABC. But they did that without having an effective system in place which could monitor how many seconds or minutes of the footage was being used. So his assertion at that time was that they are stupid because they do not have that monitoring system and it is entirely up us. We may have used say one hour footage over a month but we will you know disclose that we used about  
10 a minute and pay for a minute and get away with the – or even say that we did not use anything. There is no way that the SABC could then know what it was. You know how much footage was used. So over a period of time this is how it happened you know. So Rahul would go over with a bunch of tapes every day to the SABC office. There would be an edit system that would be given to him to copy the footage. The footage was then very neatly since he is a professional archivist he would metatag the whole thing. He would categorise it under various you know political, sports, historic archives and keep it there and also what he will tell me is that the footage that the ANN7 had after it was  
20 acquired from SABC was much better organised and digitised. So it was much faster for us to use it in terms of breaking news or pull out the footage and put it on air – than even SABC at that time because the SABC archives were still on tape. It was not on server like what ANN7 was doing from day 1 So the deal of such a nature in my understanding I have been a television professional now for 26 years and I can tell

you is that if you buy footage it is sold by the second and archival footage is much higher in value than contemporary footage. Also contemporary footage which has got very high news value for instance if it is the assassination of a Head of State which has been caught on tape is much higher value than footage of just say a few buildings you know the parliament or others. So what surprised me in this deal that there was one a bulk rate that was given and this rate was for archival footage for footage that was contemporary. For footage that was buildings across the nation which I found was very funny. In my  
10 assessment footage of this nature which is 100 hours would cost in the millions of dollars and what they – what they got – the rate at which they got it was something which was a throw away price which was something which was done as a favour and in my understanding and my conversations with Nazeem and the Gupta brothers it was done because the officials at SABC knew that the Gupta brothers were close to President Zuma and they did not want to come in the way of anything or did not want to face any consequences of showing any resistance.

**ADV NORMAN SC:** Yes. So at the time when Rahul was visiting the SABC you were already within the country, am I right?

20 **MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Yes and you say that you had witnessed him going to the SABC for about a month?

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Would he come – would he leave your offices in the morning and come back in the afternoons every day or how do you

arrive at a month?

**MR SUNDARAM:** You see as far as I remember we – it was about six years ago he would go in the morning and he would be at the SABC office the whole day and he would come back in the evening. And over the weekends all the footage that had collected he would then digitise that which is basically take it from tape onto the server which could be used for broadcast.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** So – and at the end of the day he will tell me how  
10 many hours had already been collected and it is my understanding and I have confirmed this with him as well before I came here is that he got about 100 hours of footage from the SABC archives during his – during this time.

**ADV NORMAN SC:** Yes. The next witness that is going to testify is Mr Scott who was the Sales Executive within the SABC. He is going to be talking to this issue.

**MR SUNDARAM:** H'mm.

**ADV NORMAN SC:** But is testimony is that only 2000 minutes was sold.

20 **MR SUNDARAM:** H'mm.

**ADV NORMAN SC:** Not 100 hours. What is your comment to that?

**MR SUNDARAM:** Perhaps 2000 minutes was sold but 100 hours was given. 100 hours was what ANN7 got.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** This is something that I know which I remember

absolutely.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** They could have sold 2000 minutes maybe that is the contract that they had I would not know that but what was received in the archives of ANN7 which is – which was on their server was about 100 hours. And this – I am is there is forensic investigation into this – into the servers at the ANN7 I am sure you know the truth would come out on this.

**ADV NORMAN SC:** Yes. So if you talking 100 hours you talking 6000  
10 minutes?

**MR SUNDARAM:** That is correct.

**ADV NORMAN SC:** So – and you are certain that that is what was received by ANN7?

**MR SUNDARAM:** That is correct.

**ADV NORMAN SC:** Yes and ...(intervenes).

**MR SUNDARAM:** Because I was getting the figures every day and there was a tally that was done towards the end. It was approximately 100 hours. It was close to 100 hours but definitely more than 2000 minutes as is being suggested.

20 **ADV NORMAN SC:** Yes.

**MR SUNDARAM:** It was close to 100 hours.

**ADV NORMAN SC:** Yes. If you say you were logging it daily were you logging it – how were you monitoring the receipt of these?

**MR SUNDARAM:** No I would ask Rahul. Because what Rahul did was he on an excel sheet he would make a detail of the footage.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** A brief description of the footage. The number of minutes that that footage was and he would sign off on that. So there was – there were proper records that were maintained of this on an excel sheet and I was shown those excel sheets by him on his laptop at the end of the day and that is how I knew how much was coming in. And I remember very correctly - very distinctly that it was about 100 hours by the time he had finished with going to SABC, coming back with the footage.

- 10 **ADV NORMAN SC:** Yes. Were you involved at all in the payments that were made by ANN7 to SABC in relation to this deal?

**MR SUNDARAM:** I was not part of any commercial deals at all at ANN7.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** My position was mostly Editorial and you know in terms of the work flow and the launch.

**ADV NORMAN SC:** Yes. Were you aware of any monies that were paid towards copy rights that is the usage of the footage by the ANN7 to the SABC

- 20 **MR SUNDARAM:** I left too early. I was told that a part of the contract was that whatever footage ANN7 uses on a monthly basis they were supposed to pay per second some royalty to SABC. But ANN7 had conned SABC into giving them a contract which said that there was no – that the ANN7 would self-declare how many seconds were used of SABC footage and I can tell you for a fact that there was no way to

monitor this either at ANN7 or at SABC. So SABC would have had to go over the declaration that ANN7 got and from day 1 you know I understand from my conversations with Nazeem Howa there was an intention on the part of ANN7 to give a figure that was much lower than what was being used. That they thought was the sweet part of the deal that they made with SABC.

**ADV NORMAN SC:** Yes. Now let us just talk about the monitoring after usage. You quite correct the evidence of Mr Scott is going to be that he would invite them to declare and then they would say to him for the  
10 month of April we used seven minutes and then he would say seven minutes times R2000 which is what they were charging them for copyright. So let us just deal with the monitoring process. Is it international – is there an international way of monitoring usage and protecting the archival content of a broadcaster?

**MR SUNDARAM:** Well most people who are worried about their copyrights and also have commercial interests like this have their own Monitoring Departments. For instance if I have done a deal with ANN7 my Monitoring Department at SABC should actually be looking at every  
20 second of footage on a 24 hour basis and then billing them according to that. Rather than waiting for the client to disclose and tell me which could any ways be disputed you know. They could be under invoicing. They could be doing a whole lot of other things. The best process in this would be to have a Monitoring Department which monitors on a 24 hour basis or like what YouTube does nowadays you know so you bypass human intervention altogether and have algorithms' that could –

which know the electronic footprint of the footage audio video that you have and match it against a broadcast and give you the exact number of seconds for which this has been used. There are various ways in which the use of footage can be – or use of copyrighted footage can be monitored which are used by broadcasters everywhere. And I think it was a very – you know I would think at best it would be a very innocent mistake on the part of SABC to agree to such a deal where without monitoring you are asking the Gupta brothers to disclose on their own how much footage they used because you know that was not a  
10 commercially wise decision.

**ADV NORMAN SC:** Yes. Are you aware of something that is called the burnt in code as to how that works? And whether when you were here in South African whether any of the broadcasters that you ever dealt with used that if there was an archive or content that they wanted to sell to ANN7?

**MR SUNDARAM:** The only broadcaster who I know wanted to sell archival footage to ANN7 was SABC.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** And I am not aware of this code.

20 **ADV NORMAN SC:** Of the code yes. So the criticism that you level at them is that they actually allowed the user to determine how much it should pay for because in essence if the user does not disclose that I used 40 minutes of your footage and I will simply decide as a user if I am a devious user that I used only five. And as the SABC you have absolutely no way of monitoring whether in fact they used 40 or five?

**MR SUNDARAM:** *Ja* absolutely I mean that is not the way commercial deals are done. You have to have you know into the contract you have to weave accountability. You have to weave a fact that there is no scope for you know for want of any other word a misunderstanding or a misreading of figures between two parties. So there had to be in this contract a system where there could have been an accurate indisputable and auditable system which could determine how much footage was used and how much money was paid which was not done in this case. Now this could be something that was done by somebody  
10 who was negotiating who is not really familiar with deals like this or it could have been done with an intent I would not know about that.

**ADV NORMAN SC:** Yes and they would have lost. If you take the 100 hours that you talking about that is 6000 minutes there is a lot of revenue that they would have lost even if one goes according to the R2000 per second sale of that footage.

**MR SUNDARAM:** H'mm. Absolutely I would agree with that you know. This is – I mean what SABC did was exposed themselves to fraud knowingly. So why they did it is something that I would not know – I would not understand.

20 **ADV NORMAN SC:** Yes and ...(intervenes).

**MR SUNDARAM:** It is not a commercial decision and what Nazeem Howa called it was a sweet deal so why would they give a sweet deal to ANN7 why I was told is because – and what they said it was because the SABC officials knew that the Gupta's were close to the President and they did not want to come in their way or ask too many questions

so they just gave a sweet deal to them.

**ADV NORMAN SC:** Yes and Mr Scott is going to testify that although according the pricing guide that the SABC has they had to sell the 2000 minutes at R100 per minute but it was – there was a discount that was given to ANN7 because according to Mr Scott it was the biggest sale that they received from one client. And then the discount that was given was R30 and therefore they had to pay R70 per minute.

**MR SUNDARAM:** Okay. See I would – I mean as somebody who had been in the broadcast business would want to know why would you want  
10 to give footage at a discount to a potential rival? If I were in this position and I know I am just in hindsight anybody can say anything but I would have charged them more than what I charge other clients because this is a potential rival. So they were given a discount and like I said footage of this nature cannot be valued on a blanket basis. There is archival footage say of Nelson Mandela from the 70's and 80's which is of a far higher value than of a Julius Malema which was shot yesterday. So you cannot say that here is a blanket claim that we give you for all of that. So the valuation if you see was not done on any prudent basis. It is my understanding of the thing. And also if there is  
20 a rate card that they had for this footage was this rate card made just for this deal or is this something that existed before? Is something that would be interesting to know. But like I said a 100 hours of footage costs in the millions of dollars and the valuation of that is a – is something that would require chartered accountants that would require professionals who would value. You know it is like you go to a shop

and there is antique furniture there and there is furniture that is made today and there is broken furniture and you sell all of it at the same rate. If I were to give you analogy of a furniture shop.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** That is what they have done so which – as somebody who has been in this profession I find that a little puzzling you know why would they do that? Why would they do something like that?

**ADV NORMAN SC:** Yes. Thank you. Maybe Mr Scott is going to be able to explain some of those questions that you are raising. Then in  
10 paragraph 22 you deal with a visa and labour law violations. Could you just tell the Chairperson because we believe that there is maybe I will take you to that record of mister – to that article of Mr Bateman as to how did you discover that the issuing of visas to some of the employees of ANN7 which were from India was not done according to the laws of the country or were done in a manner that was irregular? What made you to be aware of that?

**MR SUNDARAM:** Well you know the – when I arrived here I was taken to a guest house which had Nepali national who was working there and not getting any salary. His salary was given in cash in India and he  
20 was working there and when I spoke with him he told me a lot of things which you know left me thinking. For instance he was there on a tourist visa. He was not on a work permit but he was working there. He had to cook for dozens of people you know not just the people who are staying in the guest house but also the labourers would come from India to construct the studio premises. Now he told me about working

conditions that they were put in which were sub-human. You know the labourers would come from India on tourists' visas for staying at the studio premises while they were constructing it. There was very basic facilities for toilets and wash rooms. They were you know so this Nepali national would cook for them and take – and the drivers would ferry the food to those people. And also I remember Ajay Gupta and others complaining about how those people there a large number of them were coming to the New Age office to use the washrooms. So on the one hand you do not provide them enough washrooms at site and when they

10 come to the office you know there is a total amount of disgust that he would talk about. So those – they would sleep at site, they would work at site, they would be working 24 hours. There was no labour laws that were applicable to those people. And in my view you know I would be corrected by an expert if there is one why would – you know when there is abundant supply of skilled and unskilled labour for construction in South Africa why would they get these people from there and they were – and I was told later that Ashu Chawla through the offices of the President could give any number of visas to any number of people. So if it works out cheaper for them to get – fly people down by the plane

20 loads from India to construct here that is what they would do rather than pay salaries here. Mr Gupta also had a lot of uncharitable things to say about workers here. He said they were lazy, they would work certain number of hours. If you ask them to work overnight they would not do that. They would not stay at the site and work so just get people from India let them stay at the site. Give them very basic facilities.

Give them a sack of rice to cook on site. Give them – supply them some meals from the guest house and you know – put them in – you know I would call them sub-human conditions in which they were working. So that is when I found out that these kinds of violations were taking place here. Also towards the launch we had required a few more people because I – you know while we were making our strategies and plans in India we had said that we will get some skills from South Africa. For instance the PCR staff was something that we said we will get from South Africa. And also the camera people and all of those things. But it was suddenly decided that the production control room we could not hire anybody from South Africa because 1. The people that we were getting were very expensive according to the – to mister – to Atul Gupta and Mr Laxmi Goel and it would be cheaper for us to get people from India. Also certain critical positions they want the controls with them they did not trust South African Nationals or journalists to take those positions. So the production control room and the video's which are being one of those issues. And the idea then was to get a whole lot of people very quickly from India before the launch because they did not want to hire from South Africa and I was very resistant on that. I refused to sign on any of the documents which would get - for the number of people from India because I thought that was – you know – it was not required. We had a number of people in South Africa who could do that job.

**ADV NORMAN SC:** H'mm.

**MR SUNDARAM:** So my decision – they overwrote my decision and

Mr Laxmi Goel in India appointed a lot of people many of whom were sent here on visitor visa to work here before the launch and that is something that I could do nothing about because – you know – I did not sign off on that and most of them came here and I was a witness to the kind of violation that was happening in this. In that case also the same thing happened. Mr Ashu Chawla was given a list of people who were to be brought from there. He would contact – you know – be in touch with the President's Office, would be in touch with the Home Department and immediately – you know – within a day or so the visa's  
10 would be issued and the – plane loads of people would come here and start working. I have complained ...(intervenes).

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** About this as well.

**ADV NORMAN SC:** Yes and then – so when you realised that this was happening am I correct that then you wrote to – after you left South Africa ...(intervenes).

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** You raised this with the Department of Home Affairs?

20 **MR SUNDARAM:** Oh that is correct. So I wrote them two mails – you know – a mail and a follow up mail but I am – you know – very disappointed that it has been six years I have not got a single response from the Home Department seeking more details or seeking any extra information about the complaint that I gave them.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** Even – you know when – I mean I am digressing a little bit. Even at the SABC when my book came out – now the details are there – I was told that the SABC Board had constituted a forensic investigation into the averments that I made but to date it has been over a year since that Committee was set up. I have never been contacted to give out any details or any of that – you know. So that is – that leaves me a little disappointed – you know. It is almost like – you know – for six years I have been fighting a lone battle and I have had no support from the teams the departments that are supposed to  
10 investigate these charges. So ...(intervenes).

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** I want to place that on record.

**ADV NORMAN SC:** Yes. Maybe just to deal with the Home Affairs issue first.

**MR SUNDARAM:** Huh-uh.

**ADV NORMAN SC:** If you have a look at CC – Exhibit CC1(d) Mr Chairman which is the lever arch file submission by Mr Apleni. May I draw your attention to page 207 - in fact starting from 210 – I beg your pardon, that is where your emails are – 210. Have you found it?

20 **MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Oh, thank you. Now that first – if you just one page back you will find another email at 209 and that is dated the 6<sup>th</sup> of September 2013.

**MR SUNDARAM:** Huh-uh.

**ADV NORMAN SC:** But it seems to me that the one that is dated – that

appears at 211 is dated the 4<sup>th</sup> of September. Am I right? Is that the 4<sup>th</sup> or 14 of September – 211?

**MR SUNDARAM:** 211?

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** I think in the printing there has been an error ... (intervenes).

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** But I would go with what was on the original. You know – I think it should be the 4<sup>th</sup>.

10 **ADV NORMAN SC:** It looks like the 4<sup>th</sup> to me as well. Yes, so are these the emails that you directed to the Department of Home Affairs?

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** And I see that you had copied on the emails some of the recipients there Mr Apleni and you have got a whole list of other people?

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Where did you get these addresses?

**MR SUNDARAM:** I went on the website of the Home Department and I – you know – they have got a whole lot of office bearers and their email  
20 ID's that were listed.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** So I put a complaint to each of the office bearers and also to the Head there. Now I knew that – you know – there could be a dispute later on. So what I did was to also mark a copy of this complaint to various journalists.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** Hoping that if – you know – that it will be taken by the media and there would be some pressure on the department to investigate these charges but like I said I am not aware of any investigation that has happened. I was not involved in any of that.

**ADV NORMAN SC:** Yes and you in the email that is at page 209 you make mention of certain people where you say – you suggest that their visas were issued in a manner that was not regular.

**MR SUNDARAM:** Yes.

10 **ADV NORMAN SC:** Yes and could you just read into the record maybe start off with or maybe because it is a short email. Maybe if you could just read that email.

**MR SUNDARAM:** So this is ...(intervenes).

**ADV NORMAN SC:** At page 209.

**MR SUNDARAM:** Oh, 209.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** And this is dated the 6<sup>th</sup> of September 2013 at 08:33. So this is addressed to all the officials at the Home Department and the journalists that I have also marked on this.

20           “Dear Sir, I am pained to note that despite my complaint to you a few days ago I have got an acknowledgement from you. I would also like to report that Infinity Media shareholder Atul Gupta and Laxmi Goel have started a large scale cover up operation to hide the tracks of the visa fraud they are

perpetrating. While the bulk of the dozen of Indian labourers have quickly left South Africa many Indian nationals who have come on business visas are also been asked to stop reporting to work after I made my complaint to you public. I fear they will be sent back to India as a means to destroy evidence. You can still probe the issue by discreetly seeking details from the Editorial staff about the work done by the internationals who came in on business visas. These include

10 Sanjay Pandey, Vishnu Shankar, Anand Prakash, Shamin among others. The delay in probing the matter has already given time to Mr Gupta and Mr Goel to destroy evidence and cover their tracks. I hope you will acknowledge my mail and start to probe at the earliest, Rajesh Sundaram.”

**ADV NORMAN SC:** Yes, thank you. As you are aware as we conveyed this to you on Sunday that Mr Apleni has actually put the document that shows that there was in fact an investigation into your complaint.

**MR SUNDARAM:** Huh-uh.

20 **ADV NORMAN SC:** Do you accept that?

**MR SUNDARAM:** I am not aware of that because I was never informed of it.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** My emails went unanswered. There was no response that I got at any time.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** Ja.

**ADV NORMAN SC:** Maybe before we go to report maybe just to mention that you had complained and Mr Barry Bateman ...(intervenes).

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Also took the matter up with Home Affairs.

**MR SUNDARAM:** Yes, yes.

**ADV NORMAN SC:** And his email appears at page 208 and he is a journalist of Pretoria Correspondent Eyewitness News and then his letter – his email of – that appears. It is dated the 9<sup>th</sup> of October 2013 and he had addressed the email to Mr Ronnie Mamoepa of the Department of Home Affairs and he was raising the issue that you had complained about the matter and the department had not attended to it.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Are you aware of that?

**MR SUNDARAM:** I am seeing this letter for the first time.

**ADV NORMAN SC:** The email for the first time?

**MR SUNDARAM:** Yes, yes.

**ADV NORMAN SC:** Alright, okay. So he took the matter up and then in that email he – if you read the very last sentence.

“The following people have been working ...”

If you read that he has listed some of the people that you listed in the previous email that you read. Could you just read those names out?

**MR SUNDARAM:** Which page is this?

**ADV NORMAN SC:** Sorry, page 207 still.

**MR SUNDARAM:** “Dear Ronnie, I am just following up to confirm that you are on top of this. I have since our chat yesterday spoken to Mr Sundaram. He has confirmed that not a single person from the department has responded to his complaint nearly a week after he sent it to senior officials in the department a DG and DDG and several others. It is worth noting that Sundaram sent a follow up letter to the above-mentioned people in which he said he had become aware of a cover up. Despite this the department still had not reacted. Sundaram has raised concerns that department officials are complacent in these visas irregularities which could explain the department’s lack of urgency. The following people have been working at ANN7 as Editorial staff. However they are alleged in the country on business visas. These visas were arranged through Sahara Computers. Please check the visas and of course the names are Anand Prakash, Sanjay Pandey, Deepak Kaushik, Shamin Hussain, Vishnu Shankar, Y P Singh, Ravi Puri and Sunil Kumar. Please check the visas that were issued to these people to confirm whether they are business visas or work visas. My deadline for this information is midday. Regards, Barry Bateman Pretoria Correspondent

10

20

Eyewitness News and the details.”

**ADV NORMAN SC:** Yes, thank you and there is another email that you had to send after you had viewed on TV a response by the former Minister of Home Affairs Dr Naledi Pandor.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** What happened that time? You listened and you saw what the Minister had respond – was responding to Parliament.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Yes.

10 **MR SUNDARAM:** And I did not listen to what she said but I had read a few media reports about what was being said and I knew that there was much more to the investigation than what was being reported. So then I had written saying that – you know – the other aspects should also be investigated about this.

**ADV NORMAN SC:** Yes. If you could just turn to page 214.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** That is what Mr Apleni has put up. In fact maybe Chair if I could just take Chairperson to 201 because that ...(intervenes).

20 **MR SUNDARAM:** 201?

**ADV NORMAN SC:** 201 yes, it is a submission.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Yes and you can –that says feedback report on the media complaint that in the immigration status of foreigners employed by Africa News Network – ANN7. Do you see that?

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** And then they were providing the Minister with feedback.

**MR SUNDARAM:** Huh-uh.

**ADV NORMAN SC:** And in the second – on the second page 202 ... (intervenes).

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** You will see that the list of names that came from Mr Bateman's list in the email and also incorporating some of the  
10 names that you had on your list ... (intervenes).

**MR SUNDARAM:** Huh-uh.

**ADV NORMAN SC:** Those persons are listed there.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** And then there is a discussion that they deal with a discussion in the matter but I would like you to just look at what their findings I would imagine were because in paragraph 6 what do they say there at page 202?

**MR SUNDARAM:** "On further investigation Inspectorate  
20 discussed that 31 foreign nationals are on intra-company permit. However one of these 31 has already resigned and left the country. Our mission in New Delhi has been contacted to ensure that the permit is cancelled."

**ADV NORMAN SC:** Yes and then if you turn over the page what do they say in paragraph 7?

**MR SUNDARAM:** “The other nine foreign employees are on visitor visas with a condition of attending business meetings. Three of the nine have already left the country.”

**ADV NORMAN SC:** Yes and they attach those passports and then maybe we should just read, too long because then I will take you to the relevant pages.

**MR SUNDARAM:** Sure.

**ADV NORMAN SC:** Yes to deal with them. Okay and then paragraph 8.

10 **MR SUNDARAM:** “The employer indicated that they intend keeping the others six foreign employees. As a result the employer has approached the department and made a request for a visa of the requirement for work permit and should the department approve they will make an application for these employees to be issued with critical skills permits.”

**ADV NORMAN SC:** Yes and then the next paragraph.

20 **MR SUNDARAM:** “The media complaint referred to eight foreigners and the employer confirmed four. Namely Anand Prakash, Sanjay Pandey, Deepak Kaushik and Vishnu Shankar. According to the employer three of these four have already left the country and the Inspectorate has confirmed that Sanjay Pandey, Deepak Kaushik and Vishnu Shankar left the country on the 5<sup>th</sup> and 6<sup>th</sup> of September 2013.”

**ADV NORMAN SC:** Yes and then the last paragraph.

**MR SUNDARAM:** “The employer mentions that the other four namely Ravi Puri, Shamin Hussain, Y P Singh and Sunil Kumar were consultants sent by Essel Media and have since left the country. The Inspectorate is still awaiting their full details from the Mission in India in order to confirm if indeed they have left the country.”

**ADV NORMAN SC:** At page 204 they have recommendations. What do they recommend to ...(intervenes)?

10 **MR SUNDARAM:** If I may add also.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** There is a bit of a – you know – a factual error here because I remember that Ravi Puri and Sunil Kumar were not employees of Essel Media but they were employees of a company called STV which is owned by the brother of Mr Laxmi Goel.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** So they were not – to the best of my knowledge I remember that they were not employees of Essel Media but they were employees of STV.

20 **ADV NORMAN SC:** Yes, thank you and then if you turn over the page they have recommendations there.

**MR SUNDARAM:** “Recommendations. The following recommendations are made based on the discussions about that the Minister take note of the contents of this report. Foreign employees on visitor’s visas be

ordered to leave the country and be allowed to apply  
for the correct permits from country of origin.”

**ADV NORMAN SC:** Yes and that was signed – the person’s name that  
is put under there – the signature – under signature?

**MR SUNDARAM:** Mkuseli Apleni.

**ADV NORMAN SC:** Yes and the designation?

**MR SUNDARAM:** Director-General.

**ADV NORMAN SC:** Okay and then the recommendation was approved  
and the person who signed is the Minister of Home Affairs?

10 **MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Yes who is that person?

**MR SUNDARAM:** It is Ms G N M Pandor.

**ADV NORMAN SC:** Yes and the date?

**MR SUNDARAM:** The date is 21/09/2013.

**ADV NORMAN SC:** Yes. So would you then accept that there was an  
investigation that was done immediately after these complaints because  
your complaint is dated the 4<sup>th</sup> of September/ the 6<sup>th</sup> September  
...(intervenes).

**MR SUNDARAM:** H’mmm.

20 **ADV NORMAN SC:** And by the time you wrote in October an inquiry, an  
investigation had been done.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** However informal it was but it had been conducted.

**MR SUNDARAM:** It had been conducted ...(intervenes).

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** But I think I should have been given a – you know – a say in this – you know – they should have asked me because I have given them – you know – the few inaccuracies that have come in. Also – you know – these are the names that I remember of the Editorial staff. There were a whole lot of other labourers would come in there, the construction workers, the skilled/unskilled people. That has not been part of this investigation which is something that I mentioned in my complaint as well. So what they have done here is that they have selectively used certain elements. I was not part of this – you know – I  
10 was never contained for my views on this – on my complaint but a whole lot of the others who had come ...(intervenes).

**CHAIRPERSON:** Did they ever acknowledge receipt of your complaint?

**MR SUNDARAM:** No.

**CHAIRPERSON:** Did they ever write to you ...(intervenes)?

**MR SUNDARAM:** Never.

**CHAIRPERSON:** Or communicate with you in anyway?

**MR SUNDARAM:** It has been about six years now. I have not received any ...(intervenes).

**CHAIRPERSON:** And ...(intervenes).

20 **MR SUNDARAM:** Acknowledgement or anything from them.

**CHAIRPERSON:** And it is only when you were preparing for giving your evidence here that you got to know that something ...(intervenes).

**MR SUNDARAM:** Yes.

**CHAIRPERSON:** Was done even though it was – did not cover everybody that you had complained about and ...(intervenes).

**MR SUNDARAM:** Yes.

**CHAIRPERSON:** Does not appear to have been adequate?

**MR SUNDARAM:** Yes Chairman.

**CHAIRPERSON:** H'mm.

**ADV NORMAN SC:** Thank you and I referred you yesterday to page 213, if you recall, where your name appears as item number 31.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** You recall that?

**MR SUNDARAM:** Yes.

10 **ADV NORMAN SC:** Yes. I would like you to go to page 214.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** There as you can see there are names there that are highlighted in red.

**MR SUNDARAM:** Huh-uh.

**ADV NORMAN SC:** And there is – there seems to be a page missing but it does not because it is a continuation from 31. I beg your pardon. So if you look at – there are one, two, three, four names that are highlighted in red. Could you just read those names and read what they are – the nature of their visas and also read what the comment is  
20 right at the end – that is the last column – the fourth column – the fifth column?

**MR SUNDARAM:** So item number 33 ...(intervenes).

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** Is Anand Prakash. There is a passport number which is given.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** Visitors visa issued on 14/08/2013 with the condition for business meetings valid for 30 days, expired.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** He was a Studio Director. He was not there for meetings. He was actually a Studio Director doing work in the PCR switching videos.

**ADV NORMAN SC:** Yes and had they contacted you before conducting this investigation you would have given them that information?

10 **MR SUNDARAM:** Absolutely. I would have done that.

**ADV NORMAN SC:** Yes, thank you and then the next name?

**MR SUNDARAM:** 36, Sanjay Pandey. His passport number is given and visitor's visa issued on 12/08/2013 with the condition for business meetings valid for 90 days and it is valid and left the country but he was not there for business meetings. He was actually the one who coordinated the whole production for the launch and he was also taking care of the overall PCR operations while the launch happened.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** So he was actually working at the Midrand Office.

20 **ADV NORMAN SC:** And then number 38?

**MR SUNDARAM:** Deepak Kaushik, visitor's visa issued on 14/08/2013 with a condition for business meetings valid for 30 days, expired left the country. He was also working during the launch.

**ADV NORMAN SC:** Are you able to tell whether they left before you left the country or after you left?

**MR SUNDARAM:** They left after I left the country.

**ADV NORMAN SC:** After you left the country?

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Thank you and then the last one?

**MR SUNDARAM:** Vishnu Shankar, they have got his passport. Visitor's permit issued on 12/08/2013 with the condition for business meetings valid for 60 days yes.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** Valid, left the country. He was part of the output test  
10 there. He was clearing scripts. He was making rundowns and he was doing Editorial work in violation of the visa that he was issued.

**ADV NORMAN SC:** Yes. So as far as you are concerned even the information that is here is unreliable?

**MR SUNDARAM:** I would say that – you know – because we had a newsroom full of journalists who knew what these people were doing.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** If they had gone not to me but any of the people  
20 working at that time at ANN7 they would have known that these people were working there. They were not there for meetings. They were not there for any other purpose – not as tourists – but they were actually actively working in the newsroom ...(intervenes).

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** In violation and I would want to state here as well that I did not sign off on these appointments. I did not sign off on any of these people coming and working in South Africa.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** This was put before me and I had categorically said I would not do it.

**ADV NORMAN SC:** Yes, thank you and then lastly if I may just take you to page 365 or maybe this is a parliamentary just for authentication purposes. If I may just take the Chairperson to page 359.

**MR SUNDARAM:** 369?

**ADV NORMAN SC:** 359 Mr Chair. 359 yes. It is just towards the end of the bundle. Are you there Mr Sundaram? Found it?

10 **MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Okay, thank you. That is – that document has a logo Home Affairs Department and it is written submission and then subject – what is the subject there?

**MR SUNDARAM:** “Parliamentary Question Number 2490 National Assembly: written reply – Mr GBD McIntosh COPE.”

**ADV NORMAN SC:** Yes and what is the purpose of that?

**MR SUNDARAM:** To provide Minister with a draft response attached as Annexure 1, the Parliamentary Question 2490 (NA) for consideration and approval.

20 **ADV NORMAN SC:** Yes and if you go to a – and then it is the page that has got signatures. If you go to page 361 there is a recommendation there.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** And what is the recommendation?

**MR SUNDARAM:** “It is recommended that Minister approve the

draft response prepared by the department in respect of Parliamentary Question 2490.”

**ADV NORMAN SC:** Yes and it is signed by the Director-General?

**MR SUNDARAM:** Director-General on the 3<sup>rd</sup> of October 2013.

**ADV NORMAN SC:** And it appears to have been approved by the Minister on which date?

**MR SUNDARAM:** Yes. On the 6<sup>th</sup> of October 2013.

**ADV NORMAN SC:** Yes and then there is a huge list. I am sure it started with the Chief Directors, Chief Admin Clerks but at page 363  
10 then we get to see what the actual question 2490 that was posed by Mr McIntosh what the question was.

**MR SUNDARAM:** H'mm.

**ADV NORMAN SC:** Okay. Could you just read that into the record please?

**MR SUNDARAM:** On which page is this?

**ADV NORMAN SC:** Page 363.

**MR SUNDARAM:** 2490.

**ADV NORMAN SC:** 2490, yes.

**MR SUNDARAM:** *Ja.*

20 “Whether her department will take any steps with regard to allegations details furnished that some staff members from India were employed illegally and without work permits by Africa News Network 7. If not what is the department’s position with regard to a, this matter and b, other whistle blowers who bring similar

occurrences to the attention of a department. If so what are the relevant details?”

**ADV NORMAN SC:** Yes, thank you and then if you turn over the page at page 364 that question as you can see there is a stamp that appears to be from Parliament.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Do you see that?

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** At the bottom of that page dated 17 September. No  
10 I think this is the copy that was received by the Commission. I beg your pardon – received from the Commission from Parliament and it is marked 2980 but I would like you to go to page 366 because that is where a reply is given by the department to the question.

**MR SUNDARAM:** Huh-uh.

**ADV NORMAN SC:** Mr Chairperson we can confirm that this appears to be incomplete but it is indeed complete. We had received it from Parliament. Yes, thank you and the reply – what is the reply to the question that is already read at page 366?

**MR SUNDARAM:** Yes.

20 “The Department of Home Affairs acted immediately on the allegations that Africa News Network 7 had employed foreign nationals without proper work permits. It was alleged in the complaint received by the department that eight foreign nationals were employed by ANN7 without proper work permits. A

parliamentary investigation – a preliminary ...”

Sorry.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** “A preliminary investigation conducted by the department confirmed that eight foreigners were in possession of visitor’s permits and in the country legally. The condition of the permits allowed them to attend business meetings. The department also discovered that four of the eight foreigners had already left the country and the remaining four were found to be conducting training for employees but they were not on the payroll of ANN7. Despite the fact that ANN7 did not consider them to be employees since they were not remunerated for such an activity the department found that the four persons who violated the condition of their permits and were therefore ordered to leave the country. The department has confirmed that they all have left the country. The department understands that whistle blowers raise concerns so that those concerns can be addressed. Any person who would like to raise concerns about similar occurrences is encouraged to call the department hotline on 0800601190 and they can do so anonymously and are also not expected to prove the allegations.”

10

20

**ADV NORMAN SC:** Yes, thank you. The Chairperson asked you

whether you were ever contacted by the department after you had filed your complaints. Maybe it is – it would be proper for me to refer the Chairperson to a submission that Mr Apleni has put up and his explanation about your correspondence. If I may just refer the Chairperson to page 1, it is a letter – it is a submission but framed in the form of a letter addressed to the Chairperson – to the Secretary of the Commission. Page 1 of that. You just have to –right at the beginning.

**MR SUNDARAM:** Page 1?

10 **ADV NORMAN SC:** Yes. Are you on page 1?

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** As you can see it is addressed to Mr Pedlar who is the Acting Secretary of the Commission. In paragraph 4 of that could you just read briefly what he says there?

**MR SUNDARAM:** “I wish to state upfront that I do not know, have never met, received any correspondence or ever spoken to any Gupta family member or associates.”

20 **ADV NORMAN SC:** Yes and then in paragraph 8 he deals with the correspondence there. That we have dealt – we have dealt with your emails ...(intervenes).

**MR SUNDARAM:** Huh-uh.

**ADV NORMAN SC:** Those dated the 4<sup>th</sup> and 6<sup>th</sup> of September. What does he say about him not receiving those emails?

**MR SUNDARAM:** You want me to read that?

**ADV NORMAN SC:** Yes, yes.

**MR SUNDARAM:** Okay.

“In this case according to the information provided to me by the department in particular from the DG’s Office the emails dated the 4<sup>th</sup> and 6<sup>th</sup> September 2013 were never received. Based on this response I have requested a confirmation from the Department’s Information Technology Section which indicates that they have reviewed my email account and could not find the mentioned emails. In this case I wish to refer the attention of the Commission to Annexure 4 attached herein for ease of reference. Therefore the only email which my then office received was that of the 9<sup>th</sup> of October 2018 and the view of the office was that the matter was already closed since the report by the Inspectorate was already concluded. In this regard I wish to state that the said email of the 9<sup>th</sup> of October 2018 was never brought to my personal attention.”

**ADV NORMAN SC:** Yes, thank you. Then in summary of your evidence about these employees who had these visas which would be legally obtained in a manner in fact confirmed some who have left the country. Do you know of any of these employees who are still within the country?

**MR SUNDARAM:** No, not aware.

**ADV NORMAN SC:** Yes, thank you.

**CHAIRPERSON:** You got a chance to read Mr Apleni's documentation in regard to what the Department of Home Affairs did, is that right?

**MR SUNDARAM:** I have not read the whole thing, I have gone through the summary, the relevant portions of that.

**CHAIRPERSON:** Yes. Well did you come across anything that suggest that the investigation that the Department of Home Affairs did entailed doing something against or about those other than the employees other than the employees from India who may have facilitated the breaking of the law in regard to their employment? Did you come across anything  
10 that suggested that the Department had done something about this, had reported it to the relevant authorities or Department of Labour or the Police or the National Prosecuting Authority, did you come across anything like that?

**MR SUNDARAM:** In my reading I've seen they've talked about the employees but what action they've taken against the employer for violating the visa norms is something that I do not know. They do accept that there were people working on work, on visit visas and business visas here, but that purely is a violation of the law, but I would also like to say that you know as a whistle blower in this matter  
20 the fact that I was never contacted to get information because I had all the information about these people, ANN7 would say that they were here for training or for business meetings, but the fact that they were not I was not consulted, and I am also surprised that you have a newsroom full of people who are working with them, none of those employees at ANN7 were also contacted during this investigation, so I

find that a little puzzling.

**CHAIRPERSON:** Yes, there are no statements from those employees whether they just attended meetings or they actually worked or anything like that.

**MR SUNDARAM:** Also the people who worked in the newsroom, for instance Vishnu Shankar was there clearing scripts, so you can ask any of the journalists who were working at that time whether he was working or he was there attending meetings. There would be multiple people in the newsroom, they would say that he was making run-downs, 10 he was working in a shift there, you know if you give him the morning shift he would come in the morning shift or evening shift, he was working there in the newsroom, and there are dozens of witnesses to that, none of whom I think were contacted as per my reading of this. It was an investigation that was conducted ...(indistinct) of natural justice not followed because you know if I'm the complainant and I'm the whistle blower I should have been contacted to give more details, I was always willing to do that, and it was me who went out of the way to write news while I was also doing other work in India, to persuade them to do this investigation and when I come here to South Africa and it was 20 the first time I know that there's been an investigation and these are the details.

**CHAIRPERSON:** Hmm, okay, thank you.

**ADV NORMAN SC:** Thank you Mr Chair. There's just something that we didn't deal with yesterday that relates to how ANN7 was allocated the slot by MultiChoice.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Could you just briefly just tell the Chairperson as to how that happened?

**MR SUNDARAM:** Well they were very adamant about a particular number, now I have written that number in the book and I need to refer to that.

**ADV NORMAN SC:** Yes. Maybe if I could just refer the witness instrument to page 66 of your book.

**CHAIRPERSON:** 66?

10 **ADV NORMAN SC:** Yes thank you.

**MR SUNDARAM:** I will just quickly refer, yes. *Ja*, the slot that they wanted was 404 because that was a prime slot that was between two existing news stations, and the Gupta brothers feared that DSTV was somehow inimical to them and they would give them a slot which is not with the news channels but somewhere else where it would be difficult for people to find it and that would affect their ratings, so – but I found DSTV to be extremely professional in their conduct, they would want technical details, they would want to know you now whether ANN7 has actually started a 24 hour dry run which is never the case before the  
20 station actually launched. ANN7 went 24/7 on broadcast the day it was launched. Before that they would do a few hours and then wind it up because none of the equipment or all of the equipment that was required for a 24-hour operation had not come in. Like I said before even the studio robotic cameras came in the last minute and were being installed on the day of the launch.

So there was a whole lot of lying which we were required to do when we went to the DSTV meetings you know, so especially Mr Y P Singh who was the technical – he was looking at the technical installation and the integration at that time he would be asked to go to those meetings and with a straight face he would have to tell them lies about how we were at a very advanced stage and that we were already doing 24 hour news bulletins and all of that.

Also I was told on multiple occasions that they would use the President's office to pressure DSTV to give them the slot that they  
10 wanted which is 404, and this is something that I was told repeatedly and we had multiple meetings with DSTV at their office and at every time the level of progress or you know the installation technology – the information that we were giving them was all wrong and we were – many days – many weeks behind schedule.

**ADV NORMAN SC:** Yes thank you, then if you may then go back to our statement, you have dealt with Home Affairs.

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** And at paragraph 27 you deal with certain payments that were made, can you just tell the Chairperson what is it  
20 that you want to convey in paragraph 27 and 28 please, at page 4 of your statement.

**CHAIRPERSON:** Did you say paragraph 27 and 28?

**ADV NORMAN SC:** That's correct Mr Chairman.

**CHAIRPERSON:** Of his statement?

**ADV NORMAN SC:** Of his, yes, thank you page 4. Have you found it?

**MR SUNDARAM:** Page 27?

**ADV NORMAN SC:** Yes, what are you saying in those paragraphs?

**MR SUNDARAM:** Well you know that many of the expenses were paid in cash in Indian Rupees in India, for instance the person who designed and fabricated the set was paid in Indian Rupees by Mr Laxmi Goel, I was a witness to that. Also wads if thousand Rupee notes were handed out to the person who did the look and feel of the station, which is basically the graphics and the graphic templates for the on-screen graphics that were there. He was paid in cash in front of me, in Delhi  
10 and also you know going back to the previous point where he said that a lot of employees that were not paid, they were working *gratis* on business visas, that is not true because most of those people before they came here were paid in cash by Mr Laxmi Goel in India, their first month's salary and that's why they came here so there would be no records of them having any banking transactions between ANN7 and them here because they were being paid cash in India.

Also there were many of the employees like for instance the labourers who came here to construct the studio, also the housekeeping, the Bali National, was working there, they were all paid  
20 in cash in India.

So this is something that I know is a clear violation of the tax laws in India. My understanding of the tax laws in India is that if you're paying anything above 5 000 Rupees it should be done either through an electronic transfer or through a cheque, you cannot have cash payments and this is something that was happening there with the

sanction of the Directors. Mr Laxmi Goel was giving this cash, you know, at his office and this was something that the Gupta brothers here knew, which Nazeem Howa knew and they were okay with, because these employees were coming from India and you know on records here it would be like no banking transactions between ANN7 and them but they were actually being paid in India for the work that they were doing here.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** So this again is something that I did not approve of  
10 at that point.

**ADV NORMAN SC:** Yes thank you. Mr Chairman that concludes the evidence on the statements of the witness, if I may just at this point address the Chairperson on the affidavits of Mr Williams which he submitted yesterday, which is the exhibits which are placed before the Chairperson this morning.

**CHAIRPERSON:** Maybe before you do that Mr Sundaram you may or may not have covered this but I just want to check that you have covered it, in paragraph 23 of your statement, page 3 thereof you have 1, 2, 3, 4, 5, 6, what appears to be sub-paragraphs up to 7, in  
20 paragraph 5 – no in paragraph 4 you say:

“Atul Gupta also told me that a large number of these employees would be brought in on tourist visas and made to work for a few months. If they are not found suitable they could be dismissed and sent back. Work permits would be issued later to those who proved their

worth.”

Paragraph 5 you say:

“When I questioned Atul Gupta about the legality of making people work on tourist visas he said ...”

And then you quote:

“I have the government in my pocket, you don’t worry about what is legal and what is illegal.”

Did Mr Atul Gupta say that?

**MR SUNDARAM:** Yes he did.

10 **CHAIRPERSON:** And you are sure about that?

**MR SUNDARAM:** Absolutely, I am yes.

**CHAIRPERSON:** Yes. And then in your book at page 46 you talk about – you write about discussions relating to the Waterkloof landing incident.

**MR SUNDARAM:** H’mmm.

**CHAIRPERSON:** And you say, and I will read quite a bit:

“Atul spent a lot of time justifying the Waterkloof landing incident which happened just days before our arrival at this first meeting.”

20 And then you quote and I think you are suggesting that this is what Atul – Mr Atul Gupta said:

“Our family is close to President Zuma; we have never hidden it. We are a powerful family and I am sure all the hype around this landing will also pass with time. We land at air force stations in India all the time, so

what is wrong with landing our guests at an air force base here with all due clearances. We are being targeted.”

And then the last paragraph of that page you quote him as having said:

10           ”President Zuma knows our family well and we have deep bonds with his family. We have enough influence in the government to clear our name and it is not just President Zuma, we have close links with all senior  
ANC leaders. We are bunias, we are Indian Jews, we do not keep all our eggs in one basket. Whoever becomes President of South Africa in the years to come I can assure you he will be our friend.”

Did Mr Atul Gupta say what you say he said in this page?

**MR SUNDARAM:** Oh yes he said these things multiple times you know because immediately after we had arrived here, that was around the time when the Waterkloof incident then happened and some of the people who had come from India were a little worried whether they took a wrong decision and this was in some senses, although not directly  
20   said by him, but this – in some terms to reassure the people who came from India that look you don’t need to worry, it would seem like you know when you read in the media that we are in a lot of trouble, but we are not, we’ve got you know great friendship with the President, and he said multiple times that we’ve got the government in our pocket. Now that’s something that he would keep repeating, like if I asked him about

the visa violations he would say oh we've got the government in our pockets, you don't worry about what's legal and what's not legal, so this is something that he would keep repeating post the Waterkloof incident, especially if he found somebody a little worried about you know all the media, the negative media that the Guptas were getting you know.

**CHAIRPERSON:** H'mm, h'mm.

**ADV NORMAN SC:** Sorry Mr Chairman it has been brought to my attention that it is 11:15.

10 **CHAIRPERSON:** Yes maybe let's just finish one or two others that I want to check with Mr Sundaram.

**ADV NORMAN SC:** Okay.

**CHAIRPERSON:** I think you did cover this yesterday in regard to suggestions of presenters, you say at page 108 of your book:

“Nazeem and Atul also had a list of presenters sent by President Zuma, this included former Government spokesperson Jimmy Manyi.”

Did you, is that true?

20 **MR SUNDARAM:** That is true yes. I want to add that you know this was something that was recommended by President Zuma in one of the meetings, you know when they were asked about presenters I very distinctly remember President Zuma telling Nazeem that you know he thinks Jimmy Manyi would be a good presenter and that he should be considered.

**CHAIRPERSON:** Yes. We will take the tea adjournment and just have

a look at one or two things that I just want to check whether – do you confirm that?

**ADV NORMAN SC:** Yes, thank you.

**CHAIRPERSON:** We will take the tea adjournment now and resume at 11:35.

**ADV NORMAN SC:** Thank you.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

10 **CHAIRPERSON:** I just want to draw – to check something, Mr Sundaram, I am sorry. In – at page 82 of your book you say the following somewhere in the middle of the page like Laxmi I hope I pronounced the name correctly.

**MR SUNDARAM:** Yes.

**CHAIRPERSON:** Okay. He I think that is Atul – Mr Atul Gupta because even the previous sentence you talk about him.

**MR SUNDARAM:** Yes Chairman.

**CHAIRPERSON:** You say:

20 “Like Laxmi he blamed the media for playing up the incident. He claimed his family had the required permission to lend the jet and in the same breath he mentioned the proximity his family enjoyed with President Zuma and his family.”

And then you quote and you attribute this to Mr Atul Gupta and I guess I will see in your supplementary affidavit which codes you

regard as proper codes or where you meant to just make the point and did not mean to say that is what the person said word for word.

**MR SUNDARAM:** Yes.

**CHAIRPERSON:** You say and you quote and you say:

10 “Atul Gupta said President Zuma is on our side. He knows our family and we helped him when he was down and out. He will help us through this as well. You know top Ministers of the Zuma cabinet attended the wording. This is a direct endorsement for us. The personnel against whom action has been taken will be reinstated very soon. We are an influential family here and no one can point fingers at us.”

Atul boasted. I did not read this to you before did I?

**MR SUNDARAM:** No.

**CHAIRPERSON:** I did not read this before?

**ADV NORMAN SC:** No you did not Mr Chairperson.

**CHAIRPERSON:** Oh okay. Now did Mr Atul Gupta say this to you?

**MR SUNDARAM:** Yes he did.

**CHAIRPERSON:** You have no doubt about it?

20 **MR SUNDARAM:** No he said this.

**CHAIRPERSON:** Yes.

**MR SUNDARAM:** Absolutely.

**CHAIRPERSON:** You have got it in quotes could it be that it is not word for word but he made these points or is it what he said word for word?

**MR SUNDARAM:** This is not word to word.

**CHAIRPERSON:** Yes.

**MR SUNDARAM:** But this is something that he has told me many times.

**CHAIRPERSON:** Yes.

**MR SUNDARAM:** Or well the interactions over the months that I working there.

**CHAIRPERSON:** Yes. Well you see there are two parts in this passage that attract my attention. The one is that according to you Mr Atul  
10 Gupta said that President Zuma is on our side he knows our family and we helped him when he was down and out. He will help us through this as well. Now what attracts me to that is that earlier this year one of the witnesses who have given evidence before me, Mr Fikile Mbalula, he is a member I believe of the National Executive Committee of the ruling party the ANC and at different times has been Minister and Deputy Minister in President Zuma's government. He is a – he has been appointed at Minister recently as well. When he gave evidence before me one of the things he said was that in a certain NEC meeting  
20 Gupta family was raised and there was concern that that friendship or alleged friendship between them was damaging the image of the ruling party and the image of the government. And Mr Mbalula said Mr Zuma's response either on that occasion or on other occasions and maybe it is not but Mr Mbabula maybe it is another witness I am not sure now or maybe it was Mr Ramatlhodi I cannot remember but one of

the witnesses said, who attended who was a NEC member, said Mr Zuma when asked why he was not terminating his friendship with the Gupta family he said that that family had helped his children when nobody else could help them. I think in terms of employment. So I just find it interesting that you say that Mr Atul Gupta said President Zuma is on our side, he knows our family and we helped him when he was down and out. He will help us through this as well. So I – that is one of things that attracted me. The second one is that you say Mr Atul Gupta said the personnel against whom action has been taken will be  
10 reinstated very soon. Now you must just tell me what personnel were – was he talking about there? I think this was in the context of the Waterkloof landing if I understand what you say in the book?

**MR SUNDARAM:** Yes.

**CHAIRPERSON:** What was he – what was Mr Atul Gupta talking about when he said the personnel against whom action has been taken will be reinstated very soon. We are an influential family here and no one will – can point fingers at us.

**MR SUNDARAM:** Well this was around the time when the Waterkloof incident was being investigated and there were a few officials who had  
20 been – there was some action that was taken against them and they were, if I remember correctly, were either dismissed or suspended from service. So you know so this was the time and a lot of the people who had come from India were getting a little anxious about the Waterkloof and if you know the kind of impact it would have on the family. So he would boast and tell us on multiple occasions that whoever – you know

– of course in the short term they would have to show that there was some action that was taken that some heads have rolled. But he said those do not worry about them they will be all reinstated. That you know he will use whatever influence is there that anybody who helped him will not face any consequences of their action and that they would be reinstated at a better position at a future date. Now I would not know whether that happened but that is something that he would talk about. That he would ensure that anybody who faced action because they helped the Gupta family during the Waterkloof incident will not –  
10 you know they may have – be facing consequences in the short term but in the long term that will be happy they did it because they would be rewarded for it with much higher positions and you know the family would help them. Use their influence to get them out of whatever punitive action has been taken against them.

**CHAIRPERSON:** So this was in 2014? You were in South Africa in 2014?

**MR SUNDARAM:** No – 2013.

**CHAIRPERSON:** 2013?

**MR SUNDARAM:** Yes.

20 **CHAIRPERSON:** Okay well I – the – Ms Norman.

**ADV NORMAN SC:** Yes Mr Chairman.

**CHAIRPERSON:** Those investigating the issue of the Waterkloof landing.

**ADV NORMAN SC:** Yes Mr Chairman

**CHAIRPERSON:** Need to check. I seem to remember that in the media

there were suggestions that somebody or certain people who were said to have been blamed for the Waterkloof landing were promoted or were given certain positions that did not seem to be in line with disapproving.

**ADV NORMAN SC:** Disapproving the action.

**CHAIRPERSON:** Their alleged role.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** So it will be important for the Commission investigators to have a look and see also whether such – if whether  
10 there were any promotions or reinstatements such as I talked about.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Here which Mr Sundaram is talking about and when they happened.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** For example we know which months he was in South Africa when – if his evidence is true that Mr Atul Gupta said this we need to check whether in fact something along those lines seems to have happened.

**ADV NORMAN SC:** Yes. Thank you Mr Chair we have noted.

20 **CHAIRPERSON:** Okay.

**ADV NORMAN SC:** Thank you.

**MR SUNDARAM:** Thank you.

**ADV NORMAN SC:** Thank you very much. Thank you. Mr Chairman the one thing I forgot to do was to hand up – was to ask that the book be given an Exhibit number?

**CHAIRPERSON:** Oh yes.

**ADV NORMAN SC:** Might I ask that it be marked Exhibit CC1(f).

**CHAIRPERSON:** Yes.

**ADV NORMAN SC:** Yes thank you.

**CHAIRPERSON:** Maybe we should get a ...(intervenes).

**ADV NORMAN SC:** We will mark it for the Chairperson.

**CHAIRPERSON:** We should get maybe a clean copy because  
...(intervenes).

**ADV NORMAN SC:** A clean copy.

10 **CHAIRPERSON:** *Ja* a clean copy.

**ADV NORMAN SC:** I do have.

**CHAIRPERSON:** *Ja* and you will mark it.

**ADV NORMAN SC:** Alright.

**CHAIRPERSON:** And you will mark it Exhibit

**ADV NORMAN SC:** I will mark it Exhibit CC1(f).

**CHAIRPERSON:** *Ja* okay that is fine.

**ADV NORMAN SC:** Thank you Mr Chairman.

**CHAIRPERSON:** Thank you.

20 **ADV NORMAN SC:** Thank you very much. Thank you. Mr Chairman  
the one aspect that I would like the Chairperson to deal with the  
affidavit of Mr Williams. It – various paragraphs he makes mention like  
paragraph 11 of CC1(e).

**CHAIRPERSON:** Mr Williams.

**ADV NORMAN SC:** Yes CC1(e).

**CHAIRPERSON:** *Ja*.

**ADV NORMAN SC:** Yes at paragraph 11 if I may just direct the Chairperson to those paragraphs. Paragraph 11, paragraph 18 and 19 but if you start with paragraph 11. This is what he says at page 7 – paginated page 7.

**CHAIRPERSON:** Who is his – this was handed up?

**ADV NORMAN SC:** This was handed up ...(intervenes).

**CHAIRPERSON:** Today so I do not know anything about it.

**ADV NORMAN SC:** This is Mr Moegsien Williams. He is one of the implicated persons.

10 **CHAIRPERSON:** H'mm. He is one of the implicated persons?

**ADV NORMAN SC:** Yes he did not respond during the time allowed.

**CHAIRPERSON:** *Ja.*

**ADV NORMAN SC:** He simply – this we received yesterday.

**CHAIRPERSON:** Yes.

**ADV NORMAN SC:** When the Commission had started leading the evidence.

**CHAIRPERSON:** And what is it?

**ADV NORMAN SC:** What – it is an affidavit. There is no notice of motion.

20 **CHAIRPERSON:** *Ja.*

**ADV NORMAN SC:** He makes it clear in the affidavit Mr Chairman that he does not wish to cross-examine Mr Sundaram. He also makes it very clear in paragraphs 18 and 19 that he does not wish to come and testify before the Commission.

**CHAIRPERSON:** H'mm.

**ADV NORMAN SC:** The legal team has taken a view depending on what the Chairperson's direction is going to be that in the light of the fact that he does not wish to come he does not wish to cross-examine Mr Sundaram then Mr Sundaram must be afforded an opportunity to respond to his affidavit in writing should the person – Chairperson direct so. Or the other alternative of course would be that these matters that he disputes in Mr Sundaram's evidence that Mr Sundaram be given an opportunity to deal with those now and in evidence but we are all subject to the direction by the Chairperson because there is no  
10 – we do not know what – he simply says I am placing this before the Commission but he denies most of the evidence of Mr Sundaram. But he does of course admit one meeting where the President was present at the President's residential home – official residence and that is the meeting of the 22<sup>nd</sup> of June 2013. And he says it might very well be that it is that meeting but what he disputes is whether at that meeting matters that related to Editorial policy and everything else were discussed. So ...(intervenes).

**CHAIRPERSON:** *Ja* well if she does not want to subject herself to giving evidence if that is what she says.

20 **ADV NORMAN SC:** Yes. If I may read it – paragraph 11 Mr Chairman.

**CHAIRPERSON:** *Ja*.

**ADV NORMAN SC:** Mr Chairman.

**CHAIRPERSON:** Paragraph 11?

**ADV NORMAN SC:** Yes, yes page 7.

"I have in the circumstances anxiously considered my

position in relation to the notice. I will not make application to cross-examine the witness but nevertheless wish to submit this affidavit and request the Commission its legal team and the investigators to consider what I set out herein.”

And then in paragraph 18 and 19:

10 “I submit that the evidence of Mr Sundaram is not true and his evidence ought to be properly tested with a view of determining the credibility and veracity of the allegations he makes. It is doubtful that cross-examination of the witness will be allowed in the circumstances and I will therefore not apply to cross-examine the witness.”

In paragraph 19.

20 “I accordingly do not wish to assert my right to cross-examine and do not apply to cross-examine Mr Sundaram. I have confidence in the evidence leaders and that they will present all relevant evidenced to the Commissioner and that such evidence would be presented to the Commission fairly and objectively.”

And lastly paragraph 20 Mr Chairman.

“For the reasons set out herein under I also do not intend to give evidence before the Commission for the following reasons.

1. I have not done anything improper and have not

committed any crimes.

2. I have most certainly not committed the offences of corruption and fraud or participated in such offences in any way whatsoever.

3. I am not in possession of any evidence which may assist this Commission to make any conclusive findings insofar as the Commission's terms of reference are concerned."

**CHAIRPERSON:** Well have you had a chance to reflect on the  
10 usefulness of this affidavit?

**ADV NORMAN SC:** The – it is useful in the sense that one, he has made mention of certain areas which he believes that we could investigate. First of all he denies that the security at the President's official residence is as lax as Mr Sundaram had testified. And he points that security records would show that he is in fact correct in that regard. And secondly he says he refers to a certain agency that says – that where he says that that agency could assist the Commission in getting more information. Then that – to that extent it would assist the investigators to follow up on those leads. It is for that reason that we  
20 believe that it will also be prudent for Mr Sundaram to actually sit down and deal with his affidavit in writing and maybe file a supplementary affidavit dealing with all the matters that he alleges in this affidavit.  
Yes.

**CHAIRPERSON:** But that would have to happen at some stage because Mr Sundaram is leaving today or ...(intervenes).

**ADV NORMAN SC:** That is correct. He is leaving today.

**CHAIRPERSON:** Yes.

**ADV NORMAN SC:** That is correct.

**CHAIRPERSON:** But you

**ADV NORMAN SC:** But we will monitor that Chairperson.

**CHAIRPERSON:** Sorry?

**ADV NORMAN SC:** We could monitor the submission of the affidavit.  
Mr Sundaram could attend to it speedily and then ...(intervenes).

**CHAIRPERSON:** Yes.

10 **ADV NORMAN SC:** And then we will make sure that it gets submitted  
quickly.

**CHAIRPERSON:** But did you say there are certain aspects that you  
would prefer to ...(intervenes).

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** To give him a chance to deal with.

**ADV NORMAN SC:** That is correct yes.

**CHAIRPERSON:** Okay let us deal with those that you can deal with.

**ADV NORMAN SC:** Yes.

20 **CHAIRPERSON:** And then the affidavit can be made available to Mr  
Sundaram and he can respond to it but whatever it is that he can deal  
with now let him deal with it.

**ADV NORMAN SC:** Let him – thank you. Alright.

**CHAIRPERSON:** What he cannot deal with because he needs more  
time then will have to be dealt with at a later stage.

**ADV NORMAN SC:** Thank you. Thank you Mr Chairman. Mr Sundaram

may I just take you to paragraph let me just see turn the page – sorry, at paragraph 8 if you go to paragraph 8 of Mr William’s, that is Exhibit CC1(e). Do you have it?

**MR SUNDARAM:** Yes.

**ADV NORMAN SC:** Thank you. In paragraph 8 oh sorry, sorry this is work of the Commission it deals with him complaining about the notice. But I would like to direct you to paragraph 30, I beg your pardon. In paragraph 30 this is what Mr Williams says:

10 “I held this position which is the position of the Editorial Director in independent newspaper which he deals with in paragraph 29. I held this position until September 2012 when I took up the position as the Editor of the New Age Newspaper. In June 2017 I reached retirement age and I retired at the age of 65 from my position as the Editor of the New Age newspaper. I had in the interim also served as the Editor in Chief of the television news channel ANN7.”

Do you know the period when Mr Williams was the Editor of ANN7?

20 **MR SUNDARAM:** No I do not it is after I had left from here.

**ADV NORMAN SC:** Yes and here he does not give us the dates as to when he took up the position, is that correct in this paragraph?

**MR SUNDARAM:** Yes that is correct.

**ADV NORMAN SC:** Yes and then if you go to page 37. He says:

“I considered the allegations against me in an

extremely serious light especially that these allegations may tarnish or blemish my reputation. A reputation of professional and personal integrity. I have taken a lifetime to build up and which I cherish. It may now be destroyed as a consequence of allegations made by an individual who has an axe to grind.”

What do you say to that?

**MR SUNDARAM:** Well I have gone through the affidavit and I think it is a bunch of half-truths and absolute lies and I would say that I stand by my affidavits and supplementary affidavit and everything I have said in  
10 those things. The meetings that he is disputing can very well be verified by the investigators in terms of the records that have been maintained at President Zuma’s residence. I have given dates, exact dates, of those meetings and also you know the meetings that happened in July and August there are tentative dates. It is Sunday in July so records there, the CCTV footage – there is a whole lot of ways in which these meetings can be verified. I stand by the position that I have taken. All the facts that I have given in my affidavit I absolutely stand by them.

20 **ADV NORMAN SC:** Yes. Thank you. And then in – at paragraph 39 he says:

“Based on what I have read it appears to be clear that Mr Sundaram has not been very successful in obtaining employment after his brief tenure with ANN7. That he is reliant upon the sales of his book and that he may

well be motivated by an immense dislike for the Gupta family and in particular Mr Atul Gupta.”

Can we pause there and ask you after you left ANN7 did you manage to get any employment in India and when last if you did when did that happen and how long did it last?

**MR SUNDARAM:** Well ever since I went back from here I have launched two television stations in Chennai. New Seven Tamil and Kalvari News and I have not been out of employment you know I chose to not work while I writing the book for a few months and I resigned  
10 from Kalvari News which is the second station I set up just last year in August. That was because I had to prepare for my transplant. I have been asked by my doctors to stay away from full time work for six months post the transplant and I have had no ...(indistinct) of work after I quit there. I have also had the position of a consultant for the Rajasthan Patrika Group and I have worked straight through and the days or months that I have not worked is because of medical reasons or the time immediately after I came back when I was writing the book. So this like other elements in this affidavit is an absolute lie.

**ADV NORMAN SC:** Yes and then just recently maybe a month ago did  
20 you do any work – were you working last month?

**MR SUNDARAM:** Yes I was approached by the Bennett Colman a company which owns the Times of India Group to be a Senior Journalist to be on the panel for the election coverage. So they have a channel called Miranal and I was on the panel for the election coverage right from a few weeks before the elections till the end of elections. I am

still one of the panellists for Miranal right now and I am also an Editorial Consultant with a newspaper based in Washington DC called India America Today. So I mean that is a position that I have as – on a consultative basis. So what Mr Moegsien Williams is saying is something which has no factual basis and it is an absolute lie like most of the other things in his affidavit.

**ADV NORMAN SC:** Yes thank you. And then he continues:

10 “All of this against the background of a disastrous launch of the television station a launch he was primarily responsible for. Apart from having spent only three months in the country having not been very successful as an Editor of ANN7 having a tumultuous relationship with his employers and having left the republic under a cloud Mr Sundaram appears to justify his lack of success at ANN7 with reference to allegations which are simply not true in a book he wishes to sell and to protect a professional reputation.”

20 Two questions arising from that. Did you leave the republic under a cloud and if so what was that – are you aware of that cloud I do not know?

**MR SUNDARAM:** Absolutely not. I have explained in my book that the disastrous launch or a train wreck as I called it.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** Was because of the micro management by Atul Gupta the tearing hurry in which they did not allow the professionals to take a

decision. The technicians were under tremendous pressure and nobody would at the end of the day because of the sheer fear that they had of Atul Gupta's rage would tell him that you know what he was doing was wrong and that we were heading towards a disaster. Even those who told him that were seen with suspicion and the reason why the launch at the ANN7 was a disaster was also because of Mr Atul Gupta and the fact that he would go into a fit of rage if anybody went against what he was saying. He ignored professional advice and for us towards the end it was clear that we were almost on a suicide mission you know. We  
10 were going into this we knew that it was sure failure at the end of it but as professionals we knew that we had to go into we could not abandon it and we went straight head on. And like I said yesterday the reason why we came out of this without in the form that we did was because of the hard work that you know the South African technicians and journalists put in this place. It could have been much worse had that not been the situation. They were the glue that made sure that you know within a matter of weeks we were in a position where we could launch of course it was not to the professional standards that I have launched other channels but I would say here categorically that that  
20 was because I was not allowed to work. I was working with my hands tied behind my back and constantly micro managed by the Gupta brothers especially Mr Atul Gupta.

**ADV NORMAN SC:** Yes and then he says when he deals with the meetings at the official residence of the former President at paragraph 42 he says:

“I do not consider the affidavits deposed to by Mr Sundaram to directly implicate me in any acts of corruption or fraud. I understand the allegations to simply mean that I in the company of others attended three meetings at the official residence of the former President Mr Jacob Zuma in Pretoria in that I furthermore was present at a visit to the studios of ANN7 by Mr Zuma on 19 August 2013.”

And then he describes how he met the President for the first  
10 time but this is what I would like you to comment on? He say at  
paragraph 46:

“During my tenure as Editor of New Age newspaper I also met Mr Zuma on two further occasions when I accompanied members of my staff and or reporters of ANN7 for on the record interviews with the former President and for several off the record briefings subsequently. I interposed to invite attention to reflect that members of the media regularly meet with senior politicians and do so for a variety of reasons. Quite  
20 frequently politicians would engage members of the media in relation to matters concerning their political parties and in an endeavour to – of attempting to persuade members of the media to be sympathetic to their party or their particular cause or even sway to sway members of the media in favour of their political

views.”

Is this what he says is it a common occurrence as he put it?

**MR SUNDARAM:** I think what he is talking about is a diversionary tactic. I am talking apples he is talking oranges. For an Editor or a journalist to go meet politicians and Presidents that is nothing out of the ordinary but these meetings why I would say is different is because he is not only the Editor of the New Age he is a Director in the company that is owned which is not disclosed in this. He also has not disclosed that the President's son is a shareholder in the company that he is  
 10 talking about and he is denying engaging in commercial discussions with the President. And I can understand why he is doing that. Because then he would be implicating himself. So – and I think the facts are in my book here about the number of meetings that he attended and the number of meetings that he did not. I have clearly said that he was part of the first meeting. There was one meeting in which he was visiting Cape Town and he could not come and also details of the fourth meeting are also given. So most of the facts that he is relying on are also dubious in this case. And to answer your question I would say when Editor meeting a politician or the President is not out  
 20 of the ordinary what is out of the ordinary is that fact that as a director of the company you going with the owners of your newspaper for business dealings that I think is – brings a direct conflict of interest. It is not – definitely not pertaining to the highest standards of journalistic ethics that I know of.

**ADV NORMAN SC:** Yes. And in paragraph 50, 51, 52 and 54 there he

deals with the fact that it is an – what you say that there were matters of Editorial Policy that were discussed with the President that is not correct. But I am just summarising it instead of just reading everything into the record. He says that that is not what happened. They were going there as any other media would go and get the ear of the President as he suggests in the previous paragraph that I read to you. What do you say to that?

**MR SUNDARAM:** I would say that he is lying in his affidavit. That I stand by what I have said. What was discussed was matters of  
10 Editorial Policy about the design of the studios, about commercials in terms of the expense heads and things like that. I stand by whatever I have said in my affidavit and I contradict what he is saying.

**ADV NORMAN SC:** Yes. Maybe just to confirm what he had already conveyed to the Chairperson without reading from the paragraph 66.

Where he says:

“Although I do not recall the specific date on which I attended the meeting it may very well be the 22<sup>nd</sup> of June 2013 the date referred to by Mr Sundaram. It is no small significance that he is unable to recollect  
20 the date in July or August when the second and third meetings are alleged to have taken place. As I am confident the records at the security checkpoints within this official estate of Government residence will not support the presence of any of the individuals claimed to have been at the residence of the President during

July and August 2013. Regardless of the dates though I am confident that the delegation only visited the President's residence on one occasion."

**MR SUNDARAM:** Well I would want to put this to him – you know – the fact that he does not want to cross-examine me or the fact that he does not want to subject himself to cross-examination speaks volumes. What I would say is that what I have said is factually correct. We were wheeled into the President's residence. There are records of the Gupta fleet cars in which we went and a record of that was sent through Aslan  
10 to Mr Ashu Chawla and there would be records of that there. I am sure there are CCTV cameras at the porch where you could see where the entries took place. By the specific dates I have not put in here because I would not know for sure but I know that it was a Sunday in July 2013 and I would say that if the investigators were to go and look at the CCTV footage – to look at the records of the security in terms of the cars that enter there. They would know that what I am saying is the truth. As far as August is concerned a similar thing I would request the investigators to go through and I would challenge Mr Moegsien Williams – you know – if there is – you know that what he is saying is an  
20 absolute lie and if I have to stay an extra day I would do that if he wants to cross-examine me. I am willing to face him and I am sure when the investigators get their evidence they would know that what I am saying is the absolute truth.

**ADV NORMAN SC:** Yes.

**MR SUNDARAM:** About these meetings.

**ADV NORMAN SC:** Thank you Mr Chairman. Those are the matters that I wish to raise with Mr Sundaram.

**CHAIRPERSON:** With regard to the keeping of records at the President's official residence you did testify that you noticed that it appeared when you went to the President's official residence that security was quite lax and you said you did not know whether that is how it normally was or whether it was simply because you were part of the – this was a delegation from the Gupta family. Do you have any recollection whether anybody was recording that the delegation – that  
10 people were coming in and out, leaving out any security cameras.

**MR SUNDARAM:** I know for a fact that before the event for these meetings the vehicle numbers and these vehicles were from the Gupta fleet of cars and I am sure there are records of that. We only went in the SUV's from the Gupta fleet and they were – the numbers – the registration numbers of these vehicles were given in advance to Mr Ashu Chawla who would then give it to the President's office and as soon as we were about to enter the gate they would see the numbers and they would just wave us straight through in. In the second meeting when Mr Ashu Chawla was driving they saw his face and they just  
20 waved us in. I was always carrying my passport because you know in case there is requirement for an ID to be given at the residence but I have no recollection of my ID ever been checked. I am not sure but I am quite certain there would be CCTV cameras there which can clear – you know – we can go back and check records of and if the vehicle numbers were given am sure there will be a record of that as well – you

know – because there would be a security entry that is made somewhere. So I am absolutely confident that – you know – these meetings did take place. I attended those meetings and the discussions were on the topics that I have said in the affidavit.

**ADV NORMAN SC:** Thank you.

**CHAIRPERSON:** What has happened to a supplementary affidavit by him relating to the quotations in his statement?

**ADV NORMAN SC:** Mr Chairperson from this morning I got a sense that Chairperson would like him to deal with all the quotations in the  
10 book or just the quotations in the statement?

**CHAIRPERSON:** Oh well one, certainly in the statement ... (intervenes).

**ADV NORMAN SC:** Yes, yes.

**CHAIRPERSON:** But insofar as there is evidence in the book there is – the contents of the book or parts of the contents of the book ... (intervenes).

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** That he is – he has confirmed here.

**ADV NORMAN SC:** Yes.

20 **CHAIRPERSON:** To the extent that any parts thereof are put in quotations he must just – he must tell us ... (intervenes).

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Whether those were quotations as we all understand them to say ... (intervenes).

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Those were word for word. That is what the person said word for word ...(intervenes).

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Or whether it was something else.

**ADV NORMAN SC:** Yes Chairperson.

**CHAIRPERSON:** So only insofar as it relates to what he has confirmed.

**ADV NORMAN SC:** Yes, thank you. Mr Chairperson could he then be allowed time maybe by next week that is we obtain the supplementary  
10 or would the Chairperson prefer to have it sooner?

**CHAIRPERSON:** Well that is fine. It can be delivered in due course.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** *Ja.* I ...(intervenes).

**ADV NORMAN SC:** Thank you.

**CHAIRPERSON:** I was hoping that it would have been done overnight but to the extent that it did not involve the book. It might ...(intervenes).

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Have required more time.

20 **ADV NORMAN SC:** Yes Mr Chairperson.

**CHAIRPERSON:** So that is fine. You can make arrangements for ...(intervenes).

**ADV NORMAN SC:** For him to deal with that.

**CHAIRPERSON:** His supplementary affidavit to be delivered in due course.

**ADV NORMAN SC:** Thank you.

**CHAIRPERSON:** *Ja.*

**ADV NORMAN SC:** Thank you Mr Chairman.

**CHAIRPERSON:** Okay.

**ADV NORMAN SC:** That is his evidence, thank you.

**CHAIRPERSON:** Okay.

**ADV NORMAN SC:** Thank you.

**CHAIRPERSON:** Mr Sundaram thank you very much once again for having come to the Commission to give evidence. We appreciate it. I  
10 will obviously at some stage weigh up and assess all the evidence –  
your evidence and the evidence of other witnesses and make whatever  
findings I will believe should be made but I thank you for the fact that  
you took the trouble and agreed to come all the way to try and assist  
the Commission as much as you could. Thank you very much.

**MR SUNDARAM:** Thank you very much Chairman for giving me the  
opportunity to say something that I have been waiting for  
...(intervenes).

**CHAIRPERSON:** Yes.

**MR SUNDARAM:** Six years to say.

20 **CHAIRPERSON:** Yes, no problem.

**MR SUNDARAM:** Thank you very much. I really appreciate it.

**CHAIRPERSON:** No thank you very much and you are excused.

**MR SUNDARAM:** Thank you.

**ADV NORMAN SC:** Thank you very much Mr Chairman. Thank you  
Mr Sundaram. Mr Chairperson I would like to call the next witness

Mr Josias Johannes Scott.

**CHAIRPERSON**: Do you want a ...(intervenes).

**ADV NORMAN SC**: Maybe .....(intervenes).

**CHAIRPERSON**: Five minutes ...(intervenes).

**ADV NORMAN SC**: Yes, just to tidy up, yes. Thank you.

**CHAIRPERSON**: Yes, okay.

**ADV NORMAN SC**: Thank you very much.

**CHAIRPERSON**: I will take five minutes adjournment ...(intervenes).

**ADV NORMAN SC**: Thank you.

10 **CHAIRPERSON**: Just to allow the change.

**ADV NORMAN SC**: Yes, thank you Mr Chair.

**REGISTRAR**: All rise.

**HEARING ADJOURNS**

**HEARING RESUMES**

**CHAIRPERSON**: You may proceed Ms Norman.

**ADV NORMAN SC**: Thank you Mr Chairman. Mr Chairman we have placed before you Exhibit CC2 which is the statement of Mr Josias Johannes Scott.

20 **CHAIRPERSON**: This exhibit would be Exhibit CC2. That is the file containing the statement by Mr Josias Johannes Scott.

**ADV NORMAN SC**: Yes, thank you.

**CHAIRPERSON**: Yes Mr Johannes – *ja*, Mr Josias Johannes Scott.

**ADV NORMAN SC**: Scott, yes thank you Mr Chairman.

**CHAIRPERSON**: *Ja*, thank you.

**ADV NORMAN SC**: Mr Chairman ...(intervenes).

**CHAIRPERSON:** I was checking whether it is Scot or Scott.

**ADV NORMAN SC:** Or Scott thank you.

**CHAIRPERSON:** *Ja.*

**ADV NORMAN SC:** Thank you Mr Chairman. Mr Scott is the person who we mentioned when Mr Sundaram was giving evidence as the Senior Sales Representative of the SABC and his evidence deals with the sale of the archival content of the SABC. May he be sworn in Mr Chairman? Thank you.

**CHAIRPERSON:** Yes, thank you. Please administer the oath or  
10 affirmation.

**REGISTRAR:** Please state your full names for the record.

**MR SCOTT:** Josias Johannes Scott.

**REGISTRAR:** Do you have any objections to taking the prescribed oath?

**MR SCOTT:** No.

**REGISTRAR:** Do you consider the oath to be binding on your conscience?

**MR SCOTT:** Yes.

**REGISTRAR:** Do you solemnly swear that all the evidence you will give  
20 will be the truth, the whole truth and nothing but the truth if so please raise your right hand and say so help me God.

**MR SCOTT:** Help me God.

**CHAIRPERSON:** Thank you.

**ADV NORMAN SC:** Thank you very much.

**CHAIRPERSON:** You may proceed.

**ADV NORMAN SC:** Yes, thank you. Mr Scott before you have a bundle. It is marked Exhibit CC2. If you turn to page 1 of that bundle you will see that it is a sworn affidavit. Is that your affidavit?

**MR SCOTT:** That is correct.

**ADV NORMAN SC:** Yes and if you turn to page 14 – I beg your pardon – to page 11 of that. Is that your signature that appears at page 11?

**MR SCOTT:** My signature ...(intervenes).

**ADV NORMAN SC:** Yes and ...(intervenes).

**MR SCOTT:** Sworn under oath.

10 **ADV NORMAN SC:** Sworn under oath and you did that on the – on which date – the 5<sup>th</sup> of October – was it 10 May 2019?

**MR SCOTT:** On the 10<sup>th</sup> of May.

**ADV NORMAN SC:** 2019?

**MR SCOTT:** *Ja.*

**ADV NORMAN SC:** And are the contents of this affidavit true and correct?

**MR SCOTT:** Pardon?

**ADV NORMAN SC:** Are the contents of the affidavit true and correct?

**MR SCOTT:** 100% correct ...(intervenes).

20 **ADV NORMAN SC:** Yes, thank you.

**MR SCOTT:** And true.

**ADV NORMAN SC:** Yes. Can you just tell the Chairperson that you were once employed by the South African Broadcasting Corporation, the SABC? Could you tell the Chairperson when and – when did you join the SABC?

**MR SCOTT:** I joined the SABC in 1995 and I was called into the office of the General Manager Human Resources on the 13<sup>th</sup> of April last year being on contract for 25 years ,nearly and he said to me sir sorry we are not going to renew your contract. You are too white and you are too old.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** So I left the end of April last year.

**ADV NORMAN SC:** Alright. Can you take it step by step, alright? When you first joined the SABC in what capacity were you employed?

10 **MR SCOTT:** I joined them as salesperson in the Content Enterprises Department until 2009. I joined them in 1995 during the Rugby World Cup and Mr Snooki Segalla in 2009 felt that news archive footage should fall under news and generate money/income for news. So content enterprises then got split. They were only allowed to sell programming and a new department called News Agency was formed to sell all news content footage ...(intervenes).

**ADV NORMAN SC:** Yes.

**MR SCOTT:** And I joined them in 2009 when they started off.

**ADV NORMAN SC:** Yes and then what was the actual position that you  
20 held in that department?

**MR SCOTT:** What was the ...(intervenes)?

**ADV NORMAN SC:** The position that you held?

**MR SCOTT:** Was senior sales representative.

**ADV NORMAN SC:** Yes and how many were you in that department?

**MR SCOTT:** Including an intern four, excluding the intern three.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** Myself, a lady who was the administrator and another gent who also sold news items to the public.

**ADV NORMAN SC:** Yes. So what was the role of a Senior Sales Representative?

**MR SCOTT:** Well basically to help broadcasters and production houses to get the correct footage when they made programs for the SABC or any other company and to make sure that they receive the correct footage and also to avoid all copyright issues.

10 **ADV NORMAN SC:** Yes. You – the investigators of the Commission as you know had approached you and you had depose to this affidavit to deal with certain aspects or a particular sale of the archival content. Am I right?

**MR SCOTT:** When I got approached by ...(intervenenes).

**ADV NORMAN SC:** Yes.

**MR SCOTT:** ANN7?

**ADV NORMAN SC:** Yes.

20 **MR SCOTT:** At that stage it was Infinity Media. No, Mr Nazeem Howa came to see me, a real gentleman. He sat down and we discussed how archives work and I explained to him a, we do not transfer any material on behalf of outside clients because if they are not happy we have wasted our time and our tapes and everything. You will have to make somebody available from your offices to come and select what you want and he was talking in general, you know.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** What one would need to start a television station. I said ... (intervenes).

**ADV NORMAN SC:** Alright, before ... (intervenes).

**MR SCOTT:** Nazeem I am prepared to help you people, you know. What is historical? The SABC started off in 1979.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** Prior to that African Mirror footage – so there is nothing historical about SABC footage whatsoever.

**ADV NORMAN SC:** Alright. Just a minute please Mr Scott.

10 **MR SCOTT:** Yes he might turn around and say to me but what about the release of Nelson Mandela. That is not historical.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** That has got to be dealt with the SABC alone. It helps to – well – as a matter of fact Reuters, ITN has got far better footage of the release of Nelson Mandela than the SABC.

**ADV NORMAN SC:** Yes. Mr Scott just ... (intervenes).

**MR SCOTT:** Sorry.

**ADV NORMAN SC:** Yes. Just a minute please. I am sorry Mr Chairperson Mr Scott has indicated that he is hard of hearing. So  
20 we might just have a slight problem.

**CHAIRPERSON:** Okay. No that is fine.

**ADV NORMAN SC:** Yes, yes thank you. Just how did Mr Howa get to know about you or how did that meeting between the two of you happen?

**MR SCOTT:** I got a call from the secretary of the Acting CEO at that

stage Mr Hlaudi Motsoeneng and she said to me Sias, Hlaudi would like to see you.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** I said when. She said to me tomorrow morning 09:00. So the next morning 09:00 I went up to his office. He was not there. He got stuck in traffic in Sandton and well everybody knows me a, I do not work Africa time. If an appointment is for 09:00 it is 09:00 not 09:05. I turned around and I said to her do me a favour I am not going to waste the SABC's time and my time. I am going back to the office. When he  
10 arrives phone me.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** I was basically on my way down to my office when he phoned me and he apologised and he said to me sorry I am late but I am in the office now. So I went back to his office and he wanted to know how the sale of archive material works. So I explained to him you have got do research, you know. You have got to transfer it from original to copy.

**ADV NORMAN SC:** Sorry. Sorry Mr Scott. Let us take that process slowly because you deal with that process in paragraph 7 onwards of  
20 your statement.

**MR SCOTT:** Okay.

**ADV NORMAN SC:** Just describe it slowly to the Chairperson. How does that process work?

**MR SCOTT:** Okay. Let me start from the beginning. I start in the process. A, I want an email from the client requesting material. The

client must tell me exactly what the material will be used for. Then I will quote the client and if the client accepts the quotation then only will I go further by doing research on what the client wants and then arrange for the client to come in and select the material. Our conversation lasted about 10 minutes maximum and he said to me Sias expect a call from someone who needs footage and that is the last heard I have heard from Mr Motsoeneng about the deal with ANN7 and I cannot recall if it was the same afternoon or the next day that Mr Howa phoned me, asked to see me, made an appointment. He came in about  
10 the next day I would say. We sat in my office and we discussed the whole process and I then emailed him a quotation which he accepted and I would say about three days later a gentleman by the name of Rahul was sent to me to start selecting the material and in the meanwhile I – the fourth person who was an intern. I managed to get appointed permanent. Moloko very, very bright gentleman. He did his Masters in between doing in his internship. I do not know he managed to do it but he did.

**ADV NORMAN SC:** Is that Mr Moloko Maserumule?

**MR SCOTT:** Maserumule.

20 **ADV NORMAN SC:** Yes, yes.

**MR SCOTT:** *Ja.* He then started to work permanently in the News Agency Department and I explained to him what Nazeem wanted and I said to Moloko as per all our clients you have got to sit with whoever comes in. I will help you with research. Draw the tapes – make sure that if the appointment is 09:00, 09:00 he starts. The tapes must be

ready and Rahul from ANN7 kept his time on the spot. Always arrived on time like Moloko and they started to work.

**ADV NORMAN SC:** Yes. Let us just go back slightly. You have not told the Chairperson what is it that Mr Howa said to you he wanted. You have not described exactly the content that he actually wanted.

**MR SCOTT:** Mr Howa said to me Sias can you help us with material to start off a new channel in South Africa and I immediately said to him Nazeem at that stage the late Nelson Mandela was very sick. I said to him a, you cannot go on air without material of Mr Nelson Mandela and  
10 he agreed. I also said to him you cannot start a channel if you do not have good visuals of all the major cities of South Africa, Pretoria, Bloemfontein, Cape Town, Durban and you name it and he agreed and Marikana was quite in the press at that stage and I said to him Marikana footage we have got and he said to me *ja* Sias any riots – any protests you name it. That was basically what we discussed.

**ADV NORMAN SC:** So he wanted a wide range of material?

**MR SCOTT:** A wide range of footage. Not only – as a matter of fact it would have been a pleasure if he asked me 2000 minutes of Nelson Mandela only because we have got over 2000 minutes of  
20 Nelson Mandela.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** Starting with tapes 4575 which is the release of Nelson Mandela. 4589 his speech, Grand Parade Speech, going over on to 4590 and then the next one would be Madiba arriving in Soweto, not much of that. Only the Orland Stadium Speech. *Ja*, next week he

spoke at Kingsmead in Durban – throw your weapons in the sea.

**ADV NORMAN SC:** Yes. So then after he then told you exactly what he wanted then you had an idea of ...(intervenes).

**MR SCOTT:** I had a good idea ...(intervenes).

**ADV NORMAN SC:** Of what he wanted?

**MR SCOTT:** Of what to research for and you name it and I also said to him Nazeem do me a favour. You people discuss it between you. Tell Rahul or whoever comes in to bring me a list of what you think you want and whilst he is here working on the other stuff I will do the  
10 research and make sure the tapes are there.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** I never received a list from them. They depended on me completely.

**ADV NORMAN SC:** Yes. So then – so this happens before there is negotiations about how much they are going to pay, how much is it going to cost them because you have no idea of the content that they wanted?

**MR SCOTT:** Advocate let us put it this way there was no difference in price between what type of content a production house or a broadcaster  
20 wanted. The price would have remained the same. It is used for broadcast purposes. So whether they wanted Marikana or Madiba footage or Winnie footage or – it does not matter. The price would have remained the same per minute.

**ADV NORMAN SC:** Yes. Can you go to page 17 of that – of your statement? It will be under a divider marked 3.

**MR SCOTT:** Under 3?

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** You mean paragraph 17?

**MR SCOTT:** Yes advocate.

**CHAIRPERSON:** You said page 17.

**ADV NORMAN SC:** Page 17 Mr Chairman. Yes, under item – the divider marked number 3. It is Annexure JJS3. It is called – what is that Mr Scott? Have you found it? Are you there?

**MR SCOTT:** Sorry.

10 **ADV NORMAN SC:** Have you found it? Have you found the document?

**MR SCOTT:** Number 3, yes.

**ADV NORMAN SC:** Yes. What is it?

**MR SCOTT:** It is a price guide.

**ADV NORMAN SC:** It is a price guide. Is that the price guide of the SABC?

**MR SCOTT:** That is a price guide for the sale of stock footage.

**ADV NORMAN SC:** Yes. Could you just highlight what the price is that is relevant for the transaction that you are talking about?

20 **MR SCOTT:** Your Honourable I want to start off by pointing out these are price guides and not a set price list. 1A, R100 per minute of footage transferred and taken away. That is a standard price which we ask. If you walk in and you want to buy 10 minutes you would have paid R1 000 plus VAT.

**ADV NORMAN SC:** Yes, alright. Okay, let us look at the next one. What is that for – that R500 per hour?

**MR SCOTT:** Okay. It was agreed from B to D to waive it and it was also agreed between Jimmy Matthews and myself to deviate from R100 per minute to R70 per minute.

**ADV NORMAN SC:** Yes. Yes, we are not there yet. We are getting to that but I just want you to explain to the Chairperson. You have told us the R100 per minute if you transfer and you take away what is the R500 per hour? What is that for?

**MR SCOTT:** Okay. The R500 per hour Your Honourable is basically if a client comes in and we had that a lot of times that somebody would  
10 come in, sit in front of a monitor, waste two, three, four hours in the edit suite and do not pay. So the R500 per hour part thereof was to use the edit suite of the SABC.

**ADV NORMAN SC:** Okay.

**MR SCOTT:** That was a technical charge to use a – because you have got to remember there are two machines.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** There is a machine that copies and then there is a machine where you put your master tapes in.

**ADV NORMAN SC:** Okay.

20 **MR SCOTT:** So you needed two machines and the R500 was to copy from tape – master tape to copy tape.

**ADV NORMAN SC:** To copy tape?

**MR SCOTT:** H'mm.

**ADV NORMAN SC:** Alright and then if I come to the SABC and I am the one who wants material and I would come and sit down with you or

Mr Maserumule. So for the time that I have come in there and I am sitting and I am copying the material from the master tape onto the copy tape. So you would charge for that time. That is what the R500 is for?

**MR SCOTT:** That is correct.

**ADV NORMAN SC:** Yes, alright. Then let us move on to the R150 per 10 items.

**MR SCOTT:** Clients would send in a list of 300 items which they think they might need. You know to do research on 300 items takes a little  
10 bit of time. So we have tried to restrict them to be specific by charging them R150 per 10 items or part thereof.

**ADV NORMAN SC:** Yes, alright. So this is all stuff that would go onto the ...(intervenes)?

**MR SCOTT:** *Ja* that is all technical costs.

**ADV NORMAN SC:** All technical costs and then you have got them in one – in D.

**MR SCOTT:** D.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** Okay. In the case of ANN7 they brought in their own copy  
20 tapes but if a client wants the material on a DVCPRO Format then we just R150 and we provide the copy or the SABC provides the copy.

**ADV NORMAN SC:** Alright and then we deal in E, F, G with copyright. Could you explain to the Chairperson what these copyrights are for?

**MR SCOTT:** *Ja*, E reproduction company or anybody for that sake, makes a program and it's being broadcast on the SABC only, then we

charge less for copyright, we charge R750 per 30 seconds. If a client walks in, a *Dominee* walks in, says I saw this beautiful church service about 10 years ago on TV, I would like to show it to my congregation, can I have a copy please. I would then explain to him it's all your visual presentation, in other words you show it to more than one person and you're going to have to pay R500 for 30 seconds copyright.

Okay then we get to the money side of it, copyright, opposition broadcasters, NCA, DSTV, ...(indistinct) Vera ...(indistinct) the case, ANN7 as well, we would charge R2 000 per 30 seconds copyright.

10 **ADV NORMAN SC:** So these are your competitors?

**MR SCOTT:** That is our competitors.

**ADV NORMAN SC:** Yes, alright and then ...(intervention).

**MR SCOTT:** And Carte Blanche the only reason why they paid more, R2 750, is because they stream all their – the Carte Blanche programs, I charge them R750 per 30 seconds to put it on YouTube or wherever they like to.

**ADV NORMAN SC:** Yes and you've got different pricing for overseas broadcasters?

**MR SCOTT:** Pardon?

20 **ADV NORMAN SC:** You have, sorry, you have different pricing for overseas broadcasters?

**MR SCOTT:** *Ja*, overseas broadcasters we quote it into US Dollar or Euro or Pound depending on you know where the broadcasters are from.

**ADV NORMAN SC:** Yes and – but for the purposes of your testimony

these are not relevant, am I right?

**MR SCOTT:** Sorry?

**ADV NORMAN SC:** For the purposes of your evidence the overseas prices are not relevant?

**MR SCOTT:** No definitely not.

**ADV NORMAN SC:** Yes, and then if you turn over the page at page 18 you have advertising use was that relevant to ANN7?

**MR SCOTT:** No Nazeem explained to me that they're going to use it in South Africa only and there was no reason to doubt him. As far as I  
10 know, nobody has told me or showed me otherwise, as far as I know they only used our footage in South Africa.

**CHAIRPERSON:** Ms Norman?

**ADV NORMAN SC:** Yes Mr Chairman.

**CHAIRPERSON:** Don't you need from this witness only what was – what were the terms of the arrangement between SABC and ANN7, if he knows them, what was the norm, what were the normal terms. Was there a deviation from those terms, how much deviation was there, what was the justification for the deviation, if any. Do we need anything more than that?

20 **ADV NORMAN SC:** No Mr Chairman.

**CHAIRPERSON:** Let's get that.

**ADV NORMAN SC:** Alright thank you especially because he's struggling to hear ...(intervention).

**CHAIRPERSON:** We're going too much roundabout let's get to it.

**ADV NORMAN SC:** Yes thank you. Now then Mr Howa comes to you

and then you said you gave him a quotation, what was the quotation that you gave him?

**MR SCOTT:** With?

**ADV NORMAN SC:** You gave him a quotation.

**MR SCOTT:** *Ja* I gave a quotation only after I had a chat to our CE, Chief Executive of News Jimmy Matthews and I said to him, Jimmy – I was excited because A, we've never sold 2000 minutes of footage to one client and I knew it was going to be a big deal and we chatted and chatted and chatted and we decided okay no fine, instead of charging  
10 R100 per minute we're going to charge R70 per minute. I went back and I emailed him, Nazeem Howa, I said to him, this is the best I can do, and he came back and said, accepted.

**ADV NORMAN SC:** Yes and then what about the R500 for ...(intervention).

**MR SCOTT:** No that we waived, we decided not to charge it because if I had to add that, I would have chased them away completely.

**ADV NORMAN SC:** Alright can you just talk try and ...(intervention).

**CHAIRPERSON:** But what was wrong with that, wasn't your – wasn't your job to charge ...(intervention).

20 **MR SCOTT:** Sorry?

**CHAIRPERSON:** Wasn't your job to charge according to the price guide – was your job not to charge according to the price guide?

**MR SCOTT:** It was Your Honourable but if I do get the permission from whoever is in charge of overall news and Jimmy said, let's waive it.

**CHAIRPERSON:** And what reason did Mr Matthews advance for saying that R500 per hour should be waived?

**MR SCOTT:** Sorry I've got a hearing problem.

**CHAIRPERSON:** Okay I'm sorry, I was told you do have a hearing problem, let me try and raise my voice. Can you hear me now?

**MR SCOTT:** A little bit better.

**CHAIRPERSON:** Okay maybe let me bring the mic closer, this mic can still not come closer, you must make arrangements let's see if I pull it. What was the reason that Mr Matthews gave as to why you should  
10 waive the R500 per hour?

**MR SCOTT:** Your Honourable there was no reason given whatsoever. We chatted about the size of the deal and he – I can recall him even saying it's going to be a big job.

**CHAIRPERSON:** It's a big job from the side of SABC...(intervention).

**MR SCOTT:** Well the big job became my big job but it was part of my work that I had to do in any event, no, no reasons was given, quite frankly, you know, I think anybody in that position would have done it.

**CHAIRPERSON:** Would have?

**MR SCOTT:** Would have done what Jimmy did.

20 **CHAIRPERSON:** Yes why do you say that?

**MR SCOTT:** At that stage, what goes through one's mind, you've got R140 000 immediately if you finish the 2000 minutes at R70 per minute, why worry about an additional R30 000/R40 000, get the R140 000 in asap.

**CHAIRPERSON:** But was there a request from the client for the

R500.00 to be waived?

**MR SCOTT:** If I've got copies of all the packing slips I can work out that we did not lose all that much money. Raul did not come in any day so not all those many hours were spent in the edit feeds, what we did was, Moloko would park the tapes where he would start and select from so ...(intervention).

**CHAIRPERSON:** No, no the question was, was there a request from the client for the R500.00 to be waived?

**MR SCOTT:** No not at all.

10 **CHAIRPERSON:** Okay thank you.

**ADV NORMAN SC:** Yes thank you Mr Chairman I beg our pardon, I thought you were saying something else. Now if we take – from what you have described earlier, because they didn't give you a list of what they wanted, so it would mean that when Mr Raul comes and meets with Mr Moloko – Mr Maserumule they would have to sit down and sift through the content that they wanted.

**MR SCOTT:** View and transfer.

**ADV NORMAN SC:** View and transfer, so that would have taken hours, am I right?

20 **MR SCOTT:** That's – couldn't have taken them more than 40 hours in total. Advocate you've got to remember they only took away 33 hours in total, 33,03 hours in total, that's what they took away, 1 982 minutes, that would give you 33.03 hours. You transfer – a minute transfer to a minute, so it would have taken them – the tape might stop eject a tape put a new tape in that would waste a little bit of time, 33 hours wouldn't

have taken them more than 40/45 hours maximum.

**ADV NORMAN SC:** Yes but the 33 hours multiplied by 500 would have still been – have been a good revenue for the SABC.

**MR SCOTT:** 33 hours that would have been R16 500.

**ADV NORMAN SC:** Yes do you regard that as insignificant?

**MR SCOTT:** Pardon?

**ADV NORMAN SC:** Do you regard that amount as insignificant?

**MR SCOTT:** Well instead of losing a deal, you know I regard that amount as minor really.

10 **CHAIRPERSON:** But who said you were going to lose a deal?

**MR SCOTT:** When Mr Howa came to see me he was talking about, there's not much money you know and difficult times and all that ... (intervention).

**CHAIRPERSON:** But he never asked for a discount.

**MR SCOTT:** Pardon?

**CHAIRPERSON:** But he never asked for a discount, he never asked for you to waive anything isn't it?

**MR SCOTT:** No you're quite right we just gave it.

**CHAIRPERSON:** *Ja* without being asked.

20 **MR SCOTT:** Without being asked.

**ADV NORMAN SC:** Thank you Mr Chairman. Where is the – did you then conclude an agreement with him other than the quotation that you spoke about, was there an agreement that was concluded between the SABC and ANN7?

**MR SCOTT:** I cannot recall a 100% if there was a legal binding

contract or if we only worked on the emails as an agreement.

**ADV NORMAN SC:** Alright, let's just talk about that, who would have referred – because I understand you have a legal department am I right, who would have referred these terms that you agreed on with Mr Howa to the Legal Department for them to draft an agreement, who's responsibility was it?

**MR SCOTT:** It was quite a big department and if you request a contract, it would be referred to one of the legal people that's not all that busy, quite a couple of people could draw up the contract.

10 **ADV NORMAN SC:** Yes but who must take the first step, that, please draw up the contract.

**MR SCOTT:** My department had to take the first step.

**ADV NORMAN SC:** Yes did your department do that?

**MR SCOTT:** I cannot recall whether we did or not.

**ADV NORMAN SC:** Okay but as you are sitting there now have you been able to locate, from the time you sold to ANN7 till today, although you're out of employment now, have you ever been able to locate a contract upon which you said, look this is what – those are the terms of the contract and this is how things are going to be done.

20 **MR SCOTT:** Since this thing started advocate I have not approached the SABC for anything, the good work was done by Dr Anthony and all this copies of stuff which you see here was done by your investigator, I did not approach the SABC for anything.

**ADV NORMAN SC:** Before you left – but did you ever have sight of an agreement ...(intervention).

**MR SCOTT:** Quite frankly before I left, you know, State Capture – being called to the State Capture, that was the last thing on my mind. I saw a small article in the newspapers about the book and I think it was the Beeld newspaper stating that they've got footage for a hamburger and a beer and I forwarded that to Moloko and Moloko came back, ha, ha, ha, ha, you know.

**CHAIRPERSON:** Yes I think we must take the adjournment.

**ADV NORMAN SC:** Yes I think so, thank you Mr Chair.

**CHAIRPERSON:** When we come back we need to try and wrap up.

10 **ADV NORMAN SC:** Yes we'll do that.

**CHAIRPERSON:** We'll take the lunch adjournment and we will come back at 14:00, we adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Are you ready? Thank you.

**ADV NORMAN SC:** Thank you Mr Chair. Mr Scott could you turn to page 6 paragraph 15 of your affidavit – paragraph 15?

**MR SCOTT:** Number 6?

20 **ADV NORMAN SC:** Yes, page 6 ...(intervenes).

**MR SCOTT:** 15?

**ADV NORMAN SC:** Paragraph 15.

**CHAIRPERSON:** That is paragraph 15 on what page?

**ADV NORMAN SC:** Page 6 Mr Chairman.

**CHAIRPERSON:** Okay. Of his statement?

**ADV NORMAN SC:** Of his statement yes. In that paragraph you say that:

“To your recollection this was the first time that a discount had ever been offered.”

Is that correct?

**MR SCOTT:** *Ja.*

**ADV NORMAN SC:** No, please answer a yes or a no.

**MR SCOTT:** Yes.

**ADV NORMAN SC:** Yes, thank you and then you also say that:

10 “The discussions between yourself and Mr Howa were happening via email.”

**MR SCOTT:** That is correct.

**ADV NORMAN SC:** And is it correct that there is no agreement – written agreement that you are aware of that was concluded with him?

**MR SCOTT:** Correct.

**ADV NORMAN SC:** Yes, thank you. Now if you go to paragraph 17, same page, what do you say in paragraph 17? Can you just read that into the record?

**MR SCOTT:** What do I say about paragraph?

20 **ADV NORMAN SC:** 17, yes.

**MR SCOTT:** It is 100% correct it took approximately a month to do all the work.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** It is 100% correct as stated in paragraph 17.

**ADV NORMAN SC:** So it is correct?

**MR SCOTT:** *Ja.*

**ADV NORMAN SC:** So it took over a month and you did not charge for them using the booth during that period?

**MR SCOTT:** It took quite a while to search and get the correct footage, yes.

**ADV NORMAN SC:** Yes, thank you.

**CHAIRPERSON:** You say the transfer to archive footage is it a transfer to archive footage or is it a transfer of the archive to something else? Did I speak softly?

10 **MR SCOTT:** Yes.

**CHAIRPERSON:** Okay. In paragraph 17 of your statement you talk about the transfer to archive footage. I am asking whether it was a transfer of the archive footage to something.

**MR SCOTT:** To a copy tape Your Honourable.

**CHAIRPERSON:** But was it a transfer of the archive footage not to?

**ADV NORMAN SC:** Not to.

**CHAIRPERSON:** Is that right?

**MR SCOTT:** That is correct.

**CHAIRPERSON:** Okay, alright.

20 **ADV NORMAN SC:** Yes, thank you Mr Chairperson and in the following paragraph you deal with the packing slips.

**MR SCOTT:** That is correct advocate.

**ADV NORMAN SC:** Sorry, when you respond you must always say – respond to the Chairperson. I am not sure whether he heard that.

**MR SCOTT:** That is correct Chairperson.

**ADV NORMAN SC:** Yes, thank you very much. In that paragraph you – if you could just read after the package slip JJS081. You say there you actually charge them for 1982 minutes of footage but you charge for the entire price for the 2000 minutes. Is that what you did?

**MR SCOTT:** That is correct Chairperson.

**ADV NORMAN SC:** Yes. Could you just quickly take us through the minutes that are reflected on the table that you see there?

**MR SCOTT:** On the 17<sup>th</sup> of July they took 44 minutes away. 18<sup>th</sup> of July 34 minutes and ...(intervenes).

10 **ADV NORMAN SC:** Sorry. I think the minutes are under duration.

**MR SCOTT:** The minutes are?

**ADV NORMAN SC:** Under duration.

**MR SCOTT:** *Ja* that is the duration *ja*.

**ADV NORMAN SC:** Yes, yes you must read from that for the record.

**CHAIRPERSON:** Can you see the column that is written description of goods? Can you see that column?

**MR SCOTT:** Can I just go through the packing slip quickly Chairperson? If you do not mind. I just want to check ...(intervenes).

**CHAIRPERSON:** Okay.

20 **ADV NORMAN SC:** If you go under eight – the divider marked 8. That is where the packing slips are. Have you found it Mr Scott?

**MR SCOTT:** I am what?

**ADV NORMAN SC:** Just look at the divider marked 8.

**MR SCOTT:** JJS5.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** I just want to check that.

**ADV NORMAN SC:** Alright, okay.

**MR SCOTT:** 240 minutes.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** *Ja*, under duration you will see ...(intervenes).

**ADV NORMAN SC:** Yes.

**MR SCOTT:** What they have taken away. The 17<sup>th</sup> of July 240 minutes and it goes right through till the 22<sup>nd</sup> of August – the last time they were there 40 minutes. That is the duration which they took away.

10 **CHAIRPERSON:** That is seems to 22 August not the 27. Is that right?

**MR SCOTT:** 22<sup>nd</sup> of August.

**CHAIRPERSON:** *Ja*, the 22<sup>nd</sup>. I thought you said the 27<sup>th</sup>. I am sorry but can you see the column that is immediately before the column written duration?

**MR SCOTT:** Description of goods.

**CHAIRPERSON:** Yes.

**ADV NORMAN SC:** Yes.

20 **CHAIRPERSON:** That one the first item there is 44 DVCPRO. That is the description of goods. Are you able to enlighten me more as to ...(intervenes).

**MR SCOTT:** I am trying to ...(intervenes).

**CHAIRPERSON:** What that is?

**MR SCOTT:** Sorry Chairperson but I am trying myself. It is a little bit confusing at this stage ...(intervenes).

**CHAIRPERSON:** Yes.

**MR SCOTT:** And I want to see exactly what ...(intervenes).

**CHAIRPERSON:** That was.

**MR SCOTT:** Yes.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** Where they got it from.

**ADV NORMAN SC:** May I just help you? If you turn to page– 22 on the right-hand corner. That is the – I think that is what you are looking for. That will show you the 240 minutes and that will give you the date of the 17<sup>th</sup> of July 2013. That is the packing slip that goes with that item.

10 **MR SCOTT:** Where?

**ADV NORMAN SC:** Page 22.

**MR SCOTT:** Page 22?

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** I think if I understand him correctly.

**ADV NORMAN SC:** Yes Chairperson.

**CHAIRPERSON:** He is looking for something that will tell him what that 44 DVCPRO is ...(intervenes).

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** But I may be mistaken.

20 **ADV NORMAN SC:** Yes. That is reflected Mr Chairperson on the packing slip. He is looking for a packing slip.

**CHAIRPERSON:** Oh.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Okay.

**ADV NORMAN SC:** Could we assist – could ...(intervenes)?

**CHAIRPERSON:** Yes, somebody can assist him.

**MR SCOTT:** I do not have a page 22.

**ADV NORMAN SC:** Alright, okay.

**MR SCOTT:** Page 7, oh that one. Your Honourable from the ... (intervenes).

**ADV NORMAN SC:** Yes.

**MR SCOTT:** Packing slip one will see that I signed out four DVC PRO tapes to them ... (intervenes).

**ADV NORMAN SC:** Yes.

10 **MR SCOTT:** Which they brought in originally and I signed them because they finished the four DVC PRO tapes and the total duration came to 240 minutes ... (intervenes).

**ADV NORMAN SC:** Yes.

**MR SCOTT:** Which they transferred with that day or over a two/three day period.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Yes, what I want to try and understand is what 44 DVC PRO ... (intervenes).

**ADV NORMAN SC:** What does that mean?

20 **CHAIRPERSON:** What does that refer to? What goods were those?

**MR SCOTT:** Your Honourable I have got no clue. I do not know where this description comes from.

**CHAIRPERSON:** Is that so?

**ADV NORMAN SC:** No.

**CHAIRPERSON:** But from your own understanding what would it be –

what type of goods – because it says description of goods. What type of goods?

**MR SCOTT:** Chairperson there is no such description for footage whatsoever.

**CHAIRPERSON:** Yes.

**MR SCOTT:** 44 DVCPRO, 34 DVCPRO no.

**CHAIRPERSON:** But it is in your affidavit. You signed the affidavit – your statement and you just confirmed when you started your evidence you confirmed that the contents of your affidavit are correct. So how  
10 could you be the one saying that you do not know what 44 DVCPRO refers to?

**ADV NORMAN SC:** Could that be the size of the tape?

**MR SCOTT:** Sorry.

**ADV NORMAN SC:** Could it be the size of the tape?

**MR SCOTT:** Definitely not. The size of the tapes vary from 33, 66 and 126.

**ADV NORMAN SC:** Yes. Alright, but when you signed it what were you signing because at page 22 – you remember 22 where you were before?

**MR SCOTT:** When I?

20 **ADV NORMAN SC:** Page 22.

**CHAIRPERSON:** You see where you referred to a slip about five minutes ago ...(intervenes).

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** At page 22. You confirmed that you signed that slip. Is that right? Page 22 ...(intervenes).

**MR SCOTT:** Page 22 ...(intervenes).

**CHAIRPERSON:** Yes.

**MR SCOTT:** I signed out four actual DVCPRO tapes ...(intervenes).

**ADV NORMAN SC:** Yes.

**MR SCOTT:** And the total duration of those four tapes came to 240 minutes.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Who wrote 240 minutes?

**MR SCOTT:** That is my handwriting.

10 **CHAIRPERSON:** Your handwriting?

**MR SCOTT:** *Ja*.

**CHAIRPERSON:** But they ...(intervenes).

**MR SCOTT:** But Moloko checked the duration of each and every tape.

**CHAIRPERSON:** *Ja* that is fine.

**MR SCOTT:** Then ...(intervenes).

**CHAIRPERSON:** Whose handwriting or who wrote 44 DVCPRO's on that slip? Whose handwriting ...(intervenes)?

**MR SCOTT:** That is not 44 Chairperson. It is four times DVCPRO. I did.

20 **CHAIRPERSON:** What is it? Just read it.

**MR SCOTT:** It is four times DVCPRO.

**ADV NORMAN SC:** Okay.

**CHAIRPERSON:** Four times DVC programs.

**MR SCOTT:** DVCPRO's ...(intervenes).

**CHAIRPERSON:** PRO's, *ja* what is that?

**MR SCOTT:** That is the name of a tape.

**CHAIRPERSON:** Oh those are tapes?

**MR SCOTT:** *Ja.*

**CHAIRPERSON:** Oh.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** So it is not 44. It is four times?

**MR SCOTT:** It is four times.

**CHAIRPERSON:** Then when you go to page 7 of your statement under description of goods where it says 44 DVCPRO. Should it be reading  
10 four times?

**MR SCOTT:** This looks like a typing error. It should be ...(intervenes).

**CHAIRPERSON:** Oh, it should be four times?

**MR SCOTT:** *Ja*, four times.

**CHAIRPERSON:** If it says four times then it would make sense to you?

**MR SCOTT:** *Ja*, definitely no doubt about it.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Then it would be the tapes?

**MR SCOTT:** *Ja* and I am correcting mine.

**ADV NORMAN SC:** Yes. So shall it reflect the same in all? It will be  
20 three times going down.

**MR SCOTT:** *Ja.*

**ADV NORMAN SC:** Alright, okay. So you made an error there.

**CHAIRPERSON:** Will it be three times, three times, three times, eight times, seven times, three times, four times, two times? Is that what it will be – what it should be on that column?

**MR SCOTT:** Four, seven, 10, 25, 28, 30, 38. It adds up to the amount of DVCPRO tapes which they brought in ...(intervenes).

**ADV NORMAN SC:** Yes.

**MR SCOTT:** 38 in total.

**ADV NORMAN SC:** Alright.

**CHAIRPERSON:** Yes, but let us take it step by step. You saw where it says 44 – 44. You said it should be four times

**MR SCOTT:** It is four times DVCPRO.

**CHAIRPERSON:** You now that it says 34. So that is ...(intervenes).

10 **ADV NORMAN SC:** 34.

**MR SCOTT:** 34 should be three times.

**CHAIRPERSON:** Three times?

**MR SCOTT:** *Ja.*

**CHAIRPERSON:** The following one? 30 should be what, three times?

**MR SCOTT:** Three.

**CHAIRPERSON:** And 84 underneath?

**MR SCOTT:** Should be eight.

**ADV NORMAN SC:** Okay.

**CHAIRPERSON:** 74?

20 **MR SCOTT:** Should be seven.

**CHAIRPERSON:** Should be seven. 34 should be three.

**MR SCOTT:** Should be three.

**CHAIRPERSON:** 44 should be four.

**MR SCOTT:** Should be four.

**CHAIRPERSON:** And 24 should be two.

**MR SCOTT:** Two and 48 should be four.

**CHAIRPERSON:** Okay, alright.

**ADV NORMAN SC:** Thank you Mr Chair.

**CHAIRPERSON:** Thank you.

**ADV NORMAN SC:** Thank you and then in the next paragraphs then you give in your statement the totals of the amounts that were paid by ANN7 at the rate of them having been charged for the 2000 minutes at R70 per minute and you give those totals in paragraphs 21 and 22. Is that correct?

10 **MR SCOTT:** That is correct.

**ADV NORMAN SC:** And were those amounts paid to the SABC? As the invoices were they paid?

**MR SCOTT:** All invoices were paid.

**ADV NORMAN SC:** Yes. All of them were paid.

**MR SCOTT:** All of them.

**ADV NORMAN SC:** Yes, thank you and then let us just deal with the one aspect then on – how then were you dealing with them in order for you to see what content they have used? How were you getting declarations from them? Can you just tell the Chairperson that process  
20 that you followed quickly?

**MR SCOTT:** I would email them and ask for a declaration. Like I did with all clients and fortunately you know it cost too much to have a microchip installed in each and every tape which you sell to the public or to production houses. So you rely on their honesty.

**ADV NORMAN SC:** So how it does work with a microchip. Supposing

that you can afford – if you were to afford it how would it work?

**MR SCOTT:** A microchip gets planted onto a tape and whoever uses that tape will register onto your computer.

**ADV NORMAN SC:** So is that what is called burnt in code or is it something different?

**MR SCOTT:** No, it is something different.

**ADV NORMAN SC:** Okay. Are you aware of the burnt in code system?

**MR SCOTT:** The burnt in time code, yes definitely.

**ADV NORMAN SC:** Yes. Okay what is – how does that one work?

10 **MR SCOTT:** If you have got a burnt in time code on your tape you cannot use it for anything because it is time code that runs at the bottom of the tape continuously ...(intervenes).

**ADV NORMAN SC:** Yes.

**MR SCOTT:** And you cannot use it for any programming whatsoever.

**ADV NORMAN SC:** But will you be able – supposing that you give me with the burnt in time code. Does that mean that if I said I wanted it for five seconds I can only use it for five seconds and not more?

**MR SCOTT:** No, wait. You can only use it for five seconds and no more?

20 **ADV NORMAN SC:** Yes. If you have put in that burnt in code.

**MR SCOTT:** You put in a burnt code you can put it in for two hours, three hours. You can put it in for as long as you like to.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** But you cannot use that footage to do any production. The footage completely becomes useless.

**CHAIRPERSON:** What renders it useless? Is that what you call bank in code or what you ...(intervenes)?

**ADV NORMAN SC:** It is burnt in time code as in in burnt.

**CHAIRPERSON:** Burnt in time code?

**ADV NORMAN SC:** Yes.

**MR SCOTT:** Burnt in time code, *ja*. It is a code that runs at the bottom of the tape or you can put it right in the centre of the tape or on top of the tape. If you do not want anybody to use your material.

**CHAIRPERSON:** Oh, okay.

10 **ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Okay.

**ADV NORMAN SC:** And then for monitoring you said you simply relied on them on their honesty. That is all. That was the only monitoring mechanism you put in place.

**MR SCOTT:** You had to rely on their honesty.

**CHAIRPERSON:** That is no mechanism.

**ADV NORMAN SC:** There is no mechanism other than saying if I come to you and I buy from you your content you will expect me to be honest with you and then I will pay for what I declare to you.

20 **MR SCOTT:** *Ja*.

**ADV NORMAN SC:** And that was the only system that was there?

**MR SCOTT:** H'mm.

**ADV NORMAN SC:** Yes, thank you.

**CHAIRPERSON:** Is – were there other occasions before this one where you sold archive footage to somebody or a company which would use it

and you would – they would have to pay you for using it?

**MR SCOTT:** Chairperson I am not aware of anybody who has used any footage without declaring. I am going to mention Carte Blanche now. Carte Blanche even went as far to declare on a Sunday before they went out on air the Sunday evening. The people I have worked with production houses, broadcaster tend to be very, very honest. I have never had any problems in footage declarations never.

**CHAIRPERSON:** Well what mechanism was in place to make sure that if they were dishonest you would have found out?

10 **MR SCOTT:** What mechanism in place?

**CHAIRPERSON:** What mechanism was in place to make sure that if they were dishonest you would know? You would find out?

**MR SCOTT:** Nothing really except for me who would follow via email on a regular basis.

**CHAIRPERSON:** *Ja*, but that – if a person says I have used the footage for one hour when they have used it for five hours you would not know whether they have been honest with you or not. Is it not?

**MR SCOTT:** Right Chairperson. There is just no way we could have sent somebody out to their offices to go and check each and every bit  
20 of footage. You know ...(intervenes).

**CHAIRPERSON:** If you had sent somebody would it have been easy to find out how much the footage – for how much time the footage had been used or would that not have been possible to determine?

**MR SCOTT:** We relied on the honesty of the clients.

**CHAIRPERSON:** *Ja*, but I am asking a different question. The

question is if you did not trust the client what is it that you could have done to check whether you are being misled or not when a client tells you I used the footage for X amount of time when in fact it was for more.

**MR SCOTT:** Chairperson I could have asked for him DVD burnt in time code copy.

**CHAIRPERSON:** Okay and that would have told you exactly how much time had been used?

**MR SCOTT:** Definitely. No doubt about it.

10 **CHAIRPERSON:** And was that something that was available at the time that this transaction took place?

**MR SCOTT:** Yes. I could have asked them for a DVCPRO copy ...*(intervenes)*.

**CHAIRPERSON:** Yes.

**MR SCOTT:** Of whatever they have broadcast.

**CHAIRPERSON:** Yes.

**MR SCOTT:** That would have meant our DVCPRO copy – a two-hour DVD copy. They went out 24 hours a day. That would have meant 12 DVD's a day. *Ja*, I could have asked them.

20 **CHAIRPERSON:** And that would have been fine. They would – there is nothing – not - that is not viable about doing it that way. Is there?

**MR SCOTT:** Quite right.

**CHAIRPERSON:** Yes and why was it not – why was that not done?

**MR SCOTT:** When I approached them after Madiba passed away they immediately responded and they came back and they declared in an

honest way. Sias we have used 27 minutes of your footage. So I trusted them.

**CHAIRPERSON:** *Ja*, but what did you say in an honest way because you do not have a way of knowing whether they were being honest. Should you not simply say they said to me they used 27 minutes and I accepted that but you do not know whether they were being honest? You did not know that. Did you?

**MR SCOTT:** You are right Chairperson.

**CHAIRPERSON:** And in the process SABC could may well have in  
10 effect been robbed of revenue that it could have obtained. I am saying robbed not in a criminal sense. It suffered loss. It could have gained revenue and it did not gain that revenue.

**MR SCOTT:** You are right.

**CHAIRPERSON:** You accept that?

**MR SCOTT:** I agree 100% Chairperson.

**CHAIRPERSON:** Yes.

**ADV NORMAN SC:** Thank you.

**CHAIRPERSON:** Okay.

**ADV NORMAN SC:** Yes, thank you Mr Chairperson. Maybe just lastly  
20 then Mr Scott you said there were payments. Are those the ones reflected at page 64?

**MR SCOTT:** H'mm.

**ADV NORMAN SC:** The invoices are before that but you have got payments that are listed at page 64. 64 would be written on the right top hand corner.

**MR SCOTT:** Correct.

**ADV NORMAN SC:** Yes.

**MR SCOTT:** Advocate.

**ADV NORMAN SC:** Yes. So on from the questions that the Chairperson had asked you then you would – I take it that you would not take issue with the evidence of Mr Sundaram that the manner in which a declaration was made by your office relying on the user of the footage was not a good way of – was not a commercially viable manner of doing business.

10 **MR SCOTT:** I agree. There should have been a method in place to check each and every second footage going out of the building.

**ADV NORMAN SC:** Yes and that was your responsibility?

**MR SCOTT:** Maybe – I was never told it is my responsibility. Sale of footage started long before I started working for the SABC.

**ADV NORMAN SC:** Yes but for 25 years as you were working with the SABC you continued in the same manner which you described to the Chairperson without putting in the other mechanism of the burnt in code?

20 **MR SCOTT:** *Ja*, but quite frankly you know right from the day I started we had faith and trust in the clients. I was never told to play policeman, never.

**CHAIRPERSON:** But Mr Scott I can understand when you trust somebody that you have – you know and you have known for a long time but sometime the client is somebody that you meet for the first time when they want the footage. So how do you work on the basis that

that person is an honest person when you rely – there is no track record to rely on.

**MR SCOTT:** Chairperson you just hope that the client acts in good faith.

**CHAIRPERSON:** Yes, but you cannot run a business like that. Can you and that might not be your fault but really if you give somebody something that they can use to make money because that footage this particular client wanted to use in the course of business – of their business you know – ANN7 and they know that to – if they give you –  
10 they know that you will not have a way or you will take their word when they say we used it for one hour when in fact they used it for three hours and they know if they say it is three hours they pay more. If they say one hour they pay less you know. There are people out there who will say – who will misled you. So unless you have had – you know – a track record of dealing with them and their honesty has been proved it should be problematic because if you run a business simply on a basis that you will trust that every client who goes through your door is an honest person then there will be problems. You appreciate that?

**MR SCOTT:** I do Chairperson and I agree 100% there should have  
20 been a way ...(intervenes).

**CHAIRPERSON:** H'mm.

**MR SCOTT:** To monitor ...(intervenes).

**CHAIRPERSON:** H'mm.

**MR SCOTT:** Footage going out of the building.

**CHAIRPERSON:** And especially because from what you have said it is

not as if there was no way of – there was no mechanism that could be put in place. From what you have said there was a mechanism that could be put in place to make sure that you could know exactly how much time had been used and the question is when you have got a mechanism that is meant to protect SABC in that situation. Why is it not – why was it not used and then we now have evidence that this archive footage was given to ANN7 for an unjustifiably low amount. That is – I think the previous witness said somebody from ANN7 used to say that they got this footage for peanuts from SABC. You understand?

10 **MR SCOTT:** I did not hear the last part?

**CHAIRPERSON:** The last witness who was before you came here ...(intervenes).

**MR SCOTT:** Yes.

**CHAIRPERSON:** He gave evidence and said somebody from ANN7 or somebody connected with ANN7 to whom the footage was sold by SABC was boasting around saying that they got this footage from SABC for peanuts. I think there was mention of beer and – for beer and something else. I do not know whether you said that or somebody else.

20 **MR SCOTT:** Chairperson if that person got it for peanuts he did not get it from me a, and b, I have stuck to the agreement which I had with Nazeem Howa.

**CHAIRPERSON:** Yes, thank you.

**ADV NORMAN SC:** Thank you. Thank you Mr Chairperson. Thank you Mr Chairperson that is the evidence from this witness, thank you.

**CHAIRPERSON:** So the footage that you have personal knowledge the

footage that you sold all together amounted to footage for how much time? Is it 2000?

**ADV NORMAN SC:** 2000 minutes.

**CHAIRPERSON:** 2000 minutes is that right?

**MR SCOTT:** 1982 to be precise.

**CHAIRPERSON:** And Mr Howa or ANN7 paid how much for that?

**MR SCOTT:** They paid R70 for 2000 minutes because I had this agreement with them that at R70 you take 2000 and they paid R140 000.

10 **CHAIRPERSON:** R140 000?

**MR SCOTT:** *Ja*, excluding VAT.

**CHAIRPERSON:** Yes.

**MR SCOTT:** H'mm.

**CHAIRPERSON:** And do you say that that amount which they paid was reasonable and accorded with what SABC used to charge generally for footage?

**MR SCOTT:** Did I?

**CHAIRPERSON:** That the amount that they paid are you saying it as reasonable and that it accorded with the rates that SABC used to charge for archive footage?

**MR SCOTT:** The amount was 100% according to what I have quoted them and also as per the minutes which they were supposed to take away.

**CHAIRPERSON:** Okay, thank you.

**ADV NORMAN SC:** Thank you Mr Chairman.

**CHAIRPERSON:** Are we going to get any witness other witnesses who talk to the reasonable or otherwise of the price ...(intervenes)?

**ADV NORMAN SC:** Unfortunately Mr Chairman this is the only witness who was working in that department who was dealing with the pricing and everything else and he was the only person.

**CHAIRPERSON:** Well there should be an investigation whether the complaint ...(intervenes).

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** That this footage was sold for a song whether that –  
10 there is justification in that complaint or not.

**ADV NORMAN SC:** Yes. I am aware of a forensic investigation.

**CHAIRPERSON:** H'mm.

**ADV NORMAN SC:** That the investigators indicated ...(intervenes).

**CHAIRPERSON:** H'mm.

**ADV NORMAN SC:** That had been conducted but it was done in a very shoddy manner and ...(intervenes).

**CHAIRPERSON:** *Ja* what needs to be done is to establish what the norm in the industry is.

**ADV NORMAN SC:** In the industry is, yes.

20 **CHAIRPERSON:** Was R70 at that time was it the norm – you know.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** For that kind of footage and – or not – you know.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** They had R100 but ...(intervenes).

**ADV NORMAN SC:** Yes, they reduced it.

**CHAIRPERSON:** Miscalculated and reduced it.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** So that is what needs to be done.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Otherwise we are not in a position to say whether there was anything wrong with selling it for that amount.

**ADV NORMAN SC:** Yes. Thank you, yes Mr Chairman.

**CHAIRPERSON:** *Ja*. I mean if there is a – I am sure there should be lots of other transactions of that kind within the country but even if  
10 there are not am sure that an investigation to what happened in other countries with TV stations or whatever ...(intervenes).

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Can be checked and then can be compared with the R100 per minute or R70 per minute to see whether that ...(intervenes).

**ADV NORMAN SC:** Should change or not.

**CHAIRPERSON:** Is more or less in line or not.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** *Ja*.

**ADV NORMAN SC:** Yes, thank you Chair.

20 **CHAIRPERSON:** Okay, alright.

**ADV NORMAN SC:** Thank you.

**CHAIRPERSON:** Thank you Mr Scott. Thank you very much. You are excused. Thank you for coming.

**MR SCOTT:** Thank you Chairperson.

**CHAIRPERSON:** Thank you.

**ADV NORMAN SC:** Thank you. Thank you Mr Chairman. In the same bundle there is a confirmatory affidavit of Mr Moloko Maserumule who was just assisting Mr Scott – Mr Rahul in collating the footage and it is the very last document in that bundle and it is marked number 2 because he really has no in depth knowledge. We simply ask that his statement just be submitted into evidence without him having to be called to testify. Yes, because he simply there is ...(intervenes).

**CHAIRPERSON:** Okay. So I think the most important thing is to investigate what was the norm ...(intervenes).

10 **ADV NORMAN SC:** Yes.

**CHAIRPERSON:** In terms of prices. What was the – what were the prices and then the other question is whether the transaction was done in accordance with established procedures at SABC.

**ADV NORMAN SC:** Yes. Thank you. The investigators have made notes. Thank you Mr Chairman.

**CHAIRPERSON:** *Ja.*

**ADV NORMAN SC:** Thank you ...(intervenes).

**CHAIRPERSON:** Okay.

20 **ADV NORMAN SC:** That is the evidence for today Mr Chairman. I am advised that Transnet will conclude its evidence then tomorrow.

**CHAIRPERSON:** If we had known we would finish this time we could have – Dr Bloom could have come and maybe we could have ...(intervenes).

**ADV NORMAN SC:** Finished today.

**CHAIRPERSON:** Finished today.

**ADV NORMAN SC:** Yes, yes. It is just that it was difficult  
...(intervenes).

**CHAIRPERSON:** To tell.

**ADV NORMAN SC:** Especially with the first witness in the morning.

**CHAIRPERSON:** Yes, yes.

**ADV NORMAN SC:** It was hard to tell what time he would finish.

**CHAIRPERSON:** H'mm.

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Okay. No that is alright and tomorrow it is Dr Bloom  
10 and who?

**ADV NORMAN SC:** I think there is a Mr Vukela or something.

**CHAIRPERSON:** H'mm.

**ADV NORMAN SC:** I am not sure of the name, but I think Transnet is –  
has planned I think two witnesses for tomorrow.

**CHAIRPERSON:** *Ja.*

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** Okay. Tomorrow we will start at 10 ...(intervenes).

**ADV NORMAN SC:** Yes.

**CHAIRPERSON:** And we adjourn for the day.

20 **ADV NORMAN SC:** Thank you Mr Chairman.

**CHAIRPERSON:** We adjourn.

**ADV NORMAN SC:** Thank you.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS TO 5 JUNE 2019**

**TRANSCRIBER'S CERTIFICATE FOR COMMISSION OF INQUIRY INTO STATE  
CAPTURE  
HELD AT  
PARKTOWN, JOHANNESBURG**

DATE HELD : 2019-06-04

DAY: : 105

TRANSCRIBERS : B KLINE; M NETTA; D STANIFORTH

**Audio's are typed verbatim, as far as audible/possible**



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