COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

28 SEPTEMBER 2018

DAY 18

FINAL

PROCEEDINGS HELD ON 28 SEPTEMBER 2018

CHAIRPERSON: Good morning, Ms Hofmeyr and everybody.

ADV KATE HOFMEYR: Good morning, Chair.

CHAIRPERSON: We adjourned yesterday on the basis that we would continue this morning with this application. You obviously had time to reflect on some of the issues we discussed – are you ready to say something?

ADV KATE HOFMEYR: Indeed, Chair, thank you so much. Chair, we ended yesterday on the question broadly of relevance and I would like to propose addressing that in three parts. The first …[intervenes]

CHAIRPERSON: Well – well let me tell you what my thinking was at some stage last evening about the matter.

ADV KATE HOFMEYR: Thank you, Chair.

CHAIRPERSON: We have to keep on going back to the basic proposition that this is not a court of law. We have to keep on reminding ourselves.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: And that is all of us – both the lawyers and myself, because we are all too used to a court of law.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: And our experience in courts of law is to a really large extent part of our life. But of course once we remind ourselves that this is not a court law we have got to try and think in the context of a forum that is not a court of law, and to a certain extent we have also to think of terminology that is not a court of law terminology, because sometimes we may be using court of law terminology because that is what we work with all the time, but actually maybe we should be considering different terminology, depending on exactly what we mean and what we want to

achieve. Now, this is a Commission of Inquiry. It has got a team of investigators and a team of lawyers the contemplation is that the investigators would investigate and bring the product of their investigation to the Commission's legal team and the Commission's legal team would look at that product and advise if it is good enough to be presented to a hearing and if it needs to be worked on further they give that advice, at a certain stage they might be happy to present it to the hearing. Now when you investigate an investigator may go to destination A for purposes of investigating, and at that destination he/she might come across certain real evidence and might need to examine that real evidence before he/she may say whether it is really going to be useful for a hearing or to be taken to the legal team and so on, or he/she might need to go and interview certain other people before he/she takes a view whether it is something worth handing over to the legal team.

So, for purposes of investigation and if there is still going to be an investigation it might be difficult to say whether something is relevant. Maybe it might be enough if it is potentially relevant and whether it is in fact relevant might be established after some further investigation or some examinations, some analysis, so it may well be that the components of the – of HDDH whether 1 or 2 or both, it may well be that the components thereof that has not been analysed need not be shown to be relevant at this stage, and that it should be enough if one takes the view that it could be potentially relevant, or something like that, and maybe to that extent one should not – maybe I should not ask for more than simply a showing that it could potentially be relevant.

So, that is the one part, but when I read the affidavit again this morning it seemed to me that the real reason or purpose of the application at least then that one could gather from the affidavit, it seems to be that it is believed that there must

be an admission of this evidence first before or in order to enable investigators to analyse the data and do their investigation further, and at the same stage the evidence would come back after they have done that.

Now ordinarily in a court of law situation things would happen the other way around.

ADV KATE HOFMEYR: Correct.

CHAIRPERSON: The examination of evidence and or real evidence or objects would be done first and when the court is asked to admit that evidence it would be because that part has been done, as far the particular party who wants that piece of evidence to be admitted is concerned, they have done their job and when it is admitted it is in the court and so on.

So, but here it seems to me that what is envisaged is something that is different. An admission is sought and then investigation or analysis later and it is not clear from the affidavit why that need – that has to be so, but as I said yesterday the hard drives or the forensic images thereof of HDDA are under the control of the Commission, and as far as I am concerned I know nothing that should preclude the investigators from doing their job in relation to that piece of evidence, and at a certain stage - I mean we have certain evidence from Mr Brian Currin, from yesterday, about what you call, I think "chain of custody" it is not everything that is still, there are still other parts that are dealt with, as I understand, in an affidavit that is still to be handed up to me, and I suspect that evidence of the whistleblowers or at least one of them in relation to how, originally, HDDA was - came to his possession is something that will be dealt with at some stage when those whistleblowers are able to give evidence, either in open, in an open hearing or *in camera*.

My suspicion is that at that stage that will give a complete picture about the chain of custody. Now, I do not – obviously one would have preferred a situation where the chain of custody would be completed now, but I do not have a problem with the fact that it is not completed now. It will be addressed in due course.

I do not see anything that really precludes either the legal team or the investigators to do what they need to do using this evidence to advance the work of the Commission and - so, that is where I am …[intervenes]

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: And it may well be that part of the challenge that we all face is what I said earlier on. We are used to a court of law situation, court of law terminology and court of law procedures. I mean there is no requirement that the Chairperson of a Commission of Inquiry must always be a Judge. There is no requirement that he/she must always be a lawyer. So, that this Commission may well have been chaired by somebody other a Judge or a lawyer. Of course a Judge comes with certain advantages, but as I say maybe sometimes there are disadvantages.

So, I do not know whether, for example if it was somebody who was not a lawyer you would bring an application for admission – for an admission.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: So, I am sharing this – these thoughts with you so that you understand some of the thoughts that I had, because I also reflected on the application. So, one, as far as I am concerned, the evidence is within the control of the Commission. Two, the evidence appears to be very important. Three, there is no reason, as far as I can see, you might give me one, I see no reason why the investigators should not do their work using this information, analyse the data and

move on with the investigation and at the right time the matter could – they would obviously come back to the legal team and say this is how far we had gone, this is what appears to be the case and the legal team would at the right time, you know, bring the evidence or aspects of it back to a hearing and then one can deal with it.

It may well be that to the extent that one may need to talk about admission of evidence even in a forum that is not a court of law – to the extent that one may talk about that kind of terminology. It may well be that that should stand over until I have heard all the evidence that might be relevant to authenticity and other things and I would decide, you know, admissibility later, but in the meantime I see no reason, for example if a witness was giving evidence here and the legal team being aware of certain emails implicating that person. I see no reason why, for example that witness could not be asked about such an email, for example, and obviously any witness who has an interest in relation to or is implicated by the emails who wants to challenge the authenticity of the emails should be allowed to do so. At a certain stage I would make that decision and it might not be necessary to make it a certain time. I might wish to make it right at the end, but subject to what anybody might say I do not see why there should be any problem with the legal team and investigators pursuing their work, to advance the work of the Commission. Even in relation to using that – that data.

ADV KATE HOFMEYR: Thank you, Chair. Chair, we greatly appreciate your guidance on these aspects. If I may pick up the point about terminology, because I think it is an important one and you have already signalled the need for everyone concerned to remain on the right side of the distinction between courts and inquiries and our reflection overnight as a legal team indicated to us that the language that was selected for the notice of motion, for precisely the reasons that you have

identified, may not have been apposite. The notice of motion talks about admitting the data and the challenge with that is that it holds a whole host of connotations from a judicial forum that brings in questions of rules of evidence, on admissibility that are, quite frankly, inappropriate here, because that is not the standard or the test here and, Chair, it was with that reflection that we went back to the rules of this Commission, which we submit in fact provide the guidance.

6.1 of the rules does not talk about admitting evidence. It talks, and we think with wisdom, with respect, about receiving evidence. Receiving does not have any of the loaded connotations that admission does. Admission takes us back into a judicial setting. We should resist that as a Commission of Inquiry. That is our submission.

So the first proposal that we would like to make in relation to the application is that if we go to the notice of motion we submit it is actually appropriate for the notice of motion to read in paragraphs 1 and 2 - Not that what is sought is a ruling admitting the data, but receiving the data, because that tracks the Rule 6.1 and it makes clear what the test was that was then applied, because 6.1 says simply that the Commission and I am quoting now:

"…may receive any evidence that is relevant to its mandate.."

And I would like to pause on mandate, because it is again important when we are mindful of this distinction to understand that the mandate of a Commission of Inquiry is to investigate matters. It is not to determine legal rights. It is not to determine guilt or innocence. It is simply to investigate and upon completion of the investigation to make recommendations.

So, that again gives us an insight as to what receiving evidence means. It does not mean receive evidence in order to determine rights, which is actually what

admission in a judicial context will carry as its significance. It simply means receive evidence that is relevant to the investigation that the Commission is doing and which will result, in the end, in its recommendations.

So, Chair, our first proposal to you today would be to remove the language of admission, it is with hindsight unhelpful, it takes us back to the judicial setting that we must studiously avoid venturing to, and it clarifies what is being sought. It is simply a receipt by this Commission of that information to progress its investigations.

Chair, I would like to link that to the guidance that at least one of the cases that was handed up to you yesterday provides on this question. It is the case of *Rosby Costigan* that was in the bundle of authorities and, Chair, the reason why we give further attention to this authority is, because it actually provides very useful guidance in addition to what I addressed yesterday.

On this question of where can a Commission probe and what evidence may it receive in the course of its investigations? Before I take you to the relevant paragraphs I should just give a bit of background about the case. This was a case involving a Commission of Inquiry in Australia into the building – Shipbuilding and Ship Preparing Unions within Victoria and New South Wales.

A Commission was established to determine whether any officer or member of those unions had been engaged in illegal activities related to shipping and so the Commission began its work and in the course of its works counsel for the submissions had discovered that there was a possibility of involvement by employees of the various companies in tax minimisation schemes, and on its face it looked as though those tax minimisation schemes were beyond the remit and mandate of the Commission. But counsel for the Commission sought leave from the

Commissioner to pursue that line of inquiry and indeed to summon witnesses that would be able to give further information on the question of the involvement in this tax minimisation scheme, which may indicate engagement in unlawful activities. And those who were going to be summoned and implicated by that line of enquiry ran to court to try and stop the Commission in its tracks on the grounds that this would be beyond its mandate and, Chair, in dealing with that challenge, if you go to paginated page 17, of the bundle, the authorities bundle.

CHAIRPERSON: Yes?

ADV KATE HOFMEYR: You will see there on the left hand side of the page on the reported page 326, what the court is recording there is the reaction of the Commissioner when this issue was first raised with him and I would like us to look at that and then look later at what the court made of the Commissioner's findings, because the court ultimately upholds the Commissioner's determination that the leave should be granted, the witnesses should be summoned and the investigation should proceed.

From about the fourth line down on that page – this is what the Commissioner recorded in his reasons. He said:

> "In an inquiry of this kind it is impossible to lay down, in advance, the limits of investigation and yet this is what the submission made to me would require me to do. It is not one view of the evidence that the payment made to a painter and docker company director came to him at least indirectly from a taxpayer. At the very least I am not – am I not bound to inquire into this matter if the evidence should disclose that a taxpayer even knew or ought to have known that his tax was being minimised by the use of painters and dockers as company directors?

> Am I not obliged to inquire as to whether this falls within the concept of the use of the union for illegal activities?"

That is a quote from the terms of reference.

> "I am not making any findings on these matters at this stage and will not until the evidence is complete and submission have been advanced on that evidence by those who wish to make them. But it is not possible to limit my inquiries into those areas by producing a conclusion midway through those inquiries."

Chair, that finding on the part of the Commission is ultimately upheld by the court, and the test that the court sets is, in our submission, a useful one for your consideration of this application, and, Chair, that appears on paginated page 21. It is on the reported page 335, which is on the right hand side of the page and against line 18 it begins.

This is where the court having upheld the Commissioner's determination that the investigation should proceed, really articulates the essence of the question. There the court says:

> "If there is a real as distinct from a fanciful possibility that a line of questioning may provide information directly or even indirectly relevant to the matters which the Commission is required to investigate under its letters patent. Such a line of questioning should, in my opinion, be treated as relevant to the inquiry."

Chair, we seek to emphasise there, a few things. The test is set at the level of possibility, which is even lower, that probability, sorry I seem to have turned off my microphone. I will address in due course about the probabilities in this evidence.

CHAIRPERSON: Well that – that seems to either be a similar or the same or close to potentially relevant …[intervenes]

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: That I mentioned a while ago.

ADV KATE HOFMEYR: Indeed, Chair. The investigation should not be stopped at any point, unless as we read the standard here, it would be fanciful to proceed down that line of inquiry. If it is not fanciful. If it is possibly relevant or potentially relevant, either directly or indirectly, says the case, well then it should be pursued.

So, Chair, we submit that with that fairly minor adjustment to the notice of motion, we actually achieve quite a lot, because we seek to clarify before you today that we are not seeking in this application, admission of the data in the formal sense that that word has in a judicial context. We are seeking simply its receipt, because from what is set out in the affidavit, and I will take you to just the highlights of it, together with Mr Currin's evidence. It is quite clearly not fanciful that this is a line of investigation that must be pursued.

CHAIRPERSON: Ja. No, no you want me to address you on whether it is fanciful or not.

ADV KATE HOFMEYR: I will not. Thank you. Thank you, Chair. Chair, let me then just move to the question of potentially relevant, because it may be useful to use that as the place holder for what this Commission is tasked with doing in the face of this application.

Chair we submit that there are at least two primary indicators of the potential relevance of the HDDH data, which we seek to have received by this Commission. The first is that it is data that comes from a hard drive, from Sahara Computers. That on its face, Chair, places it squarely within the line of sight

of the mandate of this Commission and we say that, because Sahara Computers is a Gupta owned company, or was at least.

It is one of the companies that the four major banking institution of this country severed ties with at the beginning of 2016. It is also the company, that in the evidence of Ms Mentor she was taken to in advance of the meeting with the former president at the Saxonwold residence of the Guptas. Sahara Computers is squarely within the mandate of the terms of reference of this Commission and the Commission has within its possession a hard drive from that company.

CHAIRPERSON: Ja. No, I think certainly no order ought to be made that should preclude investigators from saying, let us have a look.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Yes. So, I think the potentially relevant is quite clear …[intervenes]

ADV KATE HOFMEYR: It is manifest, Chair. We would submit.

CHAIRPERSON: It seems to me that with the amendment that you propose of not using the terminology of "admission" and using the "receiving" – there should be no problem with, subject to certain amendments such as in one, I do not think we need to mention the name of the Commission, because …[intervenes]

ADV KATE HOFMEYR: All right.

CHAIRPERSON: It is the Commission doing the – making the decision.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: So, such as that 1 and 2 there should not be a problem. With regard to 3, I do not know whether a *rule nisi* is the best form, and of course as I have just said a few minutes ago, what we know best is what happens in a court of law.

ADV KATE HOFMEYR: Indeed, Chair.

CHAIRPERSON: So from time to time we are to go back to how – what happens there.

ADV KATE HOFMEYR: Absolutely.

CHAIRPERSON: But we must immediately remember to get out.

ADV KATE HOFMEYR: Indeed, indeed and quickly, I would submit.

CHAIRPERSON: Yes, because if we stay there too long we will make mistakes.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: I mean in a trial all you would have would be a Judge or Magistrate saying exhibit so and so is provisionally admitted. I will make a final decision later. It may well be that the *rule nisi* is the right form. I am just raising it.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: But I think the basic principle is that, as long as whoever maybe affected may - has an opportunity to be heard before a final decision is made, but it may also be that to the extent that we no longer use the word the terminology of "admission" and simply saying "receipt" – it may well be that that does not affect anybody's rights or interest.

I am not sure, but I am quite happy to say whoever wishes to be heard, at some stage before a final decision is made as to whether to admit or not, you know will be heard.

ADV KATE HOFMEYR: Indeed, Chair. If I may address that in two parts? You probed earlier with me the question of the purpose behind this application and it is important in that context to make one submission that is related to this latest engagement. This Commission is a public inquiry. It was therefore appropriate, we submit, and in the interests of the transparency of the processes of this Commission

that when it was possible for this Commission to make known to the public that its investigators and legal team had possession of this data, and linked with that the extreme lengths that the Commission went to in order to secure the integrity of the data and to have it recovered by an international expert, that those facts be made known to the public, because there may well be people who are implicated by that information and so part of the purpose of bringing this now and not later was in the interests of that transparency – to tell the public this is what we have. This is what will be analyzed and which will forge our investigations forward, and so in that context it may well be sufficient merely that the application has been brought and that if the ruling is receipt of the evidence then in due course notice in a sense has been given, publicly, to all those who may wish to contend that something is inauthentic or some particular piece of that information is not relevant.

So, in response directly to your question about paragraph 3, we submit it may not be necessary. This application has taken care of the general public notice that this information will be worked on and will be presented in due course, where it is appropriate and pertinent to the matters of investigation, either in the leading of evidence or in the cross-examination of witnesses. And the rules of this Commission of course permits applications to be made on seven days notice and so an appropriate person, if that person wishes to make submissions in relation to the receipt of this evidence, could certainly do so.

This will serve as the public notice for that purpose.

CHAIRPERSON: And would it be fine to, even the receipt to, make it provisional?

ADV KATE HOFMEYR: Chair, …[intervenes]

CHAIRPERSON: You know in terms of admission we are talking of provisional, because there would be a final decision later. Of course admission and receipt are

different things, but it may be that if one say it is provisional it just sends the message that anyone who even may be saying no, it should not be received, no door is closed, they can come and make whatever argument and final decisions would be taken later on.

It may or may not be that is necessary to say it is provisional. I do not why what to say?

ADV KATE HOFMEYR: Chair, we submit it is not necessary to say that is provisional and the reason for that is really the guidance that we can again seek from the Australian case. Investigations move – Commissions of Inquiry move along lines of pursuit and it is not appropriate, at any point, to make a definitive finding as to what weight will be given to, or what importance will be attached to a particular piece of evidence.

What will happen now if this ruling is granted is that the Commission is receiving this evidence …[intervenes]

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: And it is receiving it …[intervenes]

CHAIRPERSON: Factually receiving it.

ADV KATE HOFMEYR: Indeed. Factually so, and so that the processes of investigation can be advanced.

CHAIRPERSON: Yes, yes.

ADV KATE HOFMEYR: Through analysis and later presentation. So, we would submit – confining it to a provisional status would not be appropriate.

CHAIRPERSON: I guess that it is just what we keep on doing, because when we were talking about admission …[intervenes]

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: It was necessary to talk about provisional.

ADV KATE HOFMEYR: Yes, indeed, but we are not there.

CHAIRPERSON: We are now moving - moving and of course we are bound to think how much of what we had in mind, in relation to admission we must retain when we say receipt, you know …[intervenes]

ADV KATE HOFMEYR: Chair, our submission is …[intervenes]

CHAIRPERSON: So, maybe to the extent that receipt is nothing more than factually receive.

ADV KATE HOFMEYR: Mmh.

CHAIRPERSON: That fact is not going to change …[intervenes]

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: And that order would not be precluding anybody at any stage to say – I am not talking about receipt, I am now talking about admission. It should not be admitted that that remains open.

ADV KATE HOFMEYR: It does, Chair.

CHAIRPERSON: Yes, yes.

ADV KATE HOFMEYR: And that is precisely why we thought, or be it a small change it is an important change to the manner in which the ruling would read. We do not believe it needs to be circumscribed by provisional, for all the reasons that you have given, Chair, with respect and also to resist that movement back to the judicial frame. It is not appropriate. This Commission can receive any evidence relevant to its mandate.

This data is clearly that and should – so the ruling should be given and they will be given we submit on notice to all who may in due course want to challenge a piece of that information.

CHAIRPERSON: I am ready to – is it make an order? Seeing that is we make some ruling. Well, in the end maybe whatever you call it, it would be an order …[intervenes]

ADV KATE HOFMEYR: Indeed a ruling.

CHAIRPERSON: I am ready to do so, but I would probably effect some more amendments on your notice of motion.

ADV KATE HOFMEYR: Indeed, Chair.

CHAIRPERSON: But ones that I do not think you would have any problem with …[intervenes]

ADV KATE HOFMEYR: Chair, that is ideal. If I may just mention the *in camera* affidavit. We do still need to present that to you. I wonder if it is maybe an opportune time to take an adjournment now, so that that can be done?

CHAIRPERSON: Okay, let us do that. Well, maybe we may as well this time for tea.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: For the tea break and then when we come back, we finalise.

ADV KATE HOFMEYR: Thank you, Chair. We are in your hands.

CHAIRPERSON: It is 10:45. That affidavit of course I do not have an idea how it is, for how long I might …[intervenes]

ADV KATE HOFMEYR: It is very short. Thankfully.

CHAIRPERSON: It is very short. Okay, so we can do within 15 minute? I should be able to?

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Okay. Alright, or maybe just to be on the safe side we say we will resume at 11:05.

ADV KATE HOFMEYR: Certainly, Chair.

CHAIRPERSON: Okay, we adjourn.

COURT CLERK: All rise.

HEARING ADJOURN [1045] **HEARING RESUME**

[11:05]

CHAIRPERSON: I have read the affidavit. Is there anything more that either Mr Pretorius or Ms Hofmeyr wants to say?

ADV PAUL PRETORIUS SC: No Mr Chair, those are our submissions and we kindly request that you take them into account in fashioning the order that you wish to with those amendments that we have submitted are appropriate.

CHAIRPERSON: Okay. Thank you.

ADV PAUL PRETORIUS SC: Thank you, Chair.

ORDER

Thank you. Having read the papers and heard argument and having also read an affidavit given to me in chambers in confidence in support of the application, I make the following Order/Ruling:

1. I am going to leave out "admitting" at the beginning and put it a little later.

1. The data referred to as "the HDDH Data" on a hard drive (with model number ST500DM009 and serial number Z9ADLVFT) referred to as "HDDH". You had "is", I think, should it not be "are"?

ADV PAUL PRETORIUS SC: Is received by.

CHAIRPERSON: Is it "is data", "is" or data "are"?

ADV PAUL PRETORIUS SC: Yes.

CHAIRPERSON: What is the correct English?

ADV PAUL PRETORIUS SC: The data "is" received, I presume.

CHAIRPERSON: Is received, okay, alright, is received as evidence before this Commission. That is 1. You got it right or must I repeat? Have you got it?

ADV PAUL PRETORIUS SC: I have it, Chair.

CHAIRPERSON: I will just say again:

1. The data referred to as the "HDDH Data" on a hard drive (with model number ST500DM009 and serial number Z9ADLVFT) referred to as "HDDH" is received as evidence before this Commission.

2. The data referred to as the "HDDH1 Data" and "HDDA2 Data" which has been forensically imaged from HDDH onto two further hard drives referred to as "HDDH1" (with model number WD10EZEX-60WN4A0 and serial number WCC6Y0RRVNTJ) and "HDDH2" (with model number WD10EZEX-60WN4A0 and serial number WCC6Y6HRFZHX) is received as evidence before this Commission.

ADV PAUL PRETORIUS SC: Chair, may I interrupt?

CHAIRPERSON: Yes?

ADV PAUL PRETORIUS SC: In the serial number in the last bracket, you mentioned Z instead of 7 as the third last.

CHAIRPERSON: Okay, let me correct that. In the Order or Ruling under 2, the serial number is the following: WCC6Y6HRF7HX, okay, and then, the original 3 is not pursued so the new 3 will be the old 4, but it will read as follows:

3. Notwithstanding the Rulings/Orders in paragraphs 1 and 2 above, nobody outside of the Commission, shall have access to the HDDH Data, HDDH1 Data and HDDH2 Data, until it is presented by the legal team of the Commission at a public hearing of the Commission.

I think I should add 4 to say and I am going to formulate it and you can say if you would like to make submissions about whether we should have it or not.

ADV PAUL PRETORIUS SC: As you please, Chair.

CHAIRPERSON: 4. Should any specific person or party wish to have access to HDDH Data, HDDH1 Data and HDDH2 Data before the time specified in 3 above,

the leave of this Commission will be required.

ADV PAUL PRETORIUS SC: Maybe "sought"?

CHAIRPERSON: Will be - or such person must first obtain the leave of this Commission. I think this is just to cater for maybe specific individuals who prior to that might feel that they need to maybe somebody who, if there is any reason, just to leave it open. What is your attitude?

ADV PAUL PRETORIUS SC: It is appropriate with respect, Chair. May I suggest the wording should read: "Should any person or party wish to have access to data, leave may be sought from the Commission."

CHAIRPERSON: Yes, 4 will then read: Should any party wish to have access to HDDH Data, HDDH1 Data and HDDH2 Data, leave must be sought from the Commission.

ADV PAUL PRETORIUS SC: Or "prior to the date mentioned in 3, leave may be sought from the Commission."

CHAIRPERSON: Leave, okay, let me formulate it finally. That is 4 now: Should any party wish to have access to HDDH Data, HDDH1 Data and HDDH2 Data at any time prior to the time indicated in paragraph 3 above, such party shall first seek the leave of this Commission.

ADV PAUL PRETORIUS SC: That is appropriate, thank you, Chair.

CHAIRPERSON: Thank you. That is the ruling or order in the application. I guess that at this stage, I do not know if you wish to say anything about next week?

ADV PAUL PRETORIUS SC: Well, for present purposes, although this is subject to change, if witnesses are able to come earlier than originally planned, but what is certain is that on 3 October there will be evidence from Minister Nene.

CHAIRPERSON: Yes. Okay, we will then adjourn on the basis that unless notification to the contrary is made or given publicly, the Commission will resume on 3 October to then hear the evidence of Minister Nene, but should circumstances arise which require the Commission to sit earlier, the public will be informed.

ADV PAUL PRETORIUS SC: Thank you, Chair.

CHAIRPERSON: We adjourn.

HEARING POSTPONED UNTIL 3 OCTOBER 2018

HEARING ADJOURN

TRANSCRIBER'S CERTIFICATE FOR COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

DATE HELD	: 2018-09-28
DAY:	: 18
TRANSCRIBERS	: M BOCCHIO, E KOEKEMOER

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Audio's are typed verbatim, as far as audible/possible

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