

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**PARKTOWN, JOHANNESBURG**

**27 SEPTEMBER 2018**

**DAY 17**

**PROCEEDINGS HELD ON 27 SEPTEMBER 2018**

**CHAIRPERSON**: Good morning Mr Pretorius and good morning to everybody.

**ADV PAUL PRETORIUS SC**: Morning DCJ.

**CHAIRPERSON**: I get the impression that things are not ready, are they ready?

**ADV PAUL PRETORIUS SC**: We are ready DCJ to proceed.

**CHAIRPERSON**: Okay. All right. Thank you.

**ADV PAUL PRETORIUS SC**: Chair, firstly, three things will happen today and if necessary tomorrow. The first is that I will make the application that is before you and describe the contents of the application to you and motivate the application to you, Chair. Then Mr Brian Currin will give evidence in relation to the application and the third thing that will happen is that Ms Kate Hofmeyr will present argument in relation to the legal aspects and some factual aspects of the application. So it is those three things that will happen today and if necessary tomorrow.

**CHAIRPERSON**: Thank you, that is in order.

**ADV PAUL PRETORIUS SC**: Chair, the Notice of motion and Affidavit forming the application as before you, may it be marked J1?

**CHAIRPERSON**: Do we need to mark it? It is not an exhibit, is it?

**ADV PAUL PRETORIUS SC**: Well, it will be in a sequence of other applications that have been made before you and in relation to the full record of all the proceedings that are before you. It may be easier to catalogue it if it is given an exhibit number. It is not an exhibit - that is understandable but ...[intervenes]

**CHAIRPERSON**: Should we not - Should we not – should the arrangement not be that there will be a lever arch file or a set of lever arch files which will contain all applications that are dealt with? So now they are separate from exhibits and so on. Would that not – that will not confuse me in terms of then I know which ones, which

documents are exhibits, which ones are not exhibits that have come before the commission.

**ADV PAUL PRETORIUS SC**: Yes, well just subject to two qualifications, Chair, that the Nombembe Affidavit is in fact evidence and the second qualification is there have been a number of applications in relation to cross-examination, applications for cross-examination and rulings that will also go in the comprehensive record that have been given exhibit numbers. So ...[intervenes]

**CHAIRPERSON**: So we might not have ...[intervenes]

**ADV PAUL PRETORIUS SC**: Perhaps we could do both as a compromise, Chair. We will give it an exhibits number so that in the comprehensive record of proceedings it is in sequence and also a separate application file where it will appear separately.

**CHAIRPERSON**: Of course if it was just Mr Nombembe's Affidavit it would be easy to then make it an exhibit number.

**ADV PAUL PRETORIUS SC**: Well that is also possible to give the affidavit the ... [intervenes]

**CHAIRPERSON**: The exhibit?

**ADV PAUL PRETORIUS SC**: J1.

**CHAIRPERSON**: *Ja*. Okay, I think the - let us mark Mr Nombembe's Affidavit as EXHIBIT J1.

**ADV PAUL PRETORIUS SC**: That will be done.

**CHAIRPERSON**: *Ja*.

**ADV PAUL PRETORIUS SC**: Chair.

**CHAIRPERSON**: And I do not know whether we mark anything on the Notice of motion. It is a little confusing.

**ADV PAUL PRETORIUS SC**: Chair?

**CHAIRPERSON**: Notice of motion to EXHIBIT J1.

**ADV PAUL PRETORIUS SC**: Well the alternatives are not to mark the Notice of motion.

**CHAIRPERSON**: Yes.

**ADV PAUL PRETORIUS SC**: And the Affidavit at all.

**CHAIRPERSON**: Yes.

**ADV PAUL PRETORIUS SC**: The second alternative is to mark the whole application J1.

**CHAIRPERSON**: Ja.

**ADV PAUL PRETORIUS SC**: In the numbering sequence that it already has.

**CHAIRPERSON**: Ja.

**ADV PAUL PRETORIUS SC**: And the third is to split them, but perhaps, Chair, may I suggest that we mark the Application J1, because it has a sequence number from the Notice of motion and we will create a separate Application file.

**CHAIRPERSON**: Or maybe we mark the Notice of motion J1, without saying exhibit and then on Mr Nombembe's Affidavit EXHIBIT J1.

**ADV PAUL PRETORIUS SC**: Sure.

**CHAIRPERSON**: Will that - or will that be confusing?

**ADV PAUL PRETORIUS SC**: That is appropriate.

**CHAIRPERSON**: Then nobody, nobody thinks we do not know what exhibits are. Okay. So the Notice of motion is marked J1 and then Mr Nombembe's Affidavit is marked EXHIBIT J1. Thank you.

**ADV PAUL PRETORIUS SC**: Thank you, Chair.

**CHAIRPERSON**: Actually should we keep – should we leave the Notice of motion as just J1 or Annexure J1?

**ADV PAUL PRETORIUS SC**: J1.

**CHAIRPERSON**: J1. Okay. Thank you.

**ADV PAUL PRETORIUS SC**: Chair, this is an Application for the Admission of certain electronic evidence, it is a computer generated data. The Notice of motion, before you, that is page 1 of J1, refers to an application to admit data and that data exists on three hard drives and we will explain to you in due course how that works and where those forensic images HDDH, HDDH1 and HDDH2 come from. The application is made by Mr Terence Nombembe who acts on behalf of the Commission as the Lead Investigator. You will recall, Chair, that on 28 May 2017 the Sunday Times first published selections of what became known as the Gupta Leaks or the Gupta Emails. In due course journalists employed by AmuBhungane, amongst others, caused to be published excerpts and analysis of this data over a period of time. All this data, Chair, was originally contained in a component of a computer, a hard drive. The Commission now has that hard drive in safekeeping – that is what will be referred to as the original hard drive. How the Commission came to be in possession of that hard drive will be described to you in due course, either on the affidavit of Mr Nombembe or in the affidavit of Mr Currin who is due to testify. The Commission also has a forensic image of that hard drive made by an expert in Europe and his affidavit is available, but it will be handed up to you *in camera* by your leave, because that person does not wish his identity to be known for reasons which can be explained to you *in camera*. Almost all of the data on the Original hard drive, that is the hard drive that is now in safekeeping under the control of the

Commission, has been recovered and transferred onto the first forensic image HDDH and I will deal with that process in detail in due course.

There are two further hard drives replicating that first forensic image that have now been made. All three of these hard drives are in possession of the Commission, as we speak. One is in safekeeping and two, if the application is successful, will be analysed and investigated by the investigators of the Commission.

The Original hard drive, Chair, has been damaged and cannot therefore be used by the investigators of the Commission. The danger is that as soon as a non-expert deals with, in any manner, this hard drive there is a risk of permanent and irretrievable damage. The original hard drive, therefore, can only be dealt with by experts, as indeed occurred in Europe recently where the complete forensic image was made.

That is why this application, Chair, seeks to admit as evidence the data on the three hard drives. Those are the three forensic images of the original hard drive. These hard drives contain electronic data or evidence which we will describe in more detail in due course which is relevant to the work of this Commission.

Finally, by way of introduction, Chair, this application that is brought *ex parte*, however, notice will be given to the presumed original owner of the original hard drive that is Sahara Computers (Pty) Ltd to show cause at a later date, if it is so - chooses why - as why its data should not be used by the Commission. Again I will deal with that aspect in more detail in due course.

It is necessary first, however, to deal with the legal aspects by way of introduction and support of the application relevant to how this Commission – it will

be submitted by myself and in more detail by Adv Hofmeyr - evidence of the nature that we have placed before you at present.

The first point that we make is that this is not a trial. It is not a trial where personal rights or liberties maybe directly determined. The findings and recommendations of this Commission may in due course of course lead to criminal prosecution or civil proceedings. If evidence is to be lead in those proceedings then that evidence will be subject to the Rules of Evidence governing those particular proceedings, either criminal or civil. Accordingly any rights or interests of persons that may be implicated by this data are preserved. That is the first point.

The second point is, that it is trite to say, but it is not always fully understood that this is an investigation or inquiry and on this basis our submission is that the Commission is entitled, and in fact it is obliged, to examine all available information and evidence and to evaluate that in order to make its findings. In doing so it is not bound by the Rules of Evidence. That this is so is accordance with International Law, International Precedent, Practice and is the same in South Africa. It is also consistent with the instruments governing the Commission which expressly empower this Commission to control its own procedures and finally Rule 6.1 is clear ... [intervenes]

**CHAIRPERSON**: I am sorry, Mr Pretorius. Is it accurate to say it is not bound by the Rules of Evidence or is it more accurate to say it is the application of Rules of Evidence is relaxed, or is the outcome of those two questions the same?

**ADV PAUL PRETORIUS SC**: Well ...[intervenes]

**CHAIRPERSON**: Is it correct to say the Rules of Evidence, it is not bound by the Rules of Evidence at all or is it more accurate to say the application of rules, of the Rules of Evidence is relaxed or do you think that the answer to the same – to the two

question is the same, whichever way you approach it? I am not sure on the face of it, it does appear to be ...[intervenes]

**ADV PAUL PRETORIUS SC**: If you ...[intervenes]

**CHAIRPERSON**: On the face of it there may be there is a difference between the two.

**ADV PAUL PRETORIUS SC**: Yes, I agree with that observation, Chair, because if you are not - if you are permitted to relax the Rules of Evidence it follows logically that you are not bound by them. It may be that ...[intervenes]

**CHAIRPERSON**: Well the difference between the two is, I think, if you say you are not bound by the Rules of Evidence it means you are just at large to do as you please, it seems to me. Whereas if you say the application of those rules is relaxed it means you do not apply them as strictly as they would be applied in a court of law. So, there is some room to admit evidence that otherwise would not be admissible in a court of law?

**ADV PAUL PRETORIUS SC**: Yes.

**CHAIRPERSON**: But you are completely at large to admit what you want and not admit what you do not want?

**ADV PAUL PRETORIUS SC**: Chair, this has the danger of becoming a semantic argument. Perhaps from a practical point of view the strict Rules of Evidence are not in themselves binding to their fullest extent on this Commission. But in receiving evidence and evaluating evidence the, Chair, will obviously be guided by principles and rules normally applicable when evidence is dealt with.

**CHAIRPERSON**: Thank you.

**ADV PAUL PRETORIUS SC**: And that question is actually relevant because it is one thing to admit the data on the hard drives for investigation and analysis and

ultimate presentation to this Commission, it is another thing to analyse each particular, for example email, that emerges and at that stage one may obviously take a more particular approach as to the general approach which you are asked to do now.

**CHAIRPERSON**: Thank you.

**ADV PAUL PRETORIUS SC**: And so perhaps the wording in the rule composed by the Commission, Rule 6.1 is apposite. That rule reads:

"The Commission may receive any evidence that is relevant to its mandate including evidence that might otherwise be inadmissible in a court of law. The Rules of Evidence applicable in a court law need not be strictly applied to the determination of the admissibility of evidence before the Commission."

And perhaps the formulation in the second sentence there answers the question.

**CHAIRPERSON**: Yes. Thank you.

**ADV PAUL PRETORIUS SC**: Of course as stated in this discussion, Chair, there are other stages of the Commission's proceedings where the interest of persons implicated by relevant information or evidence may be safeguarded. So for example, when a particular email is presented before you, if a person is implicated by the contents of that email then it follows that that person may be able to counter it, may confirm its existence, may deny its existence and then that evidence and counter evidence will be weighed up by yourself and a finding be made. And then any interest that Sahara Computers may have in the preservation of the confidentiality of

the information or evidence – which interest we do not concede Chair - is also protected by the procedure adopted in this application. So that in accordance with the Notice of motion on a return date to be determined by yourself, Chair, Sahara Computers may deal with the admission of the evidence in whatever way it chooses, but of course it perhaps note – notable to say at this stage that Sahara Computers will face a dilemma. It may persist in what appears to be an allegation already published in the media that the emails are contrived and fake. If it does so of course then it logically cannot claim any right to the information, because it will not be its information on that version. On the other hand if it contests the admission or use of the evidence on grounds of the right to confidentiality it must logically admit the authenticity of that evidence and information. So, perhaps we should wait and see what approach Sahara Computers and its officials choose to take in due course. But the essential point we make is this, Chair, that in any investigation properly conducted all relevant material should be placed before the Commission.

It can then be analysed, it can be evaluated, both on its own terms and in the light of other evidence that may be presented. A decision may then be made in regard to the weight, if any, to be accorded to that evidence. The danger is that if the Commission does not adopt this approach it runs the risk of hampering its own investigation or inquiry unduly and in our submission the inquiry will not adopt that approach, simply it must meet its mandate to the fullest extent.

One may then ask, Chair, why this application is brought at all? The legal team maintains, and we do not wish to detract from the point, that the data on the forensic images could without more and on general principles available to Commission of Inquiry be entered into evidence without more investigated, analysed,

evaluated and reported upon. But the reason for the cautious approach – approach that we adopt are several, Chair.

The first is that the approach contemplated by the evidence leaders and in the affidavit of Mr Nombembe will allow this Commission to place greater weight on the evidence referred to in this application. So, to the extent that one goes beyond the basic requirements to that extent greater weight it may be submitted in due course, maybe placed on the evidence.

Secondly, and very importantly, Chair, the steps taken by the Commission, that is both the evidence leaders and the investigators as reflected in this application, will assist in preserving the integrity of the evidence for further use in resultant criminal or civil proceedings. This Commission is now in a position to take steps because of the position that it has been placed in by being given the original hard drive to ensure that the manner in which it is dealt both in this forum and later forums will enable later criminal prosecutions – should that be the outcome at all, or later civil proceedings.

Thirdly, in our submission, the evidence that is before you is in all the circumstances the best evidence. The original hard drive cannot be used in evidence because it may be destroyed. That original evidence is in the hands of the Commissions. The copies, we know from internationally recognised experts, and you will have that evidence on affidavit, Chair, are exact replicas of that original. So what we ask to admit is, we will submit both authentic, in the sense that it is a copy, genuine copy of the best evidence available, but reliable as well.

Further, Chair, this is not the only time, with respect that you will be approached in relation to this evidence. There is, as you are aware, a chain of evidence simply put that is the pass that the hard drive followed from the original

place where it emanated from right through to the safekeeping where it now resides in the hands of the Commission. Some of that chain of evidence is dealt with in the present application, in the evidence of Mr Nombembe. Some of that chain of evidence will be dealt with in the oral evidence of Mr Currin, but there is some evidence, important evidence, that lies within the knowledge of two whistleblowers. Their identity is being protected in this application and we have taken extreme steps to ensure that their identity is not revealed even indirectly, in this application. However, they are unwilling to testify at this stage – we understand, at least to an extent for reasons of personal safety.

They have, however, indicated a willingness to testify in or around July next year 2019. The relevance of that particular date I am afraid we cannot place before you, partly because we are not fully aware of that but in due course it will be placed before you, Chair, and dealt with accordingly. But we stress once again and this will be stressed in argument that the full chain of evidence maybe relevant for criminal proceedings, may to an extent be relevant for civil proceedings, but is not an essential component of this application before you and an essential requirement of the relief that we seek.

So, in summary, Chair, the purpose of the evidence to be led in future will be twofold. Firstly, to lend further weight to the evidence now to be admitted, to enhance its authenticity and reliability to a greater extent than can be done now and secondly to lend assistance to the preservation of evidence in any future civil law criminal proceedings.

So once I have taken you, Chair, through the affidavit and application and once Mr Currin has completed his evidence the legal aspects of this application will be tied up by Ms Hofmeyr.

**CHAIRPERSON:** Yes.

**ADV PAUL PRETORIUS SC:** If I may then go to the facts, Chair, and I will refer in due course to the contents of the affidavit. If I may refer to the Notice of motion? The Notice of motion seeks to admit data – that is information contained on a device which we have referred to here as a hard drive. HDDH is the first forensic copy made by the expert of the original hard drive. There are two further copies HDDH1 and HDDH2 and I must stop myself in my discussions with the experts who advised Mr Nombembe I was told in very firm terms I am not allowed to use the word "copy". It is a technical term with a technical meaning. So, I will be scolded by them now, but if I may use the word "forensic image", in other words a copy made on specialist machinery according to specialised process that is a forensically valid authentic image of the original. So there are two further forensic images those are HDDH1 and HDDH2.

What the Commission has elected to do is to keep the first forensic image HDDH in safekeeping. HDDH1 and HDDH2 will, if this application is successful, be investigated and analysed, in other words worked on. But in this manner the original evidence will be preserved. The original data will be preserved both on the original and on the first forensic image. Then in paragraph 3 of the Notice of motion we asked that the rulings that you make operate on an *interim* basis pending the return day on which Sahara Computers may wish to place their views before you, Chair.

The first part of the affidavit introduces the factual history of the matter, Chair. There is the original hard drive which appears to come, and on our submissions does come, from Sahara Computers. This original hard drive is referred to, in the founding affidavit as HDDA. The forensic image of that original hard drive I have dealt with. It is not a copy it is a forensic image. A copy is

something else and I will explain that in due course. The two further forensic images I have dealt with. They are referred to in the Notice of Motion.

There are sadly some technical terms that we have to deal with in order for the import of the application and its content to be fully understood and if I may take you to page 6 of the founding affidavit. Chair, I might say that in consulting with the experts who instructed the deponent to the affidavit Mr Nombembe I attempted to take detailed notes so that I could be in a position to explain the technicalities to you, Chair. I eventually discarded those notes entirely and made up my own, but I trust that they are accurate and more understandable.

The first technical term, because you will hear of this in due course is the "clone" – the clone of the hard disc drive. That is a replica of the data on the original hard disc drive, but we call it a "clone" because it is not a forensic image, a forensic image is something more. A forensic image is an exact replica of the data on the original hard drive, made by means of a forensic imaging process. That is a highly specialised and extremely reliable forensic imaging process and it uses recognised and specialised forensic software. So not only is the method forensically defensible but also the equipment is forensically defensible and it can be examined at a later stage.

So, the forensic imaging process is a process that is recorded on the software and is capable of being checked and examined. And then there is a further term that we will come across in the affidavit it is called "checksum" and I am afraid here we will have to trust the experts, Chair. The checksum is a method used by specialists and expert to assess the authenticity of a data set, in other words a collection of information, which is electronically recorded.

So, in relation to the chain of custody as it exists, at present, that is dealt with in paragraphs 23 and following of the founding affidavit. The data on the original hard drive has been copied. What that means is that files on the original have just been transferred, on a computer, to another device. They have been cloned, in other words their whole content has been imaged and recorded on another device and forensically imaged numerous times, the forensic imaging being the more specialised and reliable procedure. The only copies – well again I catch myself, Chair. The only forensic images that are relevant for the purposes of this application are the first one made in Europe by the technical expert and the two later ones made in South Africa of that copy. So, there are three and those are the ones referred to in the Notice of motion and they are forensic images.

The international expert has deposed ...[intervenes]

**CHAIRPERSON**: I am sorry, I thought there were two HDDH1 and HDDH2?

**ADV PAUL PRETORIUS SC**: If one goes back to the Notice of motion, Chair.

**CHAIRPERSON**: Plus the original hard drive?

**ADV PAUL PRETORIUS SC**: Yes. Well, perhaps the numbering could have been more accessible to non-experts like myself.

**CHAIRPERSON**: And myself.

**ADV PAUL PRETORIUS SC**: But paragraph 1 refers to admission of the data on HDDH.

**CHAIRPERSON**: Ja.

**ADV PAUL PRETORIUS SC**: That is the first one made overseas the forensic image made overseas by the technical expert.

**CHAIRPERSON**: Ja.

**ADV PAUL PRETORIUS SC:** The two further forensic images are HDDH1 and HDDH2.

**CHAIRPERSON:** Oh, yes.

**ADV PAUL PRETORIUS SC:** So, those three and just for – to clarify once again HDDH is in safekeeping.

**CHAIRPERSON:** Ja.

**ADV PAUL PRETORIUS SC:** It will not be worked on but it is always there as evidence.

**CHAIRPERSON:** Ja.

**ADV PAUL PRETORIUS SC:** HDDH1 and HDDH2 will be, if the application is successful, worked on by the investigators.

**CHAIRPERSON:** Yes.

**ADV PAUL PRETORIUS SC:** And analysed accordingly.

**CHAIRPERSON:** And HDD ...[intervenes]

**ADV PAUL PRETORIUS SC:** A.

**CHAIRPERSON:** Right, A is the original hard drive?

**ADV PAUL PRETORIUS SC:** Is the original hard drive. If that is accessed in an investigation process the chances of it being entirely damaged, irrevocably damaged, are too high to allow that to happen. So, that is in safekeeping under the control of the Commission. But that is the original.

**CHAIRPERSON:** It can only be worked on or touched, as it were, by a relevant expert?

**ADV PAUL PRETORIUS SC:** Correct.

**CHAIRPERSON:** If it is not to be damaged?

**ADV PAUL PRETORIUS SC:** Correct.

**CHAIRPERSON**: Okay.

**ADV PAUL PRETORIUS SC**: But the expert will have told you that HDDH is an accurate and virtually complete and when we say virtually complete the figure I will refer you to it in a moment is 99.9999% so that is not bad, Chair.

**CHAIRPERSON**: Yes.

**ADV PAUL PRETORIUS SC**: Chair if I may then go back to ...[intervenes]

**CHAIRPERSON**: So the - and this might be for much later and not now. So, the only reason why anybody would want the original hard drive would be to see whether the forensic imaging was done correctly?

**ADV PAUL PRETORIUS SC**: Correct.

**CHAIRPERSON**: Okay.

**ADV PAUL PRETORIUS SC**: In that regard you have what we submit is the most reliable evidence, on affidavit, at present but if necessary if it comes to that we can bring the person here to give evidence, Chair, that a highly sophisticated reliable forensic imaging process was applied in respect of the copying – of the imaging of the data on the original hard drive and its transfer to the first forensic image.

**CHAIRPERSON**: I guess that at a certain stage irrespective of what Sahara Computers decides to do it might be – it would probably be necessary to have that evidence?

**ADV PAUL PRETORIUS SC**: Yes.

**CHAIRPERSON**: Placed before the Commission so that if the Commission were ultimately to rely on that evidence it would do so in the knowledge that the forensic imaging was done correctly.

**ADV PAUL PRETORIUS SC**: Yes, Chair, you have that – we will have that evidence handed to you *in camera* in affidavit form and in our submission we can give you the

assurance that that process was the result of much international research. The selection of the entity that performed the operation was not a random quick decision. It was in the view of the experts the best operation by the best technical experts and we can – I am quite happy to give you, Chair, that assurance.

**CHAIRPERSON:** Thank you very much.

**ADV PAUL PRETORIUS SC:** Chair, what has also been prepared or is being prepared is another document. That has not been presented to you at this stage for reasons that we submit are justifiable at present and that is to protect the identity of people who genuinely fear for their personal safety. But the full chain of custody documents will, at some stage, be presented to the Commission, or be available for law enforcement agencies and civil authorities, in due course. That chain of custody record will be complete or as complete as is possible and in our submission as complete as is necessary.

Then if I may take you, Chair, to paragraph 31, which is paginated page 11 where the narrative is set out. The first whistleblower who obtained possession of the original hard drive we refer to as Stan – that is a name by which he was known in a pre-recorded interview that was published by AmuBhungane on 15 August 2018. The transcript of that interview is annexed, it is the first annexure it is on page 29, it is ANNEXURE TN1, Chair. If one reads ANNEXURE TN1 one will see that there is nothing in that interview that gives any clue as to the occupation or identity of Stan and of the other person who accompanied him who is known as John. But those are the first two whistleblowers. That is where the narrative for present purposes starts.

When Stan and John had taken possession of the original hard drive HDDA and I am at paragraph 35, Chair. They examined it and noticed that its contents related to the Gupta family and their associates, and those emails

contained on the original hard drive appeared to corroborate what the media had at the time being reporting about issues as State Capture – issues directly relevant to the work of this Commission. They also appeared to emanate from Mr Ashu Chawla who was then the Chief Executive Officer of Sahara Computers and in an organisational matrix related to the Gupta family. Stan did not know what to do with this information. He, therefore, approached a friend of Mr Brian Currin, for advice and you will be introduced to Mr Brian Currin shortly, Chair. That friend, whose identity is not disclosed, did not feel that he had the experience or expertise or network of contacts to assist Stan in relation to any potential disclosure of the information that he believed, the friend believed Stan needed. The friend, therefore, approached Mr Currin, because of the nature of the work that Mr Currin had done for some decades and work will be described by Mr Currin in his evidence. Mr Currin had dealt with prominent whistleblowers before in this example Captain Dirk Coetzee who blew the whistle on Vlakplaas activities in the 90's or the 80's.

Chair, the friend and Mr Currin then met with Stan in February 2017. Stan, who had been in possession of the original hard drive, for many months was undecided about what he should do with it. Although he had not read all of the emails, some 200 000, Chair, contained in the original hard drive he had read enough of the emails to be very well informed about what appeared to be corrupt relationships involving the Gupta brothers, Mr Duduzane Zuma, certain Cabinet Ministers, and some of the CEO's and officials of major state owned entities in South Africa. At some stage, at least in principle a decision was made by Stan to release this information. That decision was made in principle because of the public interest in the disclosure of the information, but he was very concerned about his safety and John's safety, both at the time the information would be disclosed and after. So,

what Mr Currin took it upon himself to do at the request of Stan and John was to obtain protection. Mr Currin also facilitated the safekeeping of HDDA, the original. So, it was handed from the whistleblowers to Mr Currin and that included making arrangements for its safekeeping at the attorneys Norton Rose Fulbright, taking it to Kenya in March 2018 and later, at a later stage handing it over to officials of the Commission.

So, late in March 2018 Mr Currin contacted the Commission in order to disclose the existence of the original hard drive and in order to facilitate the Commission's eventual use of the data on the hard drive. Then on 10 April 2018, Chair, members of the Commission's legal team and an investigator appointed to the Commission travelled to Nairobi, Kenya to meet with Stan and John who were, understandably, reluctant to come to South Africa. Mr Currin, an attorney and three individuals who represented certain authorities from the United States. After this meeting Mr Currin and his attorney returned to South Africa with the original hard drive. That hard drive was then handed over to Mr Nombembe at a secure venue and arrangements were made for the high security safekeeping and protection of the original hard drive.

Then during 20 – during July 2018 the Commission's representatives made further contact with Stan and agreed with Stan that the Commission would arrange for an international data recovery expert to perform data recovery on HDDA the original which, by that stage incidentally Stan had thought that the original hard drive had collapsed completely and in fact part of the thinking of the Commission's representative at that stage was that there was not a great chance of being able to recover more data from the original hard drive than had already been done in the past, if at all, because it was recognised that that hard drive was damaged and

extremely fragile and vulnerable and it was agreed with Stan, that the data on the original hard drive forensically imaged onto other hard drives would be used to further the work of the Commission in accordance with its terms of reference, and has been explained to you, Chair, a carefully selected international expert in the field of data recovery was approached in Europe and the international expert referred to did the work necessary to recover.

So, on 9 August 2018 Mr Nombembe retrieved the hard drive from its place of safekeeping, handed it over to an investigating attorney who then flew out of the country to hand it over to the international expert. The investigator and the attorney handed over the hard drive and certain other clones of the hard drive to the international expert. The international expert, over the course of a period of 10 days, attended to data recovery and forensic imaging and it remained in his possession throughout this period. As pointed out in paragraph 50 the international expert was able to recover 99.9998269% of the HDDA data from HDDA, the original hard drive. A forensic image was made of this recovered data, on a new hard disc drive, and it has a model number which is apparent there and a serial number and that is the model number and the serial number which appears in the Notice of Motion, that is the first forensic image. HDDA, the original hard drive, is now currently in safekeeping once more.

The investigator and the attorney then returned to South Africa with that first forensic image HDDH, and on their return one of the Commission's data expert investigators made two further forensic images of HDDH and they are called HDDH1 and HDDH2. The investigator then took HDDH, that is the first forensic image, to a place of safekeeping where it now is and the Commission's investigators have

retained the other two forensic images for investigation and analysis pending your ruling, Chair.

Mr Nombembe has also been informed that two further witnesses will give evidence in public in July 2019. It is possible that alternative arrangements may be made, but I am in no position at this stage to say what they are, or what likelihood of success these arrangement may produce. Throughout these events, in relation to the chain of custody, precautions that would be required by chain of custody evidence requirements in a criminal jurisdiction have been followed. Various chain of custody forms have been completed, non-disclosure documents have been completed, tamper proof evidence bags have been used, whilst the hard drives and the forensic images have been transported around South Africa and outside the border of South Africa. We have not burdened this affidavit with these details because simply, Chair, it is not necessary at this stage, but that evidence is there for the preservation of the integrity of the information or data and will come before you later as well, Chair, when the full chain of evidence can be presented to you in evidence.

So, in summary, Chair, the original came into the possession of Stan. That original was taken out of the country for data recover to be performed by the international expert. The international expert managed to recover of the data on the original hard drive 99.9998269%. That has been forensically imaged on the first forensic image HDDH, HDDH is now in secure – in a secure location, under protection and then the two further forensic images recorded in the Notice of motion are also the subject of this application.

Chair, it is necessary - we have thought, at this stage, to place before you on this affidavit some evidence as to relevance and reliability. So that, in our

submission you can be confident that it is appropriate to grant the relief sought even though our prime submission is that relevance and reliability can be developed and produced in due course by further evidence.

The first point goes to relevance. The information on the hard drive comprises communications and other information relating to the affairs of the Gupta family and their association with government officials and state owned enterprises. The Commission's terms of reference, as we are all aware, refer repeatedly to the Gupta family and the references appear expressly in the terms of reference referred to in paragraph 55.2, but we know that the other terms of reference to, although the Gupta family may not be mentioned by name, the other terms of reference mandate this Commission to investigate their conduct in relation to them.

Secondly, after the President had established this Commission on 9 January 2018, Ms Thuli Madonsela, the former Public Protector, is reported as having stated in public that this Commission of Inquiry would have to authenticate these emails and would have to go to the original systems to check the veracity or authenticity of the emails. Fortunately we have the original system, the original hard drive under our control as a Commission. That article is attached marked TN2, and as the former Public Protector has identified in this article it is important that the Commission's investigators be given an opportunity to work on the forensic images themselves to use their expertise, to analyse and synthesise the data and as I will deal with in the next section under reliability, Chair, once the data on the forensic images is available to investigators there are various means that can be adopted through analysis and investigation to secure the authenticity of the emails in a manner that we submit would satisfy both criminal and civil jurisdictions – let alone the lower test which you may seek to apply, but Ms Hofmeyr will deal with the tests

in more details in due course. That is as far as relevance is concerned. Chair, there can be no doubt that the information is relevant.

The second issue dealt with on page 17 of the paginated papers, is dealt with in paragraphs 59 and following. In relation to reliability I have already addressed you in relation to the technical reliability of the data as being a true copy, true forensic image of the original. That those allegations are made Mr Nombembe in paragraph 59 to 61, on pages 17 and 18 of the papers, and Mr Nombembe is instructed as he foreshadows in the introductory part of his affidavit by experts in amongst his investigators that they appear to be of the view that the data is authentic. In other words that that data is what it appears to be on the face of it, created by actual persons whose names or identities appear on the emails, in real time rather than being manufactured later as fakes by someone wishing to make those emails look genuine when in fact they were not and were fake. And Mr Nombembe importantly makes the allegation that he has personal knowledge of the work that the Commission's investigators have done, not in relation to the data sought to be admitted, but matters in the public domain already, because as you know, Chair, the data is already in the public domain having taken another route through media. That route will be described in detail by Mr Currin in his evidence. For present purposes I have a – we are dealing in this application with the original, the forensic image made in Europe, and two copies. And of course what is noteworthy, Chair, is the reference to the data in paragraph 62 as being data in the public domain is some of the data – a far greater percentage of data in the Gupta emails is now in possession of the Commission. It is significantly broader in its ambit than what was available to the media through the other route, which Mr Currin will describe.

Then what are the indicators of authenticity that may be used by the investigators to show that these emails, in particular, and this data in general is not fake or could not reasonably be faked? Now here, Chair, from paragraph 63 and following are terms that are entirely technical and quite frankly until I read this and interrogated or asked for explanations from the experts who contributed to the formulation of this affidavit through Mr Nombembe, I did not understand them. I attempted to make notes. I discarded those notes and I will give you my best application of this, which I hope you will understand.

Chair, the first point to be made is that the number of email communications and other information comprise of transactions in the numbers of the hundreds of thousands. That on its own is an indication that the probability of someone faking the totality is extremely low. It does not mean to say that individual emails may not have been sneaked into the overall data set and have been tampered with, but generally one can accept that it is highly improbable that someone would sit down and fake hundreds of thousands of emails. But there are other more secure indicators of authenticity. Emails do not exist in a vacuum. They – it is not as if it is equivalent to writing on a piece of paper. On a computer when an email is sent or received data is recorded on the email in relation to what happened to that email, but it is also recorded in the background of the computer and there are technical terms for that but I am not going to use those technical terms.

That background information which would exist on the original hard drive and exist on the forensic images – that data is not visible to the ordinary user. It is accessible to persons other than a lay user like myself – it is there but it is not ordinarily visible. So, when someone seeks to fake an email they also have to create all that other hidden data or relatively hidden data, which would exist on the

hard drive. Now that data exists on the hard drives. So if someone is to come and say these are fake they would have to explain that hidden data on the computer, and that, if I may for want of a better word and I am sure I will be scolded in due course by the experts, that hidden data on the hard drive can be analysed and our submission is that it is entirely improbable that a fake set of data of that nature would go undetected.

Then, the third point is that email communications live in a dynamic data environment – they do not – it does not exist only as an email or only in the environment of the particular hard drive with its hidden and visible data. That data may be kept on company servers. There are backup or storage devices, which may exist outside of the particular hard drive where the authenticity can be verified or checked.

There are service providers, emails are made operable through the services of particular service providers who keep their records which is another source of authentication and verification. Now here especially, Chair, if the point was not already obvious it would be impossible for someone seeking to manipulate or create fake emails in this data set, to reach out to all the other devices, electronic devices in the environment wherever these may exist and there manipulate too. In addition, emails on a device do not exist only as emails. They exist within a proprietary platform such as Microsoft Outlook, and that email is then linked to other information on that proprietary platform, such as contacts, addresses, messages, calendars and other items. Anyone seeking to fake would have to ensure that any fake email was as consistent with all that other information in that software program as the other emails purport to be, and that data too resides on the hard drive and can be examined and investigated and once again it is extremely improbable that all

that data could be consistently and thoroughly faked to the extent required to avoid detection.

If one goes to paragraph 63.6.4, Chair, and that is on page 21. There are circumstantial pieces of evidence, which may also contribute to the authenticity of emails, through investigation and through analysis. The author's known email address, electronic signatures, names, nicknames maybe apparent. There may be a writing style similar that experts may be able to investigate. There may be reference to facts that can be verified through objective evidence, meetings for example, or other events related to the content of the email. The obvious one is where an email is received, and admitted to have been received, and that evidence is already to some extent in the public domain where a person is implicated in the emails, have admitted their receipt. Of course third party devices, in other words addressees in relation to emails their devices may be examined to ensure authenticity.

The point we make in summary that given all this – given the electronic environment of a particular email or a series of emails or a whole data set as contained in the forensic images, it is well nigh impossible to fake that whole environment, certainly in a manner which would avoid detection through proper investigation and analysis. So in essence what we are asking you to do, Chair, is to admit the hard drives initially for that purpose and for presentation of evidence, subject to the further protections that we will deal with as an evidence team in due course. Of course once that investigation and analysis has taken place that may be placed before you.

**MALE SPEAKER**: What is the time?

**ADV PAUL PRETORIUS SC**: Chair, I am going to move onto another topic. It is one minute away from 11:15, may take the short adjournment?

**CHAIRPERSON**: We will take the short adjournment until 11:30.

**COURT CLERK**: All rise.

**HEARING ADJOURNS**

**HEARING RESUMES**

**CHAIRPERSON**: Yes, Mr Pretorius?

**ADV PAUL PRETORIUS SC**: Thank you Chair. Chair, we have reached page 23 of the paginated papers of the application, paragraph 67. Our submission to you is that ...[intervenes]

**CHAIRPERSON**: I must just say that my ones are not paginated, but I have been following this simply on the page numbers of the affidavit. If you tell me paragraphs that helps. I am sorry, there are – there is a paginated file, but they were put here – I did not know whether it is just some of the files that are normally put here, and I was looking at the affidavit that was sent this morning with annexures, which is not paginated.

**ADV PAUL PRETORIUS SC**: Yes.

**CHAIRPERSON**: But I see that there is actually a file here that is paginated, but I did not know that, that is the one.

**ADV PAUL PRETORIUS SC**: I am sorry, Chair, we will find someone to account for that.

**CHAIRPERSON**: Yes, thank you. Yes?

**ADV PAUL PRETORIUS SC**: Chair, if I may then refer to paragraph 67 on page 23, but perhaps we can follow the paragraph numbers. There is obviously and clearly, Chair, another reason which perhaps trumps the reliability and the authenticity points and that is the overwhelming public interest that is involved here, and that is relevant

particularly in relation to any potential claim that any party might have in relation to confidentiality.

Chair, this will be dealt with in detail in argument after the evidence of Mr Currin, but for present purposes we highlight in paragraph 68 that any privilege based on confidentiality is in principle limited. The first is that the principle of confidentiality only applies to information to the extent that it remains confidential and so once information has entered the public domain, then as a general rule the principle of confidentiality can have no application to it.

Now of course here one must qualify the application of that principle, because the extent to which the Commission now has in its possession data that was not previously in the public domain or was not – or has not been in the public domain has not yet been fully established.

So there is data which has not yet entered the public domain, but that detail can only be produced on analysis. The second is, as you are aware, no doubt, Chair, the law protects confidence only to the extent that there is no overriding public interest in the publication of the material concerned, and our submission here is that there is an overwhelming public interest concern overriding any competing concern.

You will be referred to authorities in this regard, but I may just refer to just one case referred to in paragraph 69.2 where a file that had actually been stolen from the records of the former Minister of Health Ms Chabalala Msimang was held to be disclosable in the public interest despite the theft of that documentation.

There are other cases to which you will be referred in due course. There are two other considerations, Chair, the one is the duty that the President in particular, but the country in general has placed upon this commission to investigate matters thoroughly and fully, and in our submission this cannot said to be done

without the granting of this application and the work that will follow on it as a matter of consequence.

But we draw your attention to knowledge at present in the public domain and that is the extent of our knowledge as it exists at present of course the position may change and further knowledge may come to light, but in paragraph 71 we refer to a statement that purports to have been made by or on behalf of Mr Atul Gupta where he is reported as having said on 3 August 2017:

"Emails. What emails? Atul Gupta denies everything, despite how improbable it is that someone could have made up 100 000 emails the richest Gupta brother would like us to believe they are all fake."

That is part of the article and not part of any purported quote. We refer in paragraph 72 to the extent of public – extensive public reporting of the content of the devices. Again that will be dealt with by Ms Hofmeyr. So we say that any confidentiality claim is firstly limited by what is already in the public domain and secondly limited by the competing claim of public interest, which in this particular case we say is overwhelming.

We make the allegation in paragraph 70 that the duty to investigate matters of state capture visited upon this commission, corruption and fraud in the public sector, including state owned enterprises is integral to the well-being of all South Africans and in particular its poor people.

And our submission to you is, Chair, that the privacy concerns, such as they may be, of Sahara Computers cannot be allowed to outweigh the consideration of these factors. Perhaps that is to state the obvious, but it needs to be stated, nevertheless, Chair.

Then finally we deal in paragraph 79 with the position of Sahara Computers. In our submission, Chair, the order should be granted now and not at some later stage. In order for the necessary work to be undertaken, in order to obviate any risk that may attach to either persons or property, the devices concerned in the *interim*.

There are a number of reasons set out in paragraph 73 to 76 of the affidavit of Mr Nombembe, which contains submissions as to why it is necessary, Chair, for this order to be made now. Firstly to protect persons, secondly to protect the property involved, the devices involved and thirdly to allow the Commission in particular its investigation and legal teams to begin the vast amount of work that requires to be done.

In relation to the position of Sahara Computers, Chair, any interests that they might have or they might seek to vindicate before you can be done in due course. Provision is made for that in the Notice of Motion, and once this application is concluded, and to the extent necessary and permissible and appropriate and in terms of any order that you might make, notice will be served on them.

There is one more matter to deal with as far as the application is concerned. We have in our possession a declaration under oath attested to. I am informed that the technical word is apostilised by the international expert. It does reveal information that for reasons for personal security and reasons that will be explained to Chair *in camera*, if you allow us to do so, require it to be kept confidential and we would ask leave during the long adjournment to hand it to you *in camera*, together with an explanation as to why it is necessary to do so, but that is the evidence of the international expert which records the process that took place in creating the first forensic image referred to in the Notice of Motion.

**CHAIRPERSON**: That is in order. I know that I am still going to hear the evidence of Mr Brian Currin.

**ADV PAUL PRETORIUS SC**: Yes.

**CHAIRPERSON**: And legal argument I think from Ms Hofmeyr, but already I want to find out from you and you can tell me if it is Ms Hofmeyr who will deal with this, whether making the order that you have asked for as it stands, would not have the implication that all of that becomes public, whether they should not – whether the public access to this information would not follow, unless there is an order restricting access to it?

**ADV PAUL PRETORIUS SC**: I understand that point, because ...[intervenes]

**CHAIRPERSON**: In other words should there not be another order that will ensure that nobody thinks they have access, a right of access, because it was admitted in this hearing?

**ADV PAUL PRETORIUS SC**: Yes, they would have to deal with that concern, Chair. There will have to be a further order qualifying the previous order stating that the data will only be accessible to public as and when evidence is presented in open sittings of the commission.

**CHAIRPERSON**: Yes, no, that is alright.

**ADV PAUL PRETORIUS SC**: By your leave we can add that to it, because, Chair, the point you make is with respect a good one, because the order does talk about evidence before the Commission.

**CHAIRPERSON**: Yes.

**ADV PAUL PRETORIUS SC**: And it might be interpreted to have that consequence.

**CHAIRPERSON**: Yes.

**ADV PAUL PRETORIUS SC:** And so we will add a rider to the Notice of Motion to deal with that issue.

**CHAIRPERSON:** Okay, no, that is fine.

**ADV PAUL PRETORIUS SC:** Thank you for that, Chair.

**CHAIRPERSON:** Thank you.

**ADV PAUL PRETORIUS SC:** Chair, then if it is appropriate may we call Mr Brian Currin?

**CHAIRPERSON:** Thank you. Registrar you can administer the oath or affirmation as the case may be.

**BRIAN CURRIN** (duly sworn, states)

**CHAIRPERSON:** Thank you very much.

**EXAMINATION BY ADV PAUL PRETORIUS SC:** Thank you, Chair. Mr Currin, you are a lawyer by profession?

**BRIAN CURRIN:** That is correct.

**ADV PAUL PRETORIUS SC:** For how long have you worked in that profession?

**BRIAN CURRIN:** 15 years ...[intervenes]

**CHAIRPERSON:** I am sorry, just press the microphone there, yes, thank you.

**BRIAN CURRIN:** ...definition of you are a lawyer or when you are not, but I spent the first 18 years of my professional career working as a Human Rights Lawyer, Human Rights Activist and that was until 1995.

**ADV PAUL PRETORIUS SC:** Since 1995?

**BRIAN CURRIN:** Well since 1995 I have been involved in International Peace Processes, the conflict resolution in many parts of the world which really emanated from the work that I did here in South Africa. I have worked in numerous African countries. I spent five years working in Madagascar and then many years in

Northern Island and the Basque Country and I have worked in the Middle East and most recently I worked in Columbia whilst the Farque was in negotiations in Havana Cuba.

**ADV PAUL PRETORIUS SC:** And in particular over the last five years how have you occupied yourself?

**BRIAN CURRIN:** Well in the last five years my focus has been still in conflict resolution, but adding to that trust building between the private sector and the public sector, civil society and communities, predominantly in the Southern African Region.

**ADV PAUL PRETORIUS SC:** Where are you based currently, Mr Currin?

**BRIAN CURRIN:** At the moment, at the moment I am in Berlin Germany. I am there, I am a Richard von Weizsäcker fellow and the Robert Bosch Academy and that is a nine month presence, and I am researching the international trends in private sector, public sector relationships, and how the quality of those relationships often reflect either political order or political decay, and if political decay what remedies may be used to reverse that trend to build trust and mutually beneficial relationships between public sector and private sector.

**ADV PAUL PRETORIUS SC:** You have been present during the address in relation to the application today, Mr Currin, and you no doubt heard of the two whistleblowers mentioned. Do you know those persons?

**BRIAN CURRIN:** I do. I have engaged with them for many months.

**ADV PAUL PRETORIUS SC:** Do you know how in their capacity as whistleblowers from your interactions with them, how they feel about their personal protection and integrity?

**BRIAN CURRIN:** Yes, before I answer that question, I just would like to say that I mean these two people, I believe the country owes a huge debt to the state and the

nation, because frankly I think if it had not been for them I wonder whether this Commission would be sitting today, so I just want to put that on record. In terms of their own fears, certainly right from the outset when I first began to engage with them they were very fearful. I understood that completely. There was a particular dynamic in the country, which I think we all are fully aware of and that is really during the course of most of last year, and that fear which they have continues to exist.

**ADV PAUL PRETORIUS SC:** Right. Do you know from your own knowledge whether that position might change in the future?

**BRIAN CURRIN:** My knowledge is that it will change, it should change and I think it will change from discussions that I have had, but that will really only be during the course of next year, towards the middle of the year, and as you indicated in your address there are reasons for that which maybe one would not want to go into, but certainly I think it is a question of certain existing circumstances changing.

**ADV PAUL PRETORIUS SC:** Let us then move, Mr Currin then – or let us just summarise first your evidence in this regard, if we may, do you know how through interactions with the two whistleblowers they regard their personal integrity and personal safety?

**BRIAN CURRIN:** Just repeat that?

**ADV PAUL PRETORIUS SC:** Are they – what do they think in relation to their own personal integrity and personal safety at this time?

**BRIAN CURRIN:** Well they are fearful of their personal safety and that is really the reason as I have indicated why they are not willing to testify at this stage.

**ADV PAUL PRETORIUS SC:** Okay, let us then move onto the narrative. It begins as I understand it early in 2017, February 2017 to be precise, what happened then?

**BRIAN CURRIN:** Well as you indicated in your address to the Chair, I was approached by a friend, long standing friend and colleague that I have known for many years, and he mentioned to me that someone with whom he had been acquainted for a relatively short period of time had spoken to him very confidentially about a hard drive in his possession. I cannot recall precisely what his description was, but I was certainly left with the impression that the content of the hard drive dealt with the affairs of the Gupta family and their corrupt relationship with senior politicians and state owned enterprises.

**ADV PAUL PRETORIUS SC:** Thank you, Mr Currin – Mr Chair if I may just interject at this stage, Mr Currin will clearly as he has done repeat some of the evidence contained in the affidavit of Mr Nombembe.

**CHAIRPERSON:** Yes.

**ADV PAUL PRETORIUS SC:** What is important about this evidence coming from the mouth of Mr Currin is that it is direct and personal evidence.

**CHAIRPERSON:** Yes, that is right.

**ADV PAUL PRETORIUS SC:** If you would bear with us in that regard.

**CHAIRPERSON:** Yes, no, thank you.

**ADV PAUL PRETORIUS SC:** So do you know then the name that we have attached or that has been attached to this person that approached your friend?

**BRIAN CURRIN:** Yes, it is Stan.

**ADV PAUL PRETORIUS SC:** And your friend?

**BRIAN CURRIN:** I referred to him in my statement as my friend, because he too, does not wish to be identified.

**ADV PAUL PRETORIUS SC:** Do you know why your friend then approached you?

**BRIAN CURRIN:** Well, my friend was approached, because from what I gather the Stan, my friend was the only person that Stan knew that worked in the sort of socio political space and he felt that maybe this person might be able to advise him on what he should do with this information that he had. My friend then, who has known me for many years, felt that he was not capable, that he did not have necessarily the expertise, the experience, the networks, the know how, how to deal with this type of situation and he felt somehow that maybe I would be better qualified to provide advise and assistance to Stan.

**ADV PAUL PRETORIUS SC:** Do you have any experience, direct experience in dealing with a situation in which whistleblowers required to reveal information and secure safety?

**BRIAN CURRIN:** Certainly, you know just in broad terms when I was Head of Lawyer Human Rights we actually even ran a witness protection program which I do not mention in my written statement, but that is something that I subsequently recall, but besides that you mentioned Captain Dirk Coetzee who we know blew the whistle on Vlakplaas, their activities during the 1980's under the command of Colonel Eugene de Kock who was then head of that secret task force C2, known as C10, also referred to as Third Force and Death Squads and just to mention that Captain Dirk Coetzee approached me as early as 1985, well before he came to the public knowledge when he came out with information which he required to be kept confidential for the first number of years.

**ADV PAUL PRETORIUS SC:** Did you then come to meet with Stan and your friend?

**BRIAN CURRIN:** My friend and I met with him a few days after I had been approached by my friend. It was certainly during the course of February.

**ADV PAUL PRETORIUS SC:** Very briefly would you relate to the Chair what happened at that meeting?

**BRIAN CURRIN:** Yes, I was introduced by my friend who was there as someone who could be able to advise and assist him. It was clear that Stan had a need to offload, which was not surprising since he has been in possession of the hard drive, which he was referring to, for many, many months, undecided as to what to do with it, and at last he had this opportunity I think to speak to somebody that might be able to assist. And should I go on?

**ADV PAUL PRETORIUS SC:** Yes please?

**BRIAN CURRIN:** Although, Stan could not read all 300 000 emails which he indicated there seemed to be, he had read enough of them to be well informed about what appeared to him to be a corrupt relationship involving the Gupta brothers, Duduzani Zuma he mentioned by name, certain cabinet ministers that he also mentioned by name and some of the CEO's of major state owned enterprises. He also indicated that the information on the hard drive appeared to comprise emails from one Mr Ashu Chawla who was, he understood then to be the CEO of Sahara Computers.

**ADV PAUL PRETORIUS SC:** From your own observation what was Stan's condition?

**BRIAN CURRIN:** Well at that stage he was visibly nervous. He was in a state of shock, one could just see that the man was feeling uncomfortable, he was feeling uncomfortable talking to me, he never met me before and it was a difficult meeting, but I think he got some level of reassurance from that meeting, because then I continued. He continued to be willing to meet with me.

**CHAIRPERSON:** And that was February 2017?

**BRIAN CURRIN:** That was in February 2017, Chair.

**ADV PAUL PRETORIUS SC:** Did you learn how Stan came or had come into possession of the original hard drive?

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** At that meeting?

**BRIAN CURRIN:** I did. He explained in detail how he came into possession and you know at this stage I cannot reveal that, because if I were to do so it would be possible, it would certainly facilitate or enable identification.

**ADV PAUL PRETORIUS SC:** Yes, I think we have accepted that it is necessary at this stage to protect the identity of Stan. The point, however, is that, that information and evidence is available and may be placed before the Commission in due course. Hopefully sooner rather than later?

**BRIAN CURRIN:** Yes, yes.

**ADV PAUL PRETORIUS SC:** Did you inquire where the original hard drive was at that stage?

**BRIAN CURRIN:** I certainly did, because obviously that was the key piece of evidence and I was told that it was in safekeeping with a trusted friend of his together with its clone. So he gave me that information.

**ADV PAUL PRETORIUS SC:** Alright.

**BRIAN CURRIN:** He did inform me, I should add, that in due course if all went according to plan he would share with me the detail of the safekeeping of the original hard drive and its clone as well as share with me the passwords and codes which will allow access to the content, that is to the content of the original hard drive and its clone. And maybe I should just refer briefly to the plan. At that stage also clearly he on the one hand he is providing this evidence, Chair, but on the other hand as I have

indicated he is afraid and justifiably so, and I say one must reflect back to the political environment at that stage. The part of the plan was he was saying to me, can you help me to get out of the country with my family? I need protection. And all of that was certainly part of the plan, and I could understand that he would not be willing to share the information about the hard drive so one could get access, which could then be linked to the media and him sitting in South Africa exposed and in great danger.

**ADV PAUL PRETORIUS SC:** Alright, if I may just take you back a step, one does not want to get to technical at this stage, but when you refer to a clone.

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** Are you referring to it as we have referred to it already, in other words something just one grade less than a forensic data image?

**BRIAN CURRIN:** I am, but I will be honest with you, I – hopefully I am always being honest when I am sitting here, Chair, but I will be honest with you that I did not know the difference until very recently between a clone and the imaging.

**ADV PAUL PRETORIUS SC:** We will certainly share that Mr Currin.

**BRIAN CURRIN:** Thank you.

**ADV PAUL PRETORIUS SC:** So what would be necessary then for you to be able to work together with Stan to further the appropriate handling of this data, its release and the provision of safety and security for the whistle-blowers?

**BRIAN CURRIN:** Well the one hand there was the plan which needed to raise funds to enable him and I learned subsequently a second whistleblower to leave the country, but another aspect, which certainly I understood and it was implicit in the way in which we engaged is that we would need to build mutual trust. I clearly needed to trust him. I needed to believe in him and I needed to believe in the

authenticity in what he was telling me, but he also needed to trust me that I would do the right thing. So that was certainly a critical aspect of what needed to be done.

**ADV PAUL PRETORIUS SC:** Did Stan reveal to you any further information at that meeting?

**BRIAN CURRIN:** Yes, he did.

**ADV PAUL PRETORIUS SC:** What was it?

**BRIAN CURRIN:** He revealed to me that besides having placed the original and a clone with his close friend, he kept in his possession two data hard drive devices or HD's with content identical to the clone of the original hard drive. So he still had those in his possession, which was obviously important information for me, because somehow I needed to be able to get access to the content. He also made available, which was at a subsequent meeting two CD's which contained a few hundred emails, no, sorry, I just want to check on this, if my memory, can I just refer to my written statement here, because some of these things are important ...[intervenes]

**CHAIRPERSON:** Yes, you may.

**BRIAN CURRIN:** That the sequence is correct.

**ADV PAUL PRETORIUS SC:** Yes.

**BRIAN CURRIN:** At that meeting he did not share the CD's with me, but he indicated that he had indeed downloaded some of the information onto two CD's which he would share with me at a later stage.

**ADV PAUL PRETORIUS SC:** Yes, and our expert tell us, and I am sure they have told you too, that in relation to the copying of files onto CD, we may use the word copy without offending them.

**BRIAN CURRIN:** Yes, absolutely yes.

**ADV PAUL PRETORIUS SC:** And in relation to the data that he did have in his possession and in whatever form, did he say how he considered it appropriate to make public?

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** That information?

**BRIAN CURRIN:** Having had this information in his head for a long time, for many months and bearing in mind he is not a political person, and not knowing what to do with it and feeling in his own mind very insecure about sharing it with security or law enforcement agencies in the country, what he had in mind was that it would be necessary to get the information into the public domain in order to enable or to grow a public swell of a pressure from civil society so that a structure which obviously at that stage we could not really think about, would be established, so that those politicians and others who seemed from what he had read were corrupt, could be held accountable by other politicians in the country who indeed were people of integrity.

**ADV PAUL PRETORIUS SC:** That was his frame of mind?

**BRIAN CURRIN:** That was his frame of mind.

**ADV PAUL PRETORIUS SC:** Mr Currin you have mentioned his name, but at that meeting you said that Stan informed you that there was a second person whom he knew, referred to as John?

**BRIAN CURRIN:** That is correct.

**ADV PAUL PRETORIUS SC:** Is he the second whistleblower you were referring to?

**BRIAN CURRIN:** He was the second whistleblower and who played a very, very significant role also.

**ADV PAUL PRETORIUS SC:** Alright, you have heard or you have told the Chair what you had heard from Stan. What was your state of mind or view at that stage?

**BRIAN CURRIN:** Well, we had heard the story and my friend and I came back from it and I can remember sitting in his office and both of us felt well how can this be true? Of course neither of us knew, I did not know Stan at all and my friend had only known him for a relatively short period, but certainly we wanted to peruse these CD's to at least get some sense of what might be on them, and for that reason we asked Stan if he would make the CD's available to us, which he did. He presented them within a – I think if I remember correctly the very next day.

**ADV PAUL PRETORIUS SC:** Did you take the opportunity to study the information on these CD's?

**BRIAN CURRIN:** Yes, at this stage my friend was still involved, because he was in a way the access to Stan and it was not time for him to withdraw, so he perused them first, because I was not available. I had a day job at the time, which I still got. He perused them and then he gave them to me and I looked at them over the weekend and we met on the Monday and we certainly agreed, Chair, that the emails that we read certainly provided good reason for further investigation into the authenticity of the emails.

**ADV PAUL PRETORIUS SC:** Did you meet again with Stan?

**BRIAN CURRIN:** We met with him again, sometime later.

**ADV PAUL PRETORIUS SC:** What happened at that meeting?

**BRIAN CURRIN:** Well we shared with him our conclusion, that to us, as laypersons, the emails appeared to be general, and I emphasise as laypersons, because how does one do that, unless you have that sort of expertise, which I think you have been referring to, but certainly we felt that we were willing to and I was willing to take this

and see how one could take it further. We discussed the feasibility of surrendering the evidence to the country's law enforcement agencies and political leadership in government. That was the very first thing we did. I mean here we are sitting with what appears to be evidence of serious corruption. So we discussed that, but given the situation in the country at the time we decided that, that was not a route that we would follow. We agreed that we could not trust either the law enforcement agencies or the political leadership. But in saying that, Chair, I do want to emphasise that I know well, and I think we all know that even at that time, in those agencies and within government there were and still are and maybe more so today, but certainly even then there were very credible people, people that I could trust. But overall we just, I could not place my trust in those institutions.

**ADV PAUL PRETORIUS SC:** Was any decision made about releasing the information to the public, in principle at least?

**BRIAN CURRIN:** In principle we agreed that Stan's suggestion of getting public support which would require publication was a strategy that needed to be followed, because one needed to put pressure on sort of high political places for these things to be done, and I mean one also could foresee that it could create some sort of divisions between people who would either want to – or would not want to go or move forward in creating structures that would hold accountable those who may be involved in corruption.

**ADV PAUL PRETORIUS SC:** Yes, these decisions and their motivation was based on your personal opinion at the time.

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** Largely inference?

**BRIAN CURRIN:** Yes, and no. I think, I think, well I do not only think, I would say that I had more faith in certain individuals in those structures. Some within the political sector and within law enforcement agencies, that I personally know, that I trust. But, you know overall not. But from Stan's perspective he just felt that he could not trust anybody, which I think probably many people in civil society who are not engaged in that sort of political space would take – would have taken that opinion.

**ADV PAUL PRETORIUS SC:** Okay. Did Stan say anything at that meeting about his attitude and the attitude of John to their personal safety?

**BRIAN CURRIN:** Absolutely. Again it was emphasised, it was something, it was always emphasised and maybe I should mention that, I mean these meetings that we had were always arranged in sort of absolute secrecy. We never ever had cell phones, which were on or could be listened to or actually were near us. So it was all sort of cloak and dagger stuff, meeting discretely and obviously for the reason that they had great fear for their safety. And certainly to take that point further Stan stressed that both whistleblowers and their wives would want to leave the country before any publication of information concerning the emails were to be published. They would want to get out of the country before that would happen.

**ADV PAUL PRETORIUS SC:** And did he say what they would need in order to achieve that aim?

**BRIAN CURRIN:** Well, what they would need would be funds, which would enable both of them to live in exile if we can use that term, but also since, certainly in both of their minds there was a good chance that they would never return to South Africa, because I should mention also that in both of their minds they were not confident necessarily that the outcome would be the political change that would establish a

Commission of this nature. So certainly in their minds they envisaged that they may never return to South Africa, and what they both needed was sufficient enablement, funds which would, so that they could begin to build new careers outside of South Africa and build new lives for themselves outside of South Africa.

**ADV PAUL PRETORIUS SC:** Was there any understanding reached between yourself and Stan and John at that meeting in regard to the detail of any financial support to enable them to live outside the country?

**BRIAN CURRIN:** The understanding was that we agreed that a period of two years would give them an opportunity to re-establish themselves, but also we felt that a period of two years would be sufficient to see which way the wind blows in South Africa, and whether that which appeared to be happening and I think was happening, and we know was happening could be reversed and we could achieve a different political context and environment in South Africa within that two year period. And that agreement was something, which really was from the date that they left, the time that they left South Africa.

**ADV PAUL PRETORIUS SC:** Do you know when they left South Africa?

**BRIAN CURRIN:** It was June/July last year.

**ADV PAUL PRETORIUS SC:** So when would that period of two years expire?

**BRIAN CURRIN:** June/July next year.

**ADV PAUL PRETORIUS SC:** June/July 2019?

**BRIAN CURRIN:** 2019.

**ADV PAUL PRETORIUS SC:** Did you make any undertaking at the conclusion of the meeting or during the meeting in regard to funding?

**BRIAN CURRIN:** I did. I understood their situation completely and I said that I would speak to people that I know, contacts that I have to try and find South Africans

with whom one would have to explain what this was all about to get donations. So that one could in fact, indeed enable them to leave for two years.

**ADV PAUL PRETORIUS SC:** What else was discussed then at that meeting?

**BRIAN CURRIN:** What was also discussed at that stage, in our own minds we were not sure how – what would be the best strategy and the best approach in building this public pressure to which would then enable civil society to speak out and to demand that there be public accountability. And there were various options that were discussed and we literally considered everything. Should one take it overseas and get pressure, international pressure. Should it be done within the country? Should one give it to all the media overnight? Should one rather embark on a process which is the one that we eventually decided upon to, you know to get experts to study and to prepare well thought through articles which in turn would be published and slowly build this sort of pressure. And this would require very, very responsible journalism.

**ADV PAUL PRETORIUS SC:** Were you concerned about the safety of the devices concerned the original hard drive and the clone that you learned about?

**BRIAN CURRIN:** Absolutely. We obviously were concerned that either Stan or whoever is in possession of these hard drives may well be identified and that they could be confiscated, so that was a deep concern.

**ADV PAUL PRETORIUS SC:** Did you meet with Stan again on 1 March 2017?

**BRIAN CURRIN:** I did, yes.

**ADV PAUL PRETORIUS SC:** What happened at that meeting?

**BRIAN CURRIN:** Let me just get to that meeting. Thank you. There were so many meetings. Well one has to just go back a step and that is to say that clearly I knew that I would need more than CD's and that I would in fact need something more,

hard drives with more information on them. So on that meeting on 1 March, having made the request earlier on I was handed two hard drives.

**ADV PAUL PRETORIUS SC**: Just to clarify, because it can become confusing and will become a little more complex as we go through your evidence. The CD's had copies of some of the files on the original data set?

**BRIAN CURRIN**: That is correct.

**ADV PAUL PRETORIUS SC**: On the hard drives?

**BRIAN CURRIN**: Yes.

**ADV PAUL PRETORIUS SC**: The hard drives themselves, however, which you talk about now were more comprehensive in their content?

**BRIAN CURRIN**: Yes. They had copies of the recovered files on the original hard drive that was being held in safekeeping.

**ADV PAUL PRETORIUS SC**: Alright.

**BRIAN CURRIN**: So they had much more information on them. I should mention also that both of those were password protected and I was at that stage not given the password.

**ADV PAUL PRETORIUS SC**: Right. Now these two hard drives that you are referring to, was it agreed between you and Stan how they would be dealt with?

**BRIAN CURRIN**: Yes. So now we are meeting on a regular basis and as I said taking all sorts of safety precautions, but have no idea whether we are being observed or listened to and what we agreed was that neither he nor I should have possession of either of those which contained evidence which clearly was very relevant to the emails, very relevant to the allegations of state capture. So what we agreed was that I would take one abroad, at least get something out of South Africa's jurisdiction, so that if indeed there was a swoop and they were seized, extensively

for justifiable reasons by authorities who had another agenda, at least there would be one copy abroad and the second copy I did not want to retain possession of, and that copy I gave to a friend who I have also known for many years, Mark Haywood, as we now well known social activist and I arranged to meet him very discreetly and handed over the second hard drive.

**ADV PAUL PRETORIUS SC**: Did you make any request to Mr Haywood?

**BRIAN CURRIN**: Yes, we all associate Mark Haywood also with the safe South Africa campaign, I assumed through that he would have access to potential funders. I was still looking for the money that was required and I asked him if he would speak to his contacts to see whether he could help also with fundraising.

**ADV PAUL PRETORIUS SC**: In regard to the probable or possible authenticity of the emails or otherwise, did you consider that position, and if so take any steps?

**BRIAN CURRIN**: Yes, at this stage all we have really got is what I have seen content of the CD's. Obviously what we needed, Chair, was for people with expertise, particularly, and we are talking about expertise in Gupta affairs to view a much more sort of, many, many more emails and for them to assess as far as they could the authenticity of the emails. And at that stage I did not know that both Daley Maverick and amaBhungane were leaders in investigative journalism and I also knew that Stefans Brummer was probably the expert in Gupta affairs. He had been writing about the Gupta's for about three or four or maybe five years at that stage. So I also needed access to them and I asked Mark Haywood if he knew either or both of them and he was able to very quickly – enable me to make contact or through him to make contact with Bronco Brkic who was the editor in chief of Daily Maverick.

**ADV PAUL PRETORIUS SC**: Brkic is spelt Brkic[spelt]?

**BRIAN CURRIN:** That is correct.

**ADV PAUL PRETORIUS SC:** Did you meet with Mr Brkic?

**BRIAN CURRIN:** I certainly did very soon after I met with – well not very, but certainly some time after I met with Haywood and we maybe, before I talk about that meeting I wanted to inform Brkic about the hard drive and also discuss with him their ability to analyse the emails and to give a *prima facie* view. But I need to go back a step. At that stage we were still not looking at making available the actual hard drives. We were still only going to be making available the CD's, because the availability of hard drives would come at a later stage.

**ADV PAUL PRETORIUS SC:** Okay. You say you did meet with Mr Brkic?

**BRIAN CURRIN:** Yes. I met with him on two occasions. It was quickly after one another. The first one was really to be introduced to him and for me to tell him what we believed we had and to ask whether he felt that they would be able to do an analysis and at that stage it was to be of the CD's. Understandably at that first meeting he wanted, he asked if he could see the CD's which I did not take with me, and we met again shortly thereafter and at that second meeting I handed him the CD.

**ADV PAUL PRETORIUS SC:** Do you know what he did with that CD?

**BRIAN CURRIN:** He shared the content of that CD with Brummer who is the cofounder of amaBhungane, amaBhungane investigative journalism, so they then perused those two CD's and within a few days, Chair, they averted to me advising that the emails fitted very well with the Gupta investigations and articles that they had been written over a number of years, where for example they have written articles and certain stuff was not there and they speculated, and now suddenly they

would read an email which will fill in a gap, in respect of which they just did not possess previously.

**ADV PAUL PRETORIUS SC:** Alright, did they or was an opinion about the authenticity of the emails expressed to you, and before you answer that question, we do not necessarily ask you to rely on that opinion, so it may be given as part of the evidential narrative.

**CHAIRPERSON:** Yes. Thank you. Yes.

**BRIAN CURRIN:** In their view the authenticity of the emails was highly probable. That was their *prima facie* view, just purely on looking at the CD's.

**ADV PAUL PRETORIUS SC:** And at that meeting did anything occur in relation to the well being of the whistleblowers?

**BRIAN CURRIN:** Yes, and here we are talking about the second meeting with Brkic. I raised with Brkic the question of the need for funds and he certainly understood, motivated why and he understood clearly and he too said that he would speak to some of his contacts.

**ADV PAUL PRETORIUS SC:** Did meetings take place between yourself and Stan during the course of March 2017?

**BRIAN CURRIN:** At that stage we were meeting fairly regularly or regularly. Essentially, because partly we were building this mutually trustful relationship, but also he knew that some information was out there, taken off the CD's. He was also feeling insecure, because he at that stage did not have security funding and also we met regularly to talk about what we were doing, what I was doing, people that I had approached to request for funds.

**ADV PAUL PRETORIUS SC:** And were those efforts successful or relatively successful?

**BRIAN CURRIN:** The fundraising efforts?

**ADV PAUL PRETORIUS SC:** Yes?

**BRIAN CURRIN:** In time they were. Certainly in time for the whistleblowers to leave the country. There were ups and downs. There were promises that did not materialise, but there were others that certainly did and I need to emphasise obviously that until such time as there was security in that sense, Stan had made it quite clear that he would not provide me with the password in relation to those two hard drives, which I had been handed, one of which was overseas and the other of which was being held by Mark Haywood.

**ADV PAUL PRETORIUS SC:** During or around March 2017 then, did Stan and you agree what interaction there should be with the investigative journalist that you have mentioned?

**BRIAN CURRIN:** We did. The investigative journalists, for two reasons, one they were wanting to see much more, but secondly Bronco Brkic who was attempting to raise funds and obviously those who he was speaking to needed to hear from him more about the authenticity of these emails, were putting pressure on me to get access to the password code of those hard drives, or the hard drive that was in the country.

**ADV PAUL PRETORIUS SC:** At this stage the communications with the investigative journalists were they aimed at media publication or were they aimed at further investigation?

**BRIAN CURRIN:** Yes, they were not aimed at publication. For two reasons, they understood fully that there was no way that anything could be published until the whistleblowers were out of the country and secondly being investigative journalists they both wanted to become as *au fait* as possible with the content of if possible the

entire 300 000 emails, which probably is an impossible task, but certainly with as many as possible that related to the stories that they felt would be hugely hopeful in taking the whole process forward. So the plan then was that if they got the email, the password and code that would purely be for the purposes of further investigations, but not of publication.

**ADV PAUL PRETORIUS SC:** Did you attempt to persuade Stan then to reveal the password and code?

**BRIAN CURRIN:** I did, and some success at that stage was achieved in raising some funds. So funds began to come in and he then also understood that in order for those that had been approached to raise the bulk of the funds they would need to be convinced that these emails are not just copies on CD's, but much more, were indeed authentic and for that reason he agreed. For those reasons he agreed to provide the password in order for Brkic to gain access and amaBhungane to gain access to the hard drive.

**ADV PAUL PRETORIUS SC:** Right, and did that happen?

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** Was access granted to Mr Brkic?

**BRIAN CURRIN:** That indeed happened and I retrieved the hard drive in South Africa from Mark Haywood and subsequently I made the content of that hard drive available to Brkic and shortly thereafter I provided them with password and code so that they could then access the content.

**ADV PAUL PRETORIUS SC:** Did they revert to you?

**BRIAN CURRIN:** They certainly did. Within a few days I received a very positive response, Chair, from both, Brkic and Brummer in regard to the content of the hard drive that remained in South Africa.

**ADV PAUL PRETORIUS SC:** Did they tell you what they intended to do?

**BRIAN CURRIN:** Ja, at that stage, in accordance with our thinking and their own thinking their plan was to put together a significant team of the most experienced investigative journalists in South Africa and for them all to sit day and night, going through this trove of emails and to put an entire story together, to identify certain themes, certain particular events and in fact to locate themselves outside of South Africa. Because they too were concerned that if they were sitting with this hard drive that had at that stage been opened, and they were doing this work and tomorrow they started publishing one article, that there was a possibility either the law enforcement agencies, or the Hawks, or whomsoever, might come in and confiscate. So their plan was to actually take all of this and do the exercise abroad and then start incrementally publishing from abroad.

**ADV PAUL PRETORIUS SC:** Do you know what their anticipation was in regard to the date from which publication would start?

**BRIAN CURRIN:** They were looking at beginning publications around about September.

**ADV PAUL PRETORIUS SC:** 2017?

**BRIAN CURRIN:** 2017, which was sort of three/four months after they were given access.

**ADV PAUL PRETORIUS SC:** Was there another advantage in delaying publication?

**BRIAN CURRIN:** The other advantage ...[intervenes]

**ADV PAUL PRETORIUS SC:** Particularly in relation to Stan and John?

**BRIAN CURRIN:** Absolutely ja. The other advantage was that for both Stan and John, it was easier said than done. Leave South Africa tomorrow. They had lives

that they needed to sort of close off here. There was much that had to be done, there were wives that, that had lives that also needed to be wound up, and bearing in mind that there was a prospect that at that stage they would leave South Africa permanently, and you know as much I was putting pressure, you need to leave sooner rather than later, as were all of us, certainly, I know the journalists too that we were working with, we just were struggling to get to that point. So it just gave them more time to close off their lives and kept - put everything together in order to leave South Africa. So that delay really actually helped the - that particular exercise.

**ADV PAUL PRETORIUS SC:** At this stage, mid 2017, can you give the, Chair, at least your impression of how many people would have known about what we have referred to as the 'Gupta emails'?

**BRIAN CURRIN:** Well there were really very few. There were people that I have told, as I have already indicated. Certain members of my family knew, because I felt that I needed to share that with them. There were people that were being approached for funding and they knew and of course the amaBhungane, Dally Marverick, a number of people within those confines knew. A very, I would say confined smallish circle, but enough to enable the work to be done, and may I just add to that point I think, the fact that, that much of this has is being heard for the first time today, would indicate that, that those who knew, certainly those that who knew about my identity, never spoke about it.

**ADV PAUL PRETORIUS SC:** You have told, Mr Chair, that publication would commence around September 2017, after a thorough investigative process had been taken, or had taken place at the hands of investigative journalists. You have also told the, Chair, that there were some urgency in relation to Stan and John and their families leaving South Africa for safe residence abroad.

**BRIAN CURRIN:** Ja.

**ADV PAUL PRETORIUS SC:** What happened during this period in relation to your knowledge of the legality of Stan's possession of the original hard drive and potential challenges to his possession? Again, Mr Chair, if I may interject, the witness will tell us certain opinions received, but we will only ask you to rely on legal submissions made by us.

**CHAIRPERSON:** Thank you.

**BRIAN CURRIN:** I have been adlibbing a lot of this evidence, which paragraph are we on, I just want to make sure that I'm, where I should be.

**ADV PAUL PRETORIUS SC:** 47.

**BRIAN CURRIN:** 47 Thank you.

**ADV PAUL PRETORIUS SC:** If you are satisfied that we've dealt with the material before that, we can go on, if you are not, please.

**BRIAN CURRIN:** Ja, no I think I'm happy with that we I believe we have.

**ADV PAUL PRETORIUS SC:** Please tell me.

**BRIAN CURRIN:** So, this is now April and you know things are moving along and we soon again going to have access to the content of this hard drive, more than just the CD's. I needed to take legal advice on the legality of Stan's possession, which would also have a bearing on my possession and anybody else's possession, which I did. I took legal advice during the course of April and the advice I got was by the nature of the facts, which I cannot reveal, but which were represented to senior counsel, that the Stan's possession of the hard drive was indeed legal, lawful and in relation to the content of the, of the hard drive, which is a different issue in law as we know, that the publication of the content would be in the public interest. Assuming that the content was indeed what it purported to be.

**ADV PAUL PRETORIUS SC:** We may need to clarify, because the detail may become a matter of controversy in due course, at this stage towards the middle of 2017, when you say you had access, or did not have access, what was the position with your access to, or possession of firstly the devices, such as hard drives or CD's and secondly the content of those hard drives and CD's?

**BRIAN CURRIN:** The original hard drive and, and the clone were still in, were not yet in my possession, they were still in the possession of the person to whom Stan had given them.

**ADV PAUL PRETORIUS SC:** And we are not revealing the identity of that person ...[intervenes].

**BRIAN CURRIN:** No, no.

**ADV PAUL PRETORIUS SC:** I understand in order to protect his safety and Stan and John's safety.

**BRIAN CURRIN:** Absolutely, ja. The two hard drives that I had been given, I taken one overseas and I had taken another to Mark Haywood. None of us had access to the content of any of those hard drives, at this stage we only had seen the content of the CD's.

**ADV PAUL PRETORIUS SC:** On 20 April 2017, did Stan give you information in regard to John?

**BRIAN CURRIN:** Yes, now I had known about John for some time but John was not willing to meet with me for some time, but I was advised then on 20 April that indeed John was now willing to meet with me, and we met some time after that.

**ADV PAUL PRETORIUS SC:** What happened on 28 May 2017?

**BRIAN CURRIN:** Well, at this stage things are sort of going along according to plan pretty much, work was being done by amaBhungane and we were doing what was

necessary to secure the witnesses and on 28 April the Sunday Times broke ...[intervenes]

**ADV PAUL PRETORIUS SC:** 28 May.

**BRIAN CURRIN:** Ag sorry, 28 May 2017, the Sunday Times broke the Gupta leaks story. I got a call roundabout midnight on 27 May from Brkic who asked if I had any idea where the Sunday Times had got the story, how they got it, and whether maybe I or anyone else for that matter, Stan possibly had been working with the Sunday Times and then given them the information.

**ADV PAUL PRETORIUS SC:** Had you and Stan been working with the Sunday Times?

**BRIAN CURRIN:** Absolutely, I was totally shocked and deeply concerned since both Stan and John were still in South Africa when that happened.

**CHAIRPERSON:** I see that you, you have the two incidents not in the order, natural order in which they happened, the publication and they called you from Bronco. The call came first before the publication, is it not?

**BRIAN CURRIN:** Yes, ja, well, what happened was there was publication on the, on the social media, internet, so roundabout 23:00 that night, there was an indication of the story.

**ADV PAUL PRETORIUS SC:** Oh, okay, so on the 27<sup>th</sup> in the night there was an indication?

**BRIAN CURRIN:** Actually on the - strictly speaking on the night of the 26<sup>th</sup>, before, just before midnight, there was something on the internet, which indicated the story and then the Sunday Times broke it. But there was a connection, I, I mean I have looked and there seem to be a connection between the breaking of the story and the Sunday Times.

**ADV PAUL PRETORIUS SC:** Perhaps we should let the, Chair, finish his question.

**BRIAN CURRIN:** Sorry my apologies.

**CHAIRPERSON:** Yes, ja no I was just interested in the sequence, because in terms of your statement ...[intervenes].

**BRIAN CURRIN:** Ja.

**ADV PAUL PRETORIUS SC:** The publication by the Sunday Times happened on 28 May, but the call to you from Bronco, was on the 27<sup>th</sup>.

**BRIAN CURRIN:** Ja.

**ADV PAUL PRETORIUS SC:** Before midnight.

**BRIAN CURRIN:** Yes, yes.

**ADV PAUL PRETORIUS SC:** So I was just saying that in terms of sequence, the call would have come first and then the publication?

**BRIAN CURRIN:** Ja, he think ja ...[intervenes]

**ADV PAUL PRETORIUS SC:** But what you have said is before midnight there was something the social media which may have ...[intervenes].

**BRIAN CURRIN:** Exactly.

**ADV PAUL PRETORIUS SC:** Given Bronco the idea.

**BRIAN CURRIN:** Exactly.

**ADV PAUL PRETORIUS SC:** Okay alright. Thank you.

**BRIAN CURRIN:** That is correct.

**ADV PAUL PRETORIUS SC:** I asked you the question, Mr Currin, in regard to whether you had been working with Stan in cooperation or collusion with the Sunday Times and you answered 'absolutely', is that what you intended to contain?

**BRIAN CURRIN:** Absolutely not, absolutely not, we had not been working with the Sunday Times and I have no idea, well I do not know, let me put it that way as a fact,

how the Sunday Times, where the Sunday Times accessed the information upon which they then subsequently wrote reports.

**ADV PAUL PRETORIUS SC:** Perhaps that may be explained in the fullness of time.

**BRIAN CURRIN:** That is correct.

**ADV PAUL PRETORIUS SC:** This from your point of view at least, unanticipated breaking of the Gupta emails in the public domain, what effect did it have in relation to Stan, John and their families?

**BRIAN CURRIN:** Well it caused huge anxiety, we, it was just, very, very problematic, it obviously also impacted on their trust in the process that we were following, their trust in what I was doing and how was it possible that this had happened since from our perspective this was all being dealt with and managed very tightly by both the Daily Marverick and AmuBhungane at that stage. So, and of course also they felt extremely vulnerable because they were still in the country.

**CHAIRPERSON:** Yes.

**ADV PAUL PRETORIUS SC:** What had to be done?

**BRIAN CURRIN:** Well, there were two urgent, well first of all they needed to get out of the country sooner rather than later, again which was easier said than done, because by that stage there was plenty that still needed to be done in the country, but there were two outstanding matters, that now needed to be expedited before they left the country. The first was obviously before they left given the objective of this exercises, project if one may call it that I needed to get the original hard drive at its clone into my possession to be held in safekeeping, in anticipation of hopefully a process which might result in investigations into the emails. So that was the first thing that needed to happen and secondly also I needed to obtain affidavits from

both Stan and John and so those are the two things that needed to be done very quickly.

**ADV PAUL PRETORIUS SC:** Do you know what the attitude of Stan and John is towards the release of those affidavits to this Commission?

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** *In camera* or in open session?

**BRIAN CURRIN:** Well, maybe firstly the understanding we had about the affidavits, both of them understood fully that in order to enhance the evidential value of the original, but let me say it was and our thinking at that stage it would not be the original, because we did not think that one would ever be able access off the original, but certainly from the clone that the evidential value of those would require supporting affidavits and although – I mean there were certainly reluctant initially - both understood that, and I motivated it on the basis that if something were to happen to either or both of them, and/or for example, they were to leave the country forever and for their own reasons, refuse to come back to South Africa to testify, that in that eventuality those and only in eventuality, those affidavits would then be used. But also they both required to have that sort of two year periods to enable themselves to establish themselves, before any evidence from them be placed before this Commission. Once again speaking to their own sense of safety and security.

**ADV PAUL PRETORIUS SC:** So we know then that firstly the disclosure of the affidavits at this stage, would reveal their true identity?

**BRIAN CURRIN:** That is correct.

**ADV PAUL PRETORIUS SC:** We know too that they do not wish at all costs for this to occur at this stage. It may be appropriate we know, thirdly, that this be done in the

course of time, hopefully sooner rather than later?

**BRIAN CURRIN:** That is correct.

**ADV PAUL PRETORIUS SC:** Were you told anything then about a second clone of the original hard drive, or of a clone of a clone? I am at paragraph 56.

**BRIAN CURRIN:** Yes, I was later told that a good friend of Stan was in possession of a second clone, which was a clone of the master clone of the clone, which was taken of the original.

**ADV PAUL PRETORIUS SC:** Right.

**BRIAN CURRIN:** Which was in our view, was then the best evidence.

**ADV PAUL PRETORIUS SC:** Right, so in relation to both these clones, and I hesitate to use the word 'cloned copies', but in relation to both these clones what was your view, or how were these clones regarded in relation to the existence as best evidence?

**BRIAN CURRIN:** Well, the clones at that stage in my view were the best evidence and that was based on the advice, expert advice I was given that the, it was highly unlikely that the original would ever be able to be sufficiently well repaired to be able to actually then once again transfer data from.

**ADV PAUL PRETORIUS SC:** What happened on 29 May 2017?

**BRIAN CURRIN:** On 29 May, Stan handed over to me the original hard drive and one of the clones. He had collected them the same day from his close friend that he had given them to and who held them in safekeeping from the previous - when he had handed them over some time, some months earlier.

**ADV PAUL PRETORIUS SC:** What did you do, having received the original hard drive and one clone?

**BRIAN CURRIN:** I certainly did not want to retain possession of them and

immediately on the same day, Chair, without them leaving my sight, I took both of those hard drives, the original and the clone, which I received, to the offices of Mr Greg Knot who is a long time friend of mine and who is a partner at Norton Rose Fullbright, for safekeeping in their facility which some of the law firms have and that is where they were taken.

**ADV PAUL PRETORIUS SC:** What happened then?

**BRIAN CURRIN:** Well, you know, I think in terms they were signed for and necessary steps were taken which I think are dealt with in a subsequent affidavit, which I am not going to speak to now.

**ADV PAUL PRETORIUS SC:** You say formal steps were taken to record the receipt of safekeeping?

**BRIAN CURRIN:** The receipt and safe keeping and so on ja, that is correct, Chair. Uhmmm ...[intervenes]

**ADV PAUL PRETORIUS SC:** I am sorry I interrupted you?

**BRIAN CURRIN:** No, carry on.

**ADV PAUL PRETORIUS SC:** Did you then proceed to obtain affidavits from Stan and John?

**BRIAN CURRIN:** I then certainly proceeded to do precisely that and that was done during the course of June, Chair.

**ADV PAUL PRETORIUS SC:** Are these in safekeeping?

**BRIAN CURRIN:** Those affidavits are in safekeeping. Can I just mention I actually had took two originals, so there are two originals of each affidavit and they are separate. So I did that in case they were - they were confiscated then there would be another set somewhere else.

**ADV PAUL PRETORIUS SC:** Now obviously in order to respect the integrity of the

whistleblowers, their wishes and your agreement and understanding with them, we ought not to say anything about the content of those affidavits, which might reveal identity?

**BRIAN CURRIN:** Absolutely.

**ADV PAUL PRETORIUS SC:** But are you able to say, having finalised the affidavits, that their contents are consistent with what you have told the, Chair, today?

**BRIAN CURRIN:** It is actually consistent with what I have told the, Chair, and much more which I have not revealed.

**ADV PAUL PRETORIUS SC:** Did anything occur in the country at around this stage that allowed you to reach the conclusion that it might be appropriate to release the hard drive and a clone copy?

**BRIAN CURRIN:** Yes, so when we, when I received the possession and placed them with Norton Rose Fullbright, the political situation in the country was such that I just felt that one would not, could not make their possession to advise anyone of their possession besides the very small group of people that had already knew, and as I had indicated earlier, Chair, the consensus which we had and the whistleblowers and me, was that if we, if there was a situation in the country that would arise that might change that, one could then review the possession and obviously we had hoped that would indeed happen as a consequence of the publication of the content of the emails. And as we know during the latter part of 2017, the pressure built because of the publication of the emails and many of the - I thought, excellent articles that were written as a consequence of the work being done and the analyses of the content of those emails and then of course the election of President Ramaphosa as President of the African National Congress and the subsequent elevation to the position of President of South Africa, and subsequently the

appointment of U Chad Deputy Chief Justice Zondo as Chairperson of this Commission of Inquiry into State Capture, as well as the naming of the evidence leaders and the finalisation of the commissions in terms of reference which previously had caused me a level of concern, but those having been I think amended and published, were all positive indicators of an inquisitorial judicial process that would indeed be independent and credible. A process with which I felt I could engage with absolute confidence.

**ADV PAUL PRETORIUS SC:** That is then the period towards the end of 2017 and the beginning of 2018 that you are referring to?

**BRIAN CURRIN:** That is correct.

**ADV PAUL PRETORIUS SC:** Moving into 2018, would this be appropriate, an appropriate time for the long adjournment?

**CHAIRPERSON:** Excuse me? Yes, no, I think that is in order. We will take the lunch adjournment and we will come back at 14:00

**ADV PAUL PRETORIUS SC:** Thank you Chair.

**CHAIRPERSON:** We adjourn.

**HEARING ADJOURNS**

**HEARING RESUMES**

**CHAIRPERSON:** Yes, Mr Pretorius.

**EXAMINATION BY ADV PAUL PRETORIUS SC (continues):** Thank you, Chair. Mr Currin, we had moved on to 2018, did you meet with Stan on 15 January 2018?

**BRIAN CURRIN:** That is correct, yes.

**ADV PAUL PRETORIUS SC:** Where did you meet?

**BRIAN CURRIN:** That is correct I did. I travelled to London and met him there.

**ADV PAUL PRETORIUS SC:** And what was the purpose of the meeting?

**BRIAN CURRIN:** Well as I had sketched before the break, there was clear evidence that the political situation in the country was changing, it was improving, enabling things to happen, which could not have happened previously in, certainly in my assessment and I needed to go and share that, discuss that with Stan and also to raise with him the idea that this would be the time to make the original hard drive and clone available to the authorities that would need it.

**ADV PAUL PRETORIUS SC:** While you were abroad, did you learn of anything that had happened of an untoward nature in South Africa?

**BRIAN CURRIN:** While I was in London, I actually got a call from one of my colleagues at my office in Johannesburg, to say that the American authorities had arrived and wanted to meet with me and they obviously did not know who that was, but essentially just said well I will deal with it when I get home and I got home a few days later and on my return, I contacted the person who had left the number and within a very short period of time I met with that person at the end of January this year.

**ADV PAUL PRETORIUS SC:** When you refer to American authorities, you are referring to United States authorities?

**BRIAN CURRIN:** Ja, US authorities.

**ADV PAUL PRETORIUS SC:** Alright, did you learn what they knew?

**BRIAN CURRIN:** Well, in the first instance I, I was not sure about what they wanted to speak to me, because I didn't think that they would know about my role in relation to the hard drive, but I mean not being totally naïve, I thought well maybe they do know and certainly when I met with them they knew my role, they knew my name, they would not tell me who told, how they ascertained that, they knew about one of the whistleblowers, Stan. They said they did not know his true identity and what they

said they want or they advised me that they were doing certain investigations of an international nature and that they would like to meet with Stan and also to have access to the evidence.

**ADV PAUL PRETORIUS SC**: Did you contact Stan?

**BRIAN CURRIN**: I immediately contacted Stan, he was absolutely adamant, and rightly so, that the evidence would not be made available to them at least not at any initial meeting, but he was willing to meet with them, so that one could sort of ascertain, well firstly what they wanted, but also what they knew, how much they knew, because obviously that was quite relevant to, or we needed to know what they knew, put it that way.

**ADV PAUL PRETORIUS SC**: But happened then on 19 February 2018?

**BRIAN CURRIN**: Well I made all the arrangements with the US authorities here in South Africa to whom I was making these arrangements and we met in a third country on 19 February. We all travelled there, the American authorities travelled there, I travelled there and Stan also travelled there.

**ADV PAUL PRETORIUS SC**: Was any arrangement or understanding reached at that meeting?

**BRIAN CURRIN**: At that meeting, Stan agreed after a fairly long discussion, conversation that we would make available to the American authorities on a later date, the first clone of the original, which according to our assessment, was the best and most reliable evidence at the time. We were absolutely adamant that they would not be given access to the original. I should just mentioned that the second whistleblower, we were hoping that the second, second whistleblower would also be there, unfortunately he couldn't get there on time, he arrived the following day. I had already left, but I know that he and Stan did meet and he was then briefed on the

outcome of the meeting.

**ADV PAUL PRETORIUS SC:** Was there any further arrangement or understanding reached with the American or United States authorities?

**BRIAN CURRIN:** Yes. Now since we had agreed to make available, Chair, the best evidence, which from our perspective needed to be available elsewhere, we had South Africa in our minds, we agreed, well the Americans gave us an undertaking that they had excellent equipment which would, if they then used that equipment to make an image of the forensic copy that we have, that Stan had, that the integrity of that copy would be protected.

**ADV PAUL PRETORIUS SC:** That is the clone, is it?

**BRIAN CURRIN:** That is the clone, my apologies. So we agreed that we would meet then again in another country, where that exercise would be done.

**ADV PAUL PRETORIUS SC:** What was this other country?

**BRIAN CURRIN:** The other country we agreed to meet was Nairobi, ag sorry, Kenya, in Nairobi and it was chosen essentially because outside of South Africa, it was the most convenient country for everyone where this equipment which the American US authorities could provide, would be available that would protect the integrity of that particular clone. So maybe I should just add that at that stage even when that discussion was taking place, certainly in my mind was that there, that that process and that meeting would need to be attended by appropriate representatives from South Africa in the capacity in the context of this particular Commission.

**ADV PAUL PRETORIUS SC:** Mr Currin, did working with the US authorities raise any issues for you and Stan?

**BRIAN CURRIN:** Yes, and that speaks to the point that I just made about the South African authorities been present when this exercise takes place. Stan and John

were adamant right from the outset for certainly a principle that they emphasized in which we all bought into, namely, that this should always be seen to be a South African process, driven by South Africa, driven by South Africans in the interest of South Africa and not a foreign initiative.

**ADV PAUL PRETORIUS SC:** At this stage then, was there any understanding reached with Stan and John in relation to the ultimate fate of the original hard drive and the clone?

**BRIAN CURRIN:** Ja, so given these discussions that we were having with the American authorities, given also that it was my intention and there was an agreement that we would be approaching this body on my return, we decided that the information about the presence of an original hard drive in South Africa was beginning - could begin to spread much more widely than what it had and therefore we agreed that the original and the first clone, in our view then the best evidence, should be removed from South Africa as soon as possible, before the actual trip to Nairobi.

**ADV PAUL PRETORIUS SC:** What did you do in pursuance of this consideration?

**BRIAN CURRIN:** What I then did was I arranged to uplift the original and the clone from the safekeeping at Norton Rose Fullbright and that I did on 16 March this year.

**ADV PAUL PRETORIUS SC:** You uplifted the original hard drive and the clone you say, what did you do with it?

**BRIAN CURRIN:** I then took the sealed package as I had received it, which was in the same seal and as it had been when I deposited there and ...[intervenes]

**ADV PAUL PRETORIUS SC:** Sealed package containing the hard drive and clone?

**BRIAN CURRIN:** Containing the package the hard drive and the clone, I took them to my home in Pretoria on the same day and kept them in a safe place and the very

next day I took these items with me to OR Tambo Airport on route to Nairobi. We decided that since the next process would happen in Nairobi, it would be wise to get them to Nairobi, not have to move again, because obviously taking evidence of this nature, this highly sensitive and important evidence through airports and through controls and so on, one never knows what, what could happen, so we therefore decided to take them to Nairobi. I had arranged to meet the person, my lawyer, Greg Knott at OR Tambo, I felt it was very important to have a lawyer with me, if I am now moving with these very valuable packages outside of South Africa or through the airport and so on. But before leaving my home, I decided it would be wise to actually separate the clone from the original, so that whoever is carrying them, if apprehended, would not then be found with both. So I then separated them and met with Mr Knott at the OR Tambo, he being the lawyer and I being my lawyer and a proper lawyer not like me, being a real lawyer, he would I think it would be far more difficult for authorities to confiscate from him than from me. So he then carried the original and I then carried the copy and we boarded separately.

**ADV PAUL PRETORIUS SC:** You then arrived in Nairobi?

**BRIAN CURRIN:** Yes, we arrived in Nairobi and then we went directly to, we went directly to the hotel and we then put the two together again, sealed them, so that they could be handed over to an attorney that had been pre-warned of our arrival and an attorney that had given an undertaking that he would be able to keep them in safe, in safety and safekeeping until we returned to Nairobi at a later date.

**ADV PAUL PRETORIUS SC:** Right, you then, I presume, returned to South Africa?

**BRIAN CURRIN:** I did, and on my return, in fact according to my notes on the very next day I made contact with this Commission and made arrangements to meet with members of the legal team as soon as possible. Unfortunately people that I

contacted we knew one another for a number of years and they literally agreed to meet with me the very next day.

**ADV PAUL PRETORIUS SC**: And you met with them?

**BRIAN CURRIN**: I met with them.

**ADV PAUL PRETORIUS SC**: Did these meetings give rise to a subsequent trip to Nairobi?

**BRIAN CURRIN**: That is correct, so now ...[intervenes]

**ADV PAUL PRETORIUS SC**: When did that take place?

**BRIAN CURRIN**: That took place on the 11<sup>th</sup> and 12 April.

**ADV PAUL PRETORIUS SC**: Who attended these meetings?

**BRIAN CURRIN**: In Nairobi now?

**ADV PAUL PRETORIUS SC**: Yes.

**BRIAN CURRIN**: Okay, so we are back in Nairobi and who attended those meetings. The two whistleblowers plus the - Stan's wife, together with the American, the US authorities, as well as three representatives of this Commission. They all attended and the purpose of the meeting, were from my perspective twofold, Chair, the one was obviously to facilitate, or to be there and to witness and to ensure that the copy, the imaging of the clone would be done strictly in accordance with forensic and expert methodologies. But secondly also to introduce the whistleblowers to the Commission.

**ADV PAUL PRETORIUS SC**: Right, let us just obtain clarity in this regard, You together with Knott had on an earlier occasion taken the hard drive and one clone of that hard drive, of the original hard drive to Nairobi?

**BRIAN CURRIN**: Absolutely, ja.

**ADV PAUL PRETORIUS SC**: It was there place in safekeeping?

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** With an attorney?

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** Who made certain undertakings regarding that safekeeping?

**BRIAN CURRIN:** That is correct.

**ADV PAUL PRETORIUS SC:** You then met with members of the legal team of the Commission which meeting gave rise to a subsequent trip to Nairobi?

**BRIAN CURRIN:** Correct, yes.

**ADV PAUL PRETORIUS SC:** Was the hard drive and forensic copy then retrieved from that attorney in Nairobi?

**BRIAN CURRIN:** Yes, so we, when we arrived Knott arrived before I did, because I had another aspect of the project to implement, which was to meet these second whistleblower. So we all then met converged in Nairobi and sir Knott then facilitated the retrieval of the original and the clone in Nairobi, which was then brought to that very first meeting.

**ADV PAUL PRETORIUS SC:** And to the extent if necessary Knott can give evidence in due course.

**BRIAN CURRIN:** To the extent necessary he can give evidence.

**ADV PAUL PRETORIUS SC:** You spoke about a forensic copy being made by the US authorities and you stated that that would be a copy made of the clone?

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** May I ask during this whole process between 11 and 12 April 2018, was the hard drive ever subjected to any process and I am talking about the original hard drive?

**BRIAN CURRIN:** No, the original hard drive was not other than there it is, look at it, it was not touched for any purpose whatsoever and no attempt was made. Stan was absolutely insistent that according to the sort of expert advice we were all given that it should be touch anyone and certainly the equipment that was there to make a clone of the clone, would not be sufficient to ensure that a clone could be made of the original. Bearing in mind also that the original we knew had been damaged and it would need to be repaired and that could be a lengthy exercise.

**ADV PAUL PRETORIUS SC:** Mr Currin, the original hard drive, which you say was there, but was not handled or operated on rather in any manner whatsoever, was that appropriately marked and sealed?

**BRIAN CURRIN:** It was appropriately marked and sealed.

**ADV PAUL PRETORIUS SC:** After the visit to Nairobi, did you, Knott and the Commission representatives return to South Africa?

**BRIAN CURRIN:** We did, we did return, I think that maybe just to mention there had been a discussion around what would happen to the original, where the original would go? There was a bit of a tussle there in the sense that the American authorities also wanted the original, but that did not happen and we certainly insisted that the original be returned to South Africa.

**ADV PAUL PRETORIUS SC:** Right.

**BRIAN CURRIN:** As well as obviously the clone, the original clone but I just mention also that at that Nairobi meeting, clones of the clone were made, one for the American authorities and one also for the Commission.

**ADV PAUL PRETORIUS SC:** Now what happened to the original hard drive, either in Nairobi or in South Africa in relation to its hand over to the Commission?

**BRIAN CURRIN:** Before we left Nairobi, knowing full well that we are returning to

South Africa, with the original and the clone, the two most valuable pieces of evidence, there was concern even in the minds of the Commission representatives about bringing it into South Africa and particular arrangements were made from Nairobi to ensure that when we travel back to South Africa, and let me just also say, that because the Commission had no jurisdiction in Nairobi, they would not accept delivery of the hard drive and the clone in Nairobi, which disappointed me hugely, I was hoping to get rid of them. So we then had to travel back to South Africa, but we did so together with our colleagues from the Commission and when we arrived at OR Tambo there were special measures had been taken to, to meet us by the Commission, in fact by Mr Ncobende ...[intervenes]

**ADV PAUL PRETORIUS SC:** Nombembe.

**BRIAN CURRIN:** Nombembe who was at the airport to receive us.

**ADV PAUL PRETORIUS SC:** Who physical carried the original hard drive and clone to South Africa?

**BRIAN CURRIN:** It was Mr Knott, if I remember correctly.

**ADV PAUL PRETORIUS SC:** Mr Knott?

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** And were you present?

**BRIAN CURRIN:** I was present, yes.

**ADV PAUL PRETORIUS SC:** And were you present when Mr Knott met with Mr Nombembe?

**BRIAN CURRIN:** We were all together and then we handed it to him.

**ADV PAUL PRETORIUS SC:** Did you observe that hand over ...[intervenes].

**BRIAN CURRIN:** I observed the hand over to Mr Nombembe.

**ADV PAUL PRETORIUS SC:** Did you then, and I do not think this is controversial,

accompany Mr Nombembe and Mr Knott to a place of safekeeping?

**BRIAN CURRIN:** We all travelled together in a blue light brigade to this venue in, in Pretoria and took many hours I can tell you to eventually go through the whole process of receiving and registering and locking up in a very, very safe place, the original and the forensic copy that ...[intervenes]

**ADV PAUL PRETORIUS SC:** By this time then as I understand from his affidavit and his application, Mr Nombembe was in charge?

**BRIAN CURRIN:** By that stage Mr Nombembe was in charge and he was now the possessor and the Commission was now the possessor.

**ADV PAUL PRETORIUS SC:** At the meeting in Nairobi, was there any agreement or arrangement or understanding in regard to the fate of the original hard drive and clone and in regard to its further use?

**BRIAN CURRIN:** Yes, because we were all so acutely aware of the damage to the hard drive, the original, however, I think it was hoped that somehow one might be able if the right experts were used and the right equipment, that the Commission might be able to actually make an image clone of that original. It was agreed that those efforts would be made, but they would be made in consultation with the - with Stan. Very important that in my view, because essentially he was the original custodian of this piece of evidence and felt it was absolutely essential that he should be really included in the decision as to where it should go and so on, so that yes subsequent to returning to South Africa, that that original would then be subjected to a process which would possibly repair it and then if so make a clone which the Commission could make themselves, which of course would make a big difference and cut out a lot of the evidence, otherwise it would have to be submitted in relation to the clones and what had happened to them and so on and so forth. That was the

one aspect.

**ADV PAUL PRETORIUS SC:** Was there any arrangement or understanding or agreement, in relation to who would be responsible for the safekeeping of the hard drive and the clone?

**BRIAN CURRIN:** The Commission would be responsible for the safekeeping of the hard drive and the clone.

**ADV PAUL PRETORIUS SC:** And what would be the ultimate purpose of that safekeeping?

**BRIAN CURRIN:** As I indicated to keep it until such time as the Commission has been able to identify the top experts in the world, we were talking about, who would be able to do this exercise in a seamless fashion without the original collapsing, which the chances were great that it would, but at least the best effort would be made to ensure that it was a successful exercise. Alternatively then to, to use the original clone and I just need to make one point about that particular clone. The commitment which we had given to this Commission, was that we would take to Nairobi the master clone, which is then the clone that was made of the original and that that clone which was the best evidence probably, disregarding for a moment the original, that that best evidence would then be cloned for both the Commission and the American authorities. When we opened and started working with that clone, it transpired that it was probably not the clone of the original, but rather the clone of the clone, because two clones were made at the first instance. One of the original and then a clone of the clone was made and it then transpired that actually what we had taken to Nairobi, was the clone of the clone.

**ADV PAUL PRETORIUS SC:** I'm not sure that there for present purposes at least there is any forensic distinction of note between the various clones.

**BRIAN CURRIN:** Ja.

**ADV PAUL PRETORIUS SC:** They will all be forensically dealt with in evidence in due course, but apart from the distinction between the various clones, what was the understanding, because you have not been express about this.

**BRIAN CURRIN:** Ja.

**ADV PAUL PRETORIUS SC:** About the ultimate use of the data on these devices, what was envisaged by the whistleblowers and by yourself?

**BRIAN CURRIN:** The ultimate use was precisely what we are doing at the moment. The ultimate use of the, of this evidence was to be able to make it available to a credible Commission of inquiry in South Africa, that would be able to use it in order to ascertain the, the veracity of the emails and all the other bits of evidence to assist this Commission with its work, enable to make appropriate recommendations so that the scourge of corruption in this country in both the public sector and the private sector, could be addressed. That was the ultimate objective.

**ADV PAUL PRETORIUS SC:** Right, now if you would look at paragraph 87, the last paragraph of your statement, you will see there in the second line, that you use the words "after consultation with Stan".

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** You say, "it was furthermore agreed by everyone present at the meeting and this is the Nairobi meeting that the Commission would at a later stage, after consultation with Stan attempt to undertake a successful recovery and forensic imaging of the original hard drive".

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** In evidence now, you have used the words in consultation with, are you aware of the rather formal approach that our courts have

taken to the words "in consultation with" and "after consultation with" and the formal distinction between them?

**BRIAN CURRIN:** Yes, I am aware and it was after consultation.

**ADV PAUL PRETORIUS SC:** So let me, if I may, because in terms the rules I must ask, before I may ask a leading question, Chair, did you understand that there was any understanding that Stan would have an ultimate veto on the fate of this hard drive?

**BRIAN CURRIN:** No.

**ADV PAUL PRETORIUS SC:** The original hard drive?

**BRIAN CURRIN:** He would not. There would be a need to consult, but certainly there was no question of having a veto.

Mr Currin, the statement that you have in front of you, or had in front of you was amended in your writing.

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** Would you look at this document? Do you have copy?

**BRIAN CURRIN:** I have a copy, yes.

**ADV PAUL PRETORIUS SC:** Does your signature, well, whose signature appears on page 20 of that statement?

**BRIAN CURRIN:** It is my signature on page 20, the handwriting of the amendments is your colleague's sitting right next to you and I was with her when those corrections were made and they made after some discussions I had last night with people with whom I worked. This process has been going on this - my engagement has been going on for a long time, very often I did not take notes because I did not want to

record in a diary what I was doing, so I had to rely on memory and my memory is not as good as it should be, so I, I think needed to make a few little corrections, which has been recorded on the document.

**ADV PAUL PRETORIUS SC:** Alright, the contents of this signed statement EXHIBIT J2, together with its handwritten corrections are they true and correct?

**BRIAN CURRIN:** They are true and correct.

**ADV PAUL PRETORIUS SC:** May I have leave to hand up the duly amended statement?

**CHAIRPERSON:** Thank you.

**BRIAN CURRIN:** Mr Pretorius, there is one point that has not been covered, I do not know whether you have done - whether you have done it, but there is just one point that I want to mention.

**ADV PAUL PRETORIUS SC:** Please feel free.

**BRIAN CURRIN:** I made the -I mentioned, Mr Chairman, that there was confusion about the clone which went to Nairobi and that my commitment and our commitment had been to ensure that this Commission got the best evidence, which would have been clone of the original and we have ascertained that in fact, what you had was not, probably not the clone of the original. In the meantime previously the original, well a clone, another clone, a second clone which we thought was the clone of the clone was delivered, was given to me in Johannesburg, at some stage before I travelled to Nairobi on that second occasion. When the clone in Nairobi appeared not to be the clone of the original, I made a commitment to -when I got back to South Africa, opened the packaged that I got to check whether that clone was not actually

the clone of the, of the original hard drive. And when I opened it, the marking indicated very clearly to me that that was indeed the original clone; a clone of the original and for that reason I immediately contacted this Commission and handed it over to this Commission.

**ADV PAUL PRETORIUS SC:** Also appropriately packaged and marked, I understand?

**BRIAN CURRIN:** Also appropriately packed and marked so that that commitment of delivering the best evidence, clone of the original was actually carried out.

**ADV PAUL PRETORIUS SC:** Yes. That is interesting, Mr Currin, and perhaps when the full story is told, will need to be told, but fortunately we know that despite the expectations, the original hard drive was capable of being forensically imaged.

**BRIAN CURRIN:** Yes.

**ADV PAUL PRETORIUS SC:** Onto a further hard drive which is the hard drive in respect of which relief is sought in this application.

**BRIAN CURRIN:** Absolutely.

**ADV PAUL PRETORIUS SC:** Is there anything further you wish to add?

**BRIAN CURRIN:** I have nothing further to add other than to thank this Commission for the way in which they have worked with me. Thank you.

**ADV PAUL PRETORIUS SC:** The Statement is EXHIBIT J2, "J" I am reminded. Chair, Mr Currin, the Chair, may wish to ask you questions.

**FEMALE SPEAKER:** Sorry, microphone.

**CHAIRPERSON:** Oh, I am sorry. Mr Brian Currin's statement will be marked EXHIBIT J2.

**ADV PAUL PRETORIUS SC**: Thank you, Chair.

**CHAIRPERSON**: Thank you, Mr Pretorius.

**ADV PAUL PRETORIUS SC**: That is the evidence.

**CHAIRPERSON**: Thank you. Just one question: just one question to Mr Currin. When you discovered that a certain clone was actually the clone of the original hard drive, at that time was the Commission already in possession of another clone that you had, up to that point, believed was a clone of the original hard drive?

**BRIAN CURRIN**: Yes.

**ADV PAUL PRETORIUS SC**: Yes, so you then took the clone that you discovered was the clone of the original hard drive and handed it over to the Commission as well?

**BRIAN CURRIN**: That is correct.

**ADV PAUL PRETORIUS SC**: With the result that that the Commission is now in possession of both?

**BRIAN CURRIN**: Correct.

**ADV PAUL PRETORIUS SC**: Is that right? Okay, thank you, I wanted to have it clarified.

**BRIAN CURRIN**: Thank you, Chair.

**ADV PAUL PRETORIUS SC**: Thank you, Chair. Just to forewarn the, Chair, there are two more tasks that must be completed apart from argument from Ms Hofmeyr. The first is that the amended notice of motion must be handed up in accordance with the discussion that took place earlier. The second is that we would beg leave to

hand over a sworn declaration in chambers, after the conclusion of the today's proceedings.

**CHAIRPERSON**: Yes, no that is fine. Mr Currin, I just want to take this opportunity, of course I have known you for a long time from the 80's when you were National Director of Lawyers Human Rights. I just want to take this opportunity to say, thank you very much for the role that you have played in making sure that the Commission is able today, to have access to this evidence that you have told us about.

**ADV PAUL PRETORIUS SC**: We appreciate it very much. The Commission will obviously still hear evidence in months to come and will also hear from what you have told us, evidence from Stan and John at the right time, and probably I will get an opportunity in the final report to say something about the role of people that played the kind of role that you have played in the end.

But between now and then, there may be other evidence and I do not know if there will be a challenge to your evidence or not, but we will hear what happens. But I just thought that is important that I should let you know, that this Commission deeply appreciates the role that you have played, to make sure that it has access to the evidence that it has been able to have access to. Thank you very much.

**BRIAN CURRIN**: Thank you, Chair.

**ADV PAUL PRETORIUS SC**: You are excused.

**BRIAN CURRIN**: Thank you.

**NO FURTHER QUESTIONS**

**ADV KATE HOFMEYR**: Thank you Chair.

**CHAIRPERSON**: Ms Hofmeyr.

**ADV KATE HOFMEYR**: Chair, the good news is that there is very little for me to do, because my learned leader, Mr Pretorius, has dealt very extensively with the basis of the application, both at a factual and to some extent, a legal level. There are, however, a few aspects of the legal approach to the application that is before you today, that I would like to address, with your leave.

And I propose to do so in two parts. The first aspect will be to address the appropriate test ...[intervenes]

**CHAIRPERSON**: Maybe before you go there, maybe let us start at the tail end in terms of Prayer 1 and Prayer 2. The Prayer 1 and Prayer - Prayers 1 and 2 require me to admit the data referred to in the way it is described there. Is it the data that is sought to be admitted or is it whatever it is, where the data is contained? I do not know if you understand what I mean but, you know you could have something, an object that contains certain information and you might be admitting the object, that object, but inside that object there is certain information. So is it the information, the data, or is it the object that has been admitted at this stage, that you want to be admitted that contains the information, so that the actual admission of the information of the data would have much later when certain things have happened?

**ADV KATE HOFMEYR**: Chair, let me address that squarely. What Mr Nombembe as the applicant in this application seeks from the, Chair, today, is an admission principally of the data and the data is the information contained on the three hard drives, that are described in the notice of motion. And, Chair, the reason for that is,

because of the manner in which that type of information is dealt with in our law, and the reference point for that is the Electronic Communications and Transactions Act.

It is Statute 25 of 2002 and it is the Act to which reference is made in the application itself. What that Statute makes clear, is that there is something called "data" which is defined by the Statute to mean electronic representations of information in any form and then in particular a "data message" which is data generated, sent, received or stored by electronic means and includes voice, where voice is used in an automated transaction and storing.

**CHAIRPERSON**: Sorry, you did not make me a copy of the relevant Statute?

**ADV KATE HOFMEYR**: Indeed, Chair. We do have a bundle of authorities which I will refer to in a moment ...[intervenes]

**CHAIRPERSON**: Can I have it now?

**ADV KATE HOFMEYR**: Indeed I am not ...[intervenes]

**CHAIRPERSON**: Because I want to have a look at the definitions. I have seen Section 15 of that Act ...[intervenes]

**ADV KATE HOFMEYR**: Yes.

**CHAIRPERSON**: Which is quoted in, in Schwikkard van der Merwe; The Principles of Evidence, but I would like to have a look at that as you speak.

**ADV KATE HOFMEYR**: Indeed, Chair ...[intervenes]

**CHAIRPERSON**: If there is a copy available. I would have appreciated receiving it yesterday.

**ADV KATE HOFMEYR**: Indeed, Chair, we do apologise for that.

**CHAIRPERSON**: Can I just please take ...[intervenes]

**ADV KATE HOFMEYR**: The Act is not contained in the bundle of authorities. The bundle of authorities that was prepared has the relevant case law ...[intervenes]

**CHAIRPERSON**: Registrar, there is something that is ready for me. Or is there not?

**ADV KATE HOFMEYR**: No, there is. Let me be clear.

**CHAIRPERSON**: Am I intruding?

**ADV KATE HOFMEYR**: Not at all, Chair, not at all. What the bundle of authorities contains is the case law to which reference will be made in the course of my argument. It does not have a copy of the text of the Act, we will endeavour to ensure that you have that as quickly as possible.

**CHAIRPERSON**: Oh okay. Well the case law I can look at later. I thought you might have the Act at hand.

**ADV KATE HOFMEYR**: I have been informed by our attorney, that efforts are being made to copy for you immediately. So as soon as it is available I will beg leave to hand that up.

**CHAIRPERSON**: Yes, thank you.

**ADV KATE HOFMEYR**: Chair, if I may then just return to the question, because we are dealing with a series of technical aspects in today's application. The one is the data, as, Chair, I understand that for colloquial terms, we refer to it as the information that sits on the drives and the manner of framing the notice of motion, is to make it clear that it is that information, which leave is sought to have admitted as evidence before this Commission.

And that is in keeping with the way in which electronic evidence is dealt with in the Act, to which I will make reference in due course. But, Chair, while we are on the notice of motion, and I know we said we would start at the end, might it be an appropriate time to beg leave to hand up the amended notice of motion, simply so that we can address that aspect ...[intervenes]

**CHAIRPERSON**: Yes, thank you.

**ADV KATE HOFMEYR**: That we addressed with Mr Pretorius.

**CHAIRPERSON**: Yes.

**ADV KATE HOFMEYR**: Thank you. Chair, what we have done since you received the original application and notice of motion, is inserted on the second page, a fourth paragraph, which seeks to address the issue you raised with Mr Pretorius about public access, given the way in which Prayers 1 and 2 and the ruling sought there is framed.

So what has been introduced in paragraph 4, is a ruling that says as following: Notwithstanding the rulings in paragraphs 1 and 2 those are ones in terms of which the defined data is admitted as evidence. It goes on to say:

"The public shall have access to that data, defined as the HDDH data, HDDH1 data and HDDH2 data, only as and when it is presented by the legal team of the Commission at the public hearings of the Commission."

**CHAIRPERSON**: Can we amend that a little bit?

**ADV KATE HOFMEYR**: Certainly, Chair.

**CHAIRPERSON**: Let us say:

"The public shall not have access to that data until..."

**ADV KATE HOFMEYR**: Yes, certainly.

**CHAIRPERSON**: So I am going to delete only as and when and simply say "until", replace that with "until it is s presented by the legal team of the Commission at the public hearings of the Commission." Ja.

**ADV KATE HOFMEYR**: Indeed.

**CHAIRPERSON**: Okay, thank you.

**ADV KATE HOFMEYR**: Thank you, Chair, and that actually also takes care of another aspect of the query that you posed to me, Chair, which is, well is there not a later stage at which this information is actually presented to the Commission? And that precisely what paragraph 4, now as amended, Chair, seeks to signify. And that is an aspect which was also traversed in the founding affidavit of Mr Nombembe.

The point that was made there is that it is critical for the work of the Commission that the data, the information on these three hard drives, be admitted in evidence, for amongst other reasons, so that the Commission's investigators can analyse, synthesize and pursue further investigations based on that information.

It is then anticipated that pursuant to those investigations and possibly further authentication exercises, that the investigators take on, those parts of the information, for example, relevant emails that are pertinent to the work of the Commission, will be presented by the legal team through witnesses or two witnesses in the course of the future public hearings of this Commission.

And so that is precisely the scheme that is envisaged by this application.

**CHAIRPERSON**: It was not clear to me when I read the affidavit why any analysis

and investigation by the investigators needed the data to be admitted, first, or why do they need that?

**ADV KATE HOFMEYR**: Chair, it is an aspect that we have probed in some detail with them, I can, I can tell you. There is a bigger story that happens around this data and I must deal with it now. This data plays a role no doubt, and is critical to the work of this Commission, but this data may well also, play a role in future possible criminal and civil proceedings.

And it is with a view to its further use in those proceedings, that the investigators of this Commission are very careful to ensure that any work that they do, on forensic images of the original data, is secured in its integrity by a moment in time which is this application before you today, to recognise the steps that have been taken until this point, to secure the recovery of the original and to make that data available to the Commission.

And it, therefore, seeks the comfort of knowing that if at this moment in the Commission's proceedings, this ruling is made, it will then comfortably off the back of that full chain of custody, having been presented before this Commission, be able to work with that data. To analyse it, to re-arrange it to strip it out, to reconfigure it ...[intervenes]

**CHAIRPERSON**: But why do they need an audit meeting on data to do that?

**ADV KATE HOFMEYR**: Chair, Chair. it is an aspect of why it is being sought today. Your crisp question is why do the investigators want this admission in order to be able to deal with the data? And the explanation is contained at paragraph 64 of the application. If I may just direct you to it?

You will see at paragraph 64, the point is made that until this point, the

Commission's investigators have been careful to analyse only the HDDA data. Now let me just be clear about what that is. That is the data that was originally ...[intervenes]

**CHAIRPERSON**: That is the original hard drive?

**ADV KATE HOFMEYR**: Hard - and the data from it that found its way into the Gupta leaks, right. And it is off the basis of the analyses that they have done of that data, that they have been able in this affidavit to make some initial claims about the authenticity of the data. But it is essential for the purposes of this Commission and for future work, that might require this information to be relevant, that the actual recovered, and what we understand to be fuller set of data, is analysed for authenticity.

The Commission's investigators have not done that yet.

**CHAIRPERSON**: That I understand. What I don't understand is the, the hard drive and the clones are in the possession of the Commission. The investigators are part of the Commission. They carry out investigative work for the Commission. I do not understand why, without an order admitting the data, in these proceedings, they cannot do what they need to do to pursue the work of the Commission in terms of investigation.

**ADV KATE HOFMEYR**: Chair, we would not put as high as they cannot, certainly not.

**CHAIRPERSON**: Or if, if it is not a matter of they cannot, or what the reason is, why do they need that order?

**ADV KATE HOFMEYR**: Indeed, Chair, and that requires me to go to the further

reasons for why this application is brought now. Because as your question highlights, Chair, and we should not be heard to say they cannot deal with the data without this order, that is certainly not the case. It is appropriate rather, that this ruling be given now and that requires further considerations to be taken into account.

So to recap, the one is that the investigators who are concerned with the integrity of the chain of custody process, would like to be dealing with HDDH1 data and HDDH2 data with the confirmation from this Commission, that it is admitted in evidence. But I do not put it higher than, but that is request of theirs, it is not prerequisite for them dealing with it.

The second important point is where we are in these proceedings and the availability of Mr Currin who has come to give evidence today and the appropriate point at which this disclosure could be made, albeit on its limited terms because of the safety issues of those concerned.

And secondly, Chair, thirdly indeed, Chair, an important aspect that is traversed in the application is that in parallel with this application before you, which is taking place in public, there is a full chain of custody set of documents that is being compiled by the Commission, which has detailed confirmations of every step that was taken to ensure the integrity of the drives, to ensure that parcels were tamper proof, to keep records of every register of evidence being received and being take to its next location.

It was in the view of the Commission, its legal team and investigators that it was critically important to freeze this moment in time, when all of that evidence could be put together, albeit not yet publicly disclosed, so that if anything were to happen to individuals involved in that process, there would nonetheless be a credible

source of that information which may become later relevant in criminal or civil proceedings.

So it is a conference of those three factors, Chair, that brings this application to you today.

**CHAIRPERSON**: Well, the point does it amount to this that for among others, reasons of the preservation of the evidence as it exists at the moment, where it is kept, it was important that it be publicly known ...[intervenes]

**ADV KATE HOFMEYR**: Indeed, Chair.

**CHAIRPERSON**: That the Commission has this kind of evidence which has been obtained in the manner in which we have been told, albeit, not in full for certain reasons so that going forward if anything should happen, at least it should be known what evidence the Commission had, as at a certain date.

**ADV KATE HOFMEYR**: Indeed, Chair, that is precisely the third consideration and it is flagged just for your reference at paragraph 76, which is on page 27 of the application. It says there, and I read from Mr Nombembe's affidavit:

"It is also in the public interest that the integrity of the process that has been followed thus far by the Commission's investigators and legal team be recorded. If anything were to happen it is important that the Commission has a record of the chain custody in order this to provide a basis for the admission, possible admission of the data in future."

And, Chair, if I may say the further point as I understand your question to

me that is added, is it is about preserving that which is now in the possession of the Commission and with knowledge, publicly that the Commission is in possession of that important evidence for the conduct of its further enquiries. Thank you, Chair.

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

**ADV KATE HOFMEYR**: Chair, so we were on the aspects of the, apologies, amended notice of motion that were addressed and I have usefully been just handed a copy of the Electronic Communications and Transactions Act, if I may beg leave to hand that up.

**CHAIRPERSON**: Oh thank you, yes. Thank you.

**ADV KATE HOFMEYR**: Chair, it might be an appropriate point just to summarise the points that I was making in relation to that Act now that you have a copy available to you. Chair, I was dealing first - you would have seen reference as you mentioned in the evidence text books about particularly Section 15.

**CHAIRPERSON**: Yes.

**ADV KATE HOFMEYR**: Because Section 15 deals with admissibility and evidential weight of data messages. Where I began was with the definitions of those terms in the Act, and data message is of course a derivation of data and so we start with data, which is the language used in the notice of motion.

Data means electronic representations of information in any form and then the data message becomes more specific, it means data generated, sent, received or stored by electronic means and includes voice, where voice is used in an automated transaction, or a stored record. We really in the context of it being stored record, for the majority of the information that we are talking about here.

And then what Section 15 does is it talks about the requirements for admissibility, but I must emphasise in legal proceedings for the receipt of data messages, which generally in the literature, is referred to as electronic evidence. But, Chair, before we get into the detail of Section 15, it is important that I frame the test appropriately, which is the one that this Commission, we submit, will adopt when determining whether to grant this application.

Chair, and that requires me to emphasis again as my learned leader, Mr Pretorius did. That a Commission of enquiry is a species different to a court of law. Chair, this is recognised around the world, and it has been well expressed, with respect, by a number of the highest courts in various jurisdictions.

And, Chair, it is, with your leave, that I would like then to make reference to the bundle of authorities, which you have been provided with, I understand. Because, Chair, the first two cases in that bundle of authorities are cases first from New Zealand and secondly, from Australia, but the second case from Australia has received the approval of the Privy Council.

And the aspects of those cases that I would like to refer to in particular, Chair, is first of all in relation to the first case which dealt with the Royal Commission of Enquiry into state services in New Zealand. Cleary, J in that matter, at page 115 which, Chair, you will find at paginated page 11 ...[intervenes]

**CHAIRPERSON:** Yes.

**ADV KATE HOFMEYR:** Had the following to say. Right at the bottom - well it begins at 10, Chair, if you go back over a page, the bottom of page 115 of the Law Report, Cleary, J had the following say about the function of a commission of enquiry. Let me be clear why I go there in the argument. The nature and function of a

commission of enquiry we submit, must inform its approach to the receipt of evidence. Cleary says the following:

"The function of a commission of enquiry on the other hand"

He is contrasting it to court proceedings:

"...is inquisitorial in nature. It does not wait for issues to be submitted, but itself originates enquiry into matters which it is charged to investigate. These are indeed no issues as in a suit between parties. No party has the conduct of the proceedings, and no parties between them can confine the subject matter of the enquiry, or place any limit on the extent of the evidence or information which the Commission may wish to obtain."

Chair, we submit that that is an accurate description of the role of enquiries and the principle pursuit of those enquiries, which is to gather all information relevant to its mandate. And, Chair, the second reference is the reference to Australian case of Ross v Costigan which appears beginning paginated page 13 of the bundle of authorities, that has been handed to you, Chair. And the relevant part of that judgment appears on the law report page 334 which is at paginated page 21.

Chair, there Ellicot, J of the Federal Court of Australia said the following in relation to the relevant evidence that the commission made ...[intervenes]

**CHAIRPERSON:** Where about in relation to those marginal paragraph numbers ...[intervenes]

**ADV KATE HOFMEYR**: We are on the left hand side of the page, so the reported page 334 and adjacent 35, in the lines, Chair.

**CHAIRPERSON**: Okay, thank you.

**ADV KATE HOFMEYR**: If I may read there?

"In determining what is relevant to a Royal Commission of enquiry, regard must be had to its investigatory character. Where broad terms of reference are given to it..."

As in this case:

"...the Commission is not determining issues between parties but conducting a thorough investigation into the subject matter. It may have to follow leads, it is not bound by Rules of Evidence. There is no set order in which the evidence must be adduced before it."

So, Chair, that is by way of introduction. Chair, and it goes on in that paragraph, if I may just continue to read there.

"The links in a chain of evidence will usually be dealt with separately. Expecting to prove all the links in a suspected chain of events, the Commission or Council assisting, may nevertheless fail to do so. But if the Commission *bona fide* seeks to establish a relevant connection between certain facts and the subject matter of the inquiry, it should not be regarded as outside its terms of reference in doing so. This follows from the very nature of the inquiry being

undertaken."

And so that second part signifies that there is a level of flexibility in the approach that a commission of inquiry will take to the evidence before it, and the information that it takes into account. And so, Chair, we draw those references with respect, to your attention, because it is our submission that they frame the appropriate approach that this Commission should take to receiving and admitting in evidence, the information on these hard drives.

The important points, Chair, in summary are these: This is not a court of law. It is an inquiry which is not bound by the Rules of Evidence, that is in reference to your previous debate with my learned leader, Mr Pretorius, he referenced and as would I, the rules of this Commission, particularly 6.1 which make the point, and this is for our purposes the most important point.

The Commission may receive any evidence that is relevant to its mandate and so we submit there is single test before you today, Chair. Is this information which we call data because of its particular technical usage, in the relevant Statutes, relevant to the mandate of this Commission?

And we submit that that must be unquestionably so. Mr Pretorius has already dealt, Chair, with the links to the terms of reference which were traversed in the application itself. There are on my count, at least six terms of reference that speaks specifically to the engagements with the public sphere in our country and the Gupta family.

You would have heard from the evidence of Mr Currin, and it is also referenced in Mr Nombembe's affidavit, that what this data appears to show, is communications between members of the Gupta family and associates with

individuals such as Mr Duduzane Zuma, various cabinet ministers, officials and chief executive officers of state owned enterprises.

We submit that there can be no doubt, that it is relevant to the terms of reference of this Commission that this information be further investigated. Chair, there is a further point to relevance. And we submit that admitting this data now, is consistent with the truth seeking pursuit of this inquiry and the reason for that is the following:

You heard earlier this morning that the recovery exercise that was managed with the employment of a leading international expert on recovery is such that the version of the data which is currently held by the Commission, is likely to be greater than the data that found its way into the Gupta leaks.

Those are the initial indications that we received both from what Mr Currin told us about how that original data entered the public domain, and what you now of the process that was following by the Commission, in securing this expert to do a 99.99 something, something, something percent recovery, and to confirm that he is satisfied that that recovery was indeed effective and that we have for all intents and purposes, a virtual replica of the original data.

Chair, there is overwhelming public interest, we submit in the Commission's investigators being in a position to analyse that further data and where appropriate, for it to be presented to this Commission in its public hearings. If only part of the story that can be gleamed from that data has be told thus far, the whole story must be told through the proceedings of this Commission.

And it is for that reason that we submit it is critically important for the Commission and its expert investigators, to begin work on that data so that it can be

presented in due course. Chair, the second aspect of my submissions ventures beyond what we say, is really the simply question before this Commission. Is the data relevant, and if so, it should be admitted and the process of its analysis and presentation should then be followed?

But the application does go further than that, Chair. It goes further to deal with the aspects of reliability that is already apparent in this data, and it addresses questions of confidentiality that could be raised in due course, and the steps that have been taken to protect any possible interests on the part of Sahara Computers that may be raised in due course. And so, Chair, with your leave, I would like to deal very briefly with those two aspects.

**CHAIRPERSON:** Ja.

**ADV KATE HOFMEYR:** Chair, the reliability aspect has been addressed for a range of reasons in the application. The first is with a view down the line to the use it might be made of this data in criminal and civil proceedings. I have already addressed to you, Chair, the careful steps that have been taken, by the investigators and the legal team of this Commission to ensure the integrity, and preserve the integrity of the drives on which this data sits and on the authenticity processing of that data, so that its credibility and its integrity can be presented in due course.

This has been done not only with a view to those future proceedings, but also because of the only public statement that we are aware of that has yet been made by those persons, who appear to be implicated by the information on the drive. And that is the reference that my learned leader, Mr Pretorius, made to the public statement of Mr Gupta that these emails were fakes. Well, it is as against that charge, that some initial work has been done to assess the reliability of this data and

that is set out in detail in the application.

The essence of the point is that it is in all probability highly unlikely, necessarily incredible that this massive amount of data with its both visible and hidden traces, within the drives, could have been manufactured, or manufactured in manner that makes it work as such a cohesive hull on the drive itself. So that is the first aspect of reliability.

The second aspect of reliability is the emphasis that will be placed on the declaration of the international expert who has worked on this drive and done its recovery. That will be presented to you *in camera*, but the essence of that evidence is the expert's both qualification as an expert, and confirmation that he achieved 99.999826 percent recovery. And so that itself should give the Commission great comfort.

On the question of whether what it will be presented with is a replica of that which sat on the original drive. It is a separate question whether that which sat on the original drive was manufactured, but I have already addressed you on all the hallmarks of authenticity that appear to lay already in that data.

Chair, the second point is confidentiality. There is sometimes a tussle in our law between the disclosure of information that may implicate the privacy interests of a party, as compared with the need for the public to know the content of the information and, Chair, the application traverses the relevant case law in that respect. I would highlight for present purposes only a few.

Our courts have already determined that the public interest may outweigh, and it is an example, but national security interests where those were claimed for top secret and classified material in the Independent Newspapers matter

that came before the Constitutional Court.

Our courts have also determined as Mr Pretorius highlighted earlier, that the private medical records of a former Minister of Health, could be disclosed in the public, notwithstanding the fact that they were unlawfully obtained. And our courts have also determined that even a privileged legal opinion of South African Airways could be disclosed publicly, because of the manifest public interest in understanding and learning what was going on within that institution at the relevant point in time.

And so, Chair, we submit to you today, that if in due course, any attempt is made to raise the spectre of confidentiality as a basis for this Commission not to deal with this information, we submit that contention should be rejected, and it should be rejected because of the overwhelming public interest, in a proper investigation of these matters, because of the terms of reference with which this Commission has been charged.

Chair, the final aspect is to facilitate any representations that Sahara Computers may wish to make in due course and the notice of motion seeks as its third Prayer, a ruling that will facilitate notice being given and an opportunity if it is taken up, to make representations to you, Chair, about the admission of this data.

Chair, those are our submissions in support of the application unless there are further questions.

**CHAIRPERSON:** One has got to always remember that one is not in a court of law.

**ADV KATE HOFMEYR:** Indeed.

**CHAIRPERSON:** And therefore from time to time try and not act in a manner that a

court would necessarily act or decide. But of course it does not mean that one must discard everything that courts of law do. Normally when a document or real evidence is being admitted in proceedings, that are placed before that court, we are now talking about a court of law, that is handed up and so on.

This is not happening here, but one advantage of a document for example being handed up is that I could have a look at it, at the contents and maybe get an idea that it could be relevant. But if it is not put up, I may have to rely on somebody to tell me if it is relevant, and maybe that might not be the final word as whether it is relevant or not.

Now to the extent that the order admitting the data is in order, admitting as the Act says in terms of defining what data is, I think representations it says:

"Data means electronic representations of information in any form."

As I understand the position and remember I have got to decide things based on - not on what I might be reading in the media, on what I have here; based on that, based on what I have read in Mr Nombembe's affidavit, there are hundreds of thousands of emails. The affidavit from what I read in the affidavit, it would seem that somebody or people must still go through those and be able to say these are relevant, these are not relevant. I do not know out of the figure is 300 000 which was mentioned, I think somewhere, I do not know whether that might mean for example 50 000 are relevant or only 100 are relevant or 50 out of 300 000 are relevant. So how do make an order admitting all of them if I do not know that all of them are relevant? Because even on your own address, at least, whatever I admit as – whatever I admit must be relevant. Now if I do not know whether they are all

relevant how do I do that?

**MS HOFMEYER**: Chair, I would like to in answer draw a distinction between its admission and the role that it plays in informing your ultimate recommendations in the pursuit of this inquiry, because all that is being sought today is admission in evidence, for the purposes of analysis and later presentation to you in the conduct of this inquiry. I accept that there must be a measure of evidence, a measure of relevance already in the data and that is what the application seeks to traverse.

It contains a detailed analysis that has been done by the Commission's investigators on the HDDA data. So that portion of the data that finds its way through the Gupta leaks into the public domain and that is squarely relevant to the terms of reference of this Commission.

What we signal to you today is, is that there may well be more and there is likely to be more in the data that was recovered by the international expert. But in its substance the overwhelming majority of that which has found its way into the public domain is relevant.

You would simply be admitting it today for the purposes of these processes to be completed by the Commission and in due course those relevant emails will be presented to you through the evidence leaders and further witnesses, and you will ultimately make a decision as to first the weight to be attached to them, dependant on whether there are any challenges, and then secondly the role they play in your ultimate recommendations.

**CHAIRPERSON**: Yes, no, the weight is obviously something else that is for much later. But, you, yourself say for purposes of me making a decision whether I admit HDDH data and HDDH1 and HDDH2 data, it must be shown that it is relevant.

**ADV KATE HOFMEYR**: Yes.

**CHAIRPERSON**: And my question is how do I know and again I leave out what I may or may not have read outside. How do I know on what is before me, how do I know that all that you are asking me to admit is relevant? And this may be raising or bringing back the question I asked earlier on. Let us go back to a court of law and it is useful to always go back to what we are all used to.

In a civil case or in a criminal case there would have been an analysis of documents such as this first, before they are brought to court to a trial. So when a request is made for them to be admitted it would be made on the basis of there having already been an analysis and a view taken on the relevance on each one of them. And obviously those that were not seen as relevant would not be sought to be admitted. That is how it would work in a court of law.

**ADV KATE HOFMEYR**: Indeed.

**CHAIRPERSON**: Now here easily that could happen with this Commission as well. The investigators could or whatever experts could analyse, gone through the mountains of paper or just looking at them electronically and select those that are relevant, and leave out those that are not relevant. And then bring those to the legal team of the Commission and say we have gone through all this data and we are now giving you what in our view is relevant. We have left out what is not relevant.

And then the legal team could come to the Commission, to the hearing and say these are the ones we ask to be admitted. They have been sifted. You see what I mean? They have been sifted. But we are now in a situation where they have not been sifted yet, and I am being asked to admit all of them.

**ADV KATE HOFMEYR**: Yes, because, Chair, you are absolutely correct, with

respect, that the full extent of the HDDH data has not been analysed, but what the application makes plain, is that the HDDA data, that which is already in the public domain has been analysed, and its relevance to its terms of reference to this Commission is set out in detail.

If I can just take you to paragraph 55 of the – paragraph 55 at paginated page 16 of the application. This is the evidence before you today. It is EXHIBIT J1 which is Mr Nombembe's affidavit and under the topic of relevance this section of the affidavit begins with the following:

"There can be no doubt that the HDDA data and by inference the HDDH data..."

Because remember H is bigger than A and so will necessarily include A for the purposes of this debate.

"...is relevant to the terms of reference."

This is clear from the following. This is what Mr Nombembe says on the basis of the work that has been done by his investigators on HDDA.

**CHAIRPERSON**: Okay.

**ADV KATE HOFMEYR**: He says:

"It contains communications and other information relating to the affairs of the Gupta family and their association with government officials and state owned enterprises."

And then he goes on to tell you how those aspects relate to the terms of reference. And so there has been an analysis done of that which is already in the public domain, and there is evidence before you today of its relevance. But steps

have been taken by the Commission to get a fuller recovery of the original information, which is greater than the A data and which must still be analysed. And must still, in due course, be presented to this Commission at its public hearings.

And so we would submit that there is already an overwhelming case for relevance.

**CHAIRPERSON**: I am sorry, the one that has already been analysed is it the original?

**ADV KATE HOFMEYR**: It is the, let me clear here. The original ...[intervenes]

**CHAIRPERSON**: That is A?

**ADV KATE HOFMEYR**: A.

**CHAIRPERSON**: Ja?

**MS HOFMEYER**: Was cloned and that data was made available to Daily Maverick and to amaBhungane and found its way into the public domain through the articles of their journalists and others.

**CHAIRPERSON**: Yes.

**ADV KATE HOFMEYR**: That is what we referred to as the HDDA data. That has been analysed.

**CHAIRPERSON**: Prayer 1?

**ADV KATE HOFMEYR**: Indeed.

**CHAIRPERSON**: Yes.

**ADV KATE HOFMEYR**: No, sorry, Prayer 1 does not refer to H data it refers to H data, not A data. The analysis that has been done is on A data which is a component

of the H data. Let me just be clear. The A data is what entered the public domain through the Gupta leaks. The H data is that larger set of data that was recovered by the international expert, working in August of this year, and which is now in the possession of the Commission.

The Commission seeks submission of the H data, because it is the fullest set of data that was recovered from the original and forensic imaged onto the H disc drives, but for the purposes of the relevance question that you raised, Chair, what you have on the affidavit of Mr Nombembe is the analysis that has been done of the A data, which is a component of the H data, which itself is clearly relevant to the terms of reference of this Commission.

So as I understand the question you posed to me, Chair, it is what confidence can you have today of the relevance of the data that you are being asked to admit, to the terms of reference of this Commission? And we submit you can be overwhelmingly confident about its relevance, because the A data, which is a component of the H data, adopt when determining whether to grant this application.

Chair, and that requires me to emphasise again as my learned leader, Mr Pretorius did, that a Commission of inquiry is a species difference to a court of law. Chair, this is recognised around the world and it has been well expressed with respect by a number of the highest courts in various jurisdictions. And Chair, it is with your leave that I would like then to make reference to the bundle of authorities.

**ADV KATE HOFMEYR:** ...you being asked to admit to the terms of reference of this Commission and we submit, you can be overwhelming confident about its relevance, because the A data which is a component of the H data, has already found its way into the public domain and has shown, that it deals with the affairs of the Gupta

family, their association with government officials and state owned enterprises.

Chair, the application even gives you some examples, and let me just take you to them, because some of them are critical for this question that you have raised. And they are attached in various annexures, various articles that arose with the Gupta leaks. Let me just find the reference, if I may.

If you go to paginated page 26, you will see that some of the information that has made its way into the public domain, because the HDDA data was provided to the journalists at amaBhungane and Daily Maverick is the following. They show that the Bell Pottinger proposed press release, during March 2016 that would have implicated Deputy Finance Minister Mcebisi Jonas in receiving bribes from a South African businessman.

They show how two months, before the former President Mr Jacob Zuma appointed Mr Mosebenzi Zwane as Mineral Resources Minister, his Curriculum Vitae was sent to the Gupta family for their attention. It shows how Minister Faith Muthambi exchanged proposed drafts of a presidential proclamation with associates of the Gupta family before the proclamation was promulgated.

Those are illustrative examples for the purposes of this application to answer squarely the question of relevance.

**CHAIRPERSON**: Those would fall under the component that has been analysed.

**ADV KATE HOFMEYR**: Indeed.

**CHAIRPERSON**: Yes.

**ADV KATE HOFMEYR**: Indeed, Chair, and it is a portion of the greater recovered

data that was the product of the international expert's efforts in August. So what we are able to say to you today, Chair, is that a component of the H data, which has been in the public domain, shows that this full data set is clearly relevant to the terms of reference of this commission. Because it is in the main, email communications between associates of the Gupta family, the Gupta family, cabinet ministers, heads of SOE's and their dealings.

And there may be more that is relevant, but that which we already have and have been able to analyse we know is relevant.

**CHAIRPERSON**: You see what, what, what is, what there can be no doubt about is that, that part that has not been analysed, it is important that it be analysed.

**ADV KATE HOFMEYR**: Indeed.

**CHAIRPERSON**: There can be no doubt about that.

**ADV KATE HOFMEYR**: Yes.

**CHAIRPERSON**: Now the investigators would do that okay. But again I think I come back to the question why? Once - let us separate the two, that part that has been analysed. That is relevant let us assume is established therefore maybe it can be admitted. The part that has not been analysed, because it has not been analysed we cannot know can we for sure, whether it is relevant?

But once it is examined and analysed its relevance or otherwise, will be established. Now why to the extent that we should be - I should not make any order of admission, why should I not admit what has been analysed because its relevance might be established, but in regard to what has not been analysed, I make no order?

That does not prevent the investigators from analysing it and at the

relevant time that can be raised here in the Commission, after somebody has been able to take a view of its relevance.

**ADV KATE HOFMEYR**: Chair, you posed the question on the basis that we could not know for certain what was in the remainder, I have to concede that, but we know what the very high probability, what is in the remainder. And that is because of the nature of the data messages that these drives contain, and that is set out in Mr Nombembe's affidavit.

They are by and large in the majority, email communications and the background hidden messaging that happens pursuant to that communication and some other information. Now because we have seen parts of that through the A data, and in the majority it appears to be relevant, well is relevant on the basis of what has been publicly disclosed already.

There is an incredibly high probability that the remainder is, I cannot say for certain, very few things are certain, but a very high probability.

**CHAIRPERSON**: But how does the work of the Commission get prejudiced if we do not, if I do not make an order admitting that part, that component? How does the work of the Commission get prejudiced?

**ADV KATE HOFMEYR**: Chair, that takes us back to the previous debate we have about why now? And it is to signify that there is more in this application than merely the need for analysis to take place and emails and other evidence to be presented. It is that at this very moment, the Commission has within its possession, the fullest recovery of the data from an original hard disc drive that came from Sahara Computers, and it is because it has that in its possession, and it was appropriate for that to be publicly disclosed now, and could not be disclosed previously, that this is a

moment in time in which it should be admitted, to preserve that full record which is now in the possession of the Commission.

**CHAIRPERSON**: But where it is sitting now it is preserved. That is what the witness told us. It is secure, it is preserved, only very few people know about it, why does, why is an order admitting it necessary for its preservation?

**ADV KATE HOFMEYR**: Because despite all the endeavours that have been made to secure it, something may happen to it. It is in within the borders of South Africa, HDDH albeit, in a secure location. That has been disclosed in the affidavit before you. It is appropriate that all precautions be taken by the legal team and the investigators who are the custodians of that resource of data, tell us publicly that they have it and having done so, increase the preservation of it.

**CHAIRPERSON**: Well, what is the meaning of an order admitting a piece of evidence? I do not think that the mere making of an order that a court, or a forum such as this is admitting the same piece of evidence on its own, helps anything with the preservation. Obviously normally what would happen is that that piece of evidence is handed up and then the Registrar in the case of a court, preserves it whatever.

But here we have a situation where we have been told that all that evidence is somewhere secure and all precautions have been taken to make sure that it is safe. Obviously, maybe I should not say obviously, there are no guarantees in life, you know, but from what I have heard, for all intents and purposes, everything has been done to keep it safe and I want to be safe.

I am just not sure that I follow why an order of admitting it is necessary for its preservation with regard to evidence that has been analysed. At least it is

relevant, its relevance maybe clearer and the evidence that has not been analysed, probably some of it is relevant, maybe some of it is not relevant and I am just saying, how does it help anybody for me to make an order saying I am admitting that part of the evidence.

How does it prejudice the work of the Commission, how does it prejudice the work of the investigators to make or not to make that order? What I referred to earlier on about publicly saying what is in the possession of the Commission, we have already been saying - the witness has told South Africa through these proceedings are being broadcast so people who have an interest in what the Commission is doing, will know what we have already in terms of that evidence.

I am just not sure of the necessity of making that order now, at least in regard to that. It may be that, it may be that it is something that maybe the legal team might wish to reflect further on and I am quite happy that we, we look at it before any decision is made, but I, I have that concern as to - I can see that I may make an order admitting the part that has been analysed. I am not sure so about the part that has not been analysed.

**ADV KATE HOFMEYR**: Chair, thank you for that, if we may take you up on that opportunity. We are close to the conclusion of today's proceedings and we do want to reflect carefully on the issue that you have raised, and how it may affect the rulings that are sought in this application. So if it would be appropriate and with your leave, possibly to take a moment and adjourn to tomorrow morning, I do not know what is most suitable to you, Chair.

**CHAIRPERSON**: No, no that is fine we can adjourn till tomorrow morning at 10:00 and then we can look at it. It may well be that you might persuade me, but I just

have those concerns and I mean there is no doubt, that the investigators should go ahead and analyse the component that has not been analysed. There is no doubt about that.

But I say they do not need an order admitting those components as evidence, in order for them to do that, and then I just ask why we need to do that to make such an order in regard to that component in circumstances where, with regard to its relevance, we say it has not been analysed so some of it may be relevant, some of it might not be relevant, maybe most of it will be relevant but do we need to decide now, or should we let the process of analysing take place first and then a view is taken and once a view is taken, what is brought up for admission is only that which is established as relevant. Okay.

**ADV KATE HOFMEYR**: Thank you, Chair, we will give careful consideration to those aspects.

**CHAIRPERSON**: Okay all right. Thank you very much. In terms of arrangements for tomorrow, will be it that part - we do not have any witness for tomorrow, is that right?

**ADV KATE HOFMEYR**: No.

**CHAIRPERSON**: Okay, and as things stand the witness for 3 October, arrangements are still in place for that?

**ADV PAUL PRETORIUS SC**: Yes.

**CHAIRPERSON**: Thank you. The proceedings adjourn for today, we resume tomorrow at 10:00.

**HEARING ADJOURNS**

**TRANSCRIBER'S CERTIFICATE FOR COMMISSION OF INQUIRY**

**INTO STATE CAPTURE**

**HELD AT**

**PARKTOWN, JOHANNESBURG**

DATE HELD : 2018-09-27

DAY: : 17

TRANSCRIBERS : E. KOEKEMOER, C. SWART,

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