

# the doj & cd

Department  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

## REGISTRAR OF THE GAUTENG HIGH COURT: PRETORIA

Private Bag X67, Pretoria, 0001  
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### GENERAL ASSET RECEIVAL FORM

Case Number: 836/2013 (SCAAR)

HEREWITH THE FOLLOWING RECORDS IS HANDED OVER BY:

NAME: M.A. Soloana

DATE: 4 September 2014

TIME: \_\_\_\_\_

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one sealed envelope	Electronic Evidence	SL 66 3233
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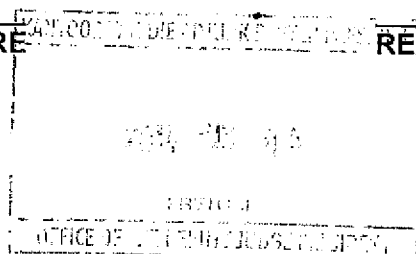
I \_\_\_\_\_ from \_\_\_\_\_, in my position as  
(name and surname) (Company)

\_\_\_\_\_ herewith give permission to the High Court to remove, and  
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keep in their possession the above defined equipment and to make a forensic image thereof which  
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Tel No: (012) 315 7711 Fax No: (012) 326 1995

### GENERAL ASSET RECEIVAL FORM

Case Number: 836/2013 (SCH)

HEREWITH THE FOLLOWING RECORDS IS HANDED OVER BY:

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DATE: 4 SEPTEMBER 2014

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2 ARCH LEVER FILES	TRANSCRIPTS	N/A
2 SEALED ENVELOPES	ELECTRONIC RECORDS	SL 06 23.1/24/30
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NAME: M.A. Solomo

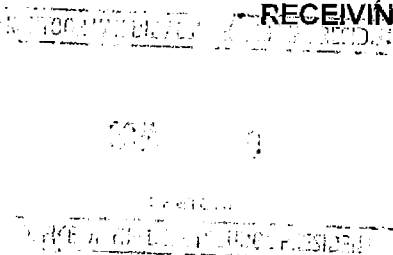
OFFICE TEL NO: 012 315 7413

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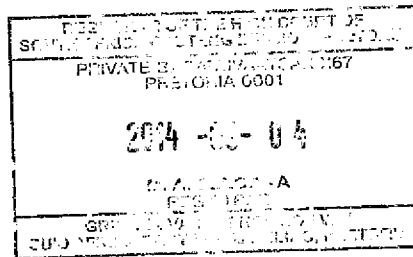
\_\_\_\_\_ herewith give permission to the High Court to remove, and  
(Position/Title)  
keep in their possession the above defined equipment and to make a forensic image thereof which  
will be kept by the High Court and used for analysis purposes as required.

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**IN THE NORTH GAUTENG HIGH COURT, PRETORIA**



**CASE NO: 836/2013**

In the matter between:

**JACOB GEDLEYIHLEKISA ZUMA**

**APPLICANT**

And

**DEMOCRATIC ALLIANCE**

**First Respondent**

**THE HEAD OF THE DIRECTORATE OF SPECIAL  
OPERATIONS**

**Second Respondent**

**THE ACTING NATIONAL DIRECTOR OF PUBLIC  
PROSECUTIONS**

**Third Respondent**

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**NOTICE OF FILING**

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**ON ROLL** : 4 SEPTEMBER 2014

**DOCUMENTS FILED** : Third Respondent's documents as listed in the  
Index attached hereto.

**FILED BY : STATE ATTORNEY**

**ATTORNEYS FOR THE 3<sup>rd</sup> RESPONDENT**  
SALU BUILDING  
Ground Floor  
316 Thabo Sehume & Francis Baard Streets  
PRETORIA  
REF NO: 2295/2013/Z65/jb  
TEL NO: 012 309 1545/1500  
FAX NO: 012 309 1649/50  
ENQ: MR GP SELEKA

**TO: THE REGISTRAR  
THE NORTH GAUTENG HIGH COURT  
PRETORIA**

Received by: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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**TAKE NOTICE** that the documents that are to be delivered to the Registrar of the North Gauteng High Court, Pretoria in terms of the Court Order of 28 August 2014 consists of the following:

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5.	Notes taken on the meeting of 18 March 2009 by Adv T. Mutzke.	112-122
6.	Notes taken on the meeting of 1 April 2009 by Adv T. Mutzke.	123-141
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**Final transcript of recordings as agreed by legal teams – 3 September 2014**

**LM:** Leonard McCarthy used cell number 083 305 6471 unless otherwise indicated

The notes in right hand column is the interpretation of NPA of what is being referred to in the highlighted text. Please note that it may not always be accurate.

Xx = word unclear

? = not sure if word is correct

**1. Sun 4.11.2007 18h25 Mzi Khumalo to LM 083 300 5518**

1. **LM** Mzi
2. **MK:** Howzit, I have just arrived
3. **LM** hmm
4. **MK:** You said you would be going to Cape Town today
5. **LM** hey
6. **MK:** You said you are going to Cape Town today
7. **LM** ja, no, no I waited, remember I said I might just go early morning
8. **MK** OK, so what, are you, are you leaving early morning
9. **LM** Yes, yes, yes
  - a) I must just see rev Chikane first and then I will go
  - b) They will wait for me and take my testimony in the afternoon
  - c) If you can make and it is urgent enough, we should actually do it now
  - d) Otherwise it is going to be Wednesday evening,
  - e) either here or in Johannesburg
  - f) but Tuesday in Cape Town is going to be very bad for me, in fact,
  - g) [in and out, we fly there and you know
  - h) come back the same evening the last flight out
  - i) So we must either do it tonight or we must do it Wednesday night
  - j) It is entirely up to you
10. **MK:** Ja, um, sjoe, this thing is urgent but now
  - a) I have just been, I have just arrived now, I am on my way home,
  - b) Because I must meet my wife, I just have my wife at home, and
  - c) And its um going to be a bit difficult now
11. **LM** Why don't we just make it Wednesday evening, let's do, let's do Wednesday evening
12. **LM** its something? is not going to,
  - a) The Scorpions aren't going to arrest someone before we meet, then its ok
13. **MK** Ok, laughs
14. **MK** I don't think they will arrest someone before we meet
15. **MK** Let's meet on, let's meet on Wednesday
16. **LM** Ja
17. **MK** We can meet on Wednesday, because I'll be in Cape Town on Tuesday
  - a) but I am flying back on Wednesday afternoon anyway
18. **MK** I should be here on Wednesday from around 4 o'clock
19. **LM** Ja, no, just call me, and we can have dinner or early drinks
20. **MK** why don't we have a dinner, on Wednesday about 7h
21. **MK:** Where do we go?
22. **LM** I find that the Pretoria restaurants have deteriorated by the day
  - a) Johannesburg is suddenly coming alive for me

<p>23. <b>MK</b>: Ja, we can go to, there is a place called ...  a) auberge in Pretorius? street or Pigalles or there is the meat place  24. <b>LM</b> no, you pick a place, just let me know, my guys can check out where it is  25. <b>MK</b> I will do that  26. Bye</p>	
<p><b>2. 7.11.2007 10h25 Bulelani Ngcuka to LM 083 441 0030</b>  1. <b>LM</b> Hello sir  2. <b>BN</b> How are you  3. <b>LM</b> You got a few minutes  4. <b>LM</b> I need a job for Anthea - if it is the last favour you do for me  5. <b>LM</b> But to come back to the thing we discussed on Saturday,  a) this matter is now up in the courts on tomorrow as you might have heard  6. <b>BN</b> not Monday  7. <b>LM</b> no, they, there is something going on, they pulled the dates up,  a) Farlam apparently had a violent outburst with registrar on Tuesday  b) He said, this thing, I think, they are trying to give us a cue,  c) this thing should have been dealt with long ago,  d) so he said Thursday morning  8. <b>LM</b> that's the one thing  a) The second thing is, I, remembering what you said on Saturday,  b) I read yesterday's Business Day editorial, you must just read it, just read it  9. <b>BN</b> Just remind me what did it say  10. <b>LM</b> just get it, yes, its in line with your thinking  11. <b>BN</b> Laughs  12. <b>LM</b> I am serious</p>	<p>LM personal assistant</p> <p>SCA appeal by NPA against High Court order that set aside search warrants in Zuma case</p> <p>editorial 7.11.07 that it appears to benefit Mbeki when Zuma is not facing charges</p>
<p>a) And then the third issue is, I met with the guy I mentioned, and you know his line is almost like that of Sam  13. <b>BN</b> Laughs  14. <b>LM</b> But he said he will, he says-he will speak to the man  a) Uhh, when he's, he is back over the weekend,  b) but he knew, he feels very strongly that I should not see the guy directly  c) So that he has a shield,  d) so that if this issue comes up  e) then he can say "well I don't know what the fuck you are talking about"</p>	<p>Kassrils?</p> <p>Mbeki?</p> <p>Mbeki?</p>
<p>15. <b>BN</b> I agree  16. <b>BN</b> Have you read the Business day today  17. <b>LM</b> No I haven't, I just  18. <b>BN</b> Precisely that line, its says, I said,  a) it says he knew about my statement beforehand,  19. <b>LM</b> Is it?  20. <b>BN</b> ja, I don't know where he got it from but certainly that fellow never spoke to me ...</p>	<p>7.11.07 Gevisser book states that Mbeki knew about prima facie statement</p> <p>Gevisser?</p>
<p>21. <b>BN</b> So, so what is it about Anthea  22. <b>LM</b> No its just if I go, I need to look after her and David  23. <b>BN</b> But it is still long way man  24. <b>LM</b> The thing is happening in January boss, we even discussed it</p>	<p>LM personal assistants</p> <p>post at World</p>



25. <b>BN</b> Ja, ok, ok, I mean, but why do you wake me up in the morning for that:	Bank in Jan 08
26. <b>LM</b> no, no, the main thing was really my meeting with the other guy and what came out of it a) and the fact that this judgement is on us much quicker than what I thought, b) and I really I need to make a call c) because I am told our guy has slipped out into the media d) that he says he wants nothing to do with it	Kasrils?
27. <b>BN</b> yes	Mpshe stated in media that DSO will make decision, not he
28. <b>LM</b> – your acting .. your acting ..	
29. <b>BN</b> I know I know ja ja	
30. <b>BN</b> you know it is very interesting, there is different points of view across the board	
31. <b>LM</b> where are you tonight, you don't want to join this dinner with Mzi?	Khumalo
32. <b>BN</b> No, you will see, his view is completely opposite – a) he agrees with you. He and Sam agree with you. b) We had dinner on Sunday, quite a number of people, c) mine was there, and Dlamini? was there d) I put a hypothetical question to them, e) I said let's assume the judgement comes out in next few weeks f) and its in favour of this guys, what must happen by when? g) Mzi was the only one on that table who said let's do it now, h) he was the only one i) If he tells you the truth he tells you that, everybody there disagreed with him j) But I can chat with you after that dinner	BN wife
33. <b>BN</b> So when you finish	Khumalo
34. <b>LM</b> I will come around your house	
3. <b>Wed 7.11.2007 13h23 BN to LM 083 441 0030</b> 1. <b>LM</b> Hello 2. <b>BN</b> Yes sir 3. <b>LM</b> No, I was not sure on what wicket we ended a) As we were talking the Head of the FBI came walking in there .... 4. <b>BN</b> Thanks 5. <b>LM</b> I am not sure, I said I will call you when I am finished 6. <b>BN</b> I said when you are done with Mzi, where are you eating 7. <b>LM</b> I don't know 8. <b>BN</b> He did not tell you where you are eating, 9. <b>LM</b> You know I just said I myself must book and I will rather pay 10. <b>BN</b> why, are you coming to Johannesburg .... 11. <b>BN</b> I see, ok, ok, ok 12. <b>BN</b> You are living in this world and not the outside world a) There are certain things where you just have to be realistic – b) every time you go and eat you can't just I pay I pay c) and other people eat at your expense d) You are not chasing a goose all the time, you know e) You just have to be a normal human being 13. <b>LM</b> Margaret said I stopped being a normal human being a) Well, the other thing is, are you now not going to see me as you initially	Khumalo
	LM wife

b) indicated because I remember you said you might want to speak to me	
14. <b>BN</b> No, no I said I will wait until we hear what this other fellow is saying	Mbeki?
a) and then I'll also talk to him, you see, as I said to you	
15. <b>BN</b> You are, are you coming to join us	
a) there is not a wrong or right question about this thing here	
16. <b>BN</b> you know, nobody actually knows what the permutation is likely to be	
17. <b>LM</b> Maybe one should look at the aftermath, after 3 days,	
18. <b>BN</b> Exactly, exactly, let's see what's going to be, but I can tell you now	
a) you know, wena, I can even see his, his people	Mbeki advisors?
19. <b>LM</b> Ja, I saw the article only now, the one that you referred to	
20. <b>LM</b> There is also an editorial that I haven't read,	
a) really try to read last week's, I mean yesterday's	
21. <b>BN</b> Ja, no, I will do that I am going to the office now	
a) Ja, I tried to get it at home last night, um, because I get all the papers	
22. <b>LM</b> said David must just fax it to Tando?? ...	LM PA + BN
23. <b>BN</b> It is gone this thing, I think still have the Business Day at office,	PA?
a) if I don't I will I will get hold of the internet, no problem	
24. <b>LM</b> Speak later	
25. <b>BN</b> Ok boet	
<b>4. 9.11.07 11h31 M Khumalo to LM</b>	
1. <b>LM</b> Hello	
2. <b>MK</b> Leonard, I was wanting to phone this morning to say congratulations	
3. <b>LM</b> Well, thank you very much	
4. <b>MK</b> Congratulations, you guys have done well	
5. <b>LM</b> yea no, thank you very much	
a) and thanks for dinner, I really enjoyed	
b) I, first time I actually managed to let my hair down without worrying what is what	
6. <b>MK</b> no, you guys have done well	
7. <b>LM</b> thank you, you got my messages	
8. <b>MK</b> No, xxx just another thing tell me? --	
9. <b>LM</b> if you can you just give me the guys, ...	
a) because we checked on our database, there is nothing	
10. <b>MK</b> : there is nothing?, it is Temba Khumalo, I will I will ask him	??
a) for the name of the person or the people who came there to to investigate	
b) Let me ask him now	
c) I will come back to you	
11. <b>LM</b> just SMS me, it will be important if he can tell you who has searched him	
a) Because then we can know whether it is DSO or is it the police	
12. <b>MK</b> Ok	
13. <b>LM</b> Just SMS me your address again	
a) You say it is 131 Rivonia Street	
b) My guys ...	
c) Are on the way to your office there turn around ?	
d) Good bottle of wine and that little book I told you about	
14. Ok, bye	

**5. Date 9.11.07 13h55 BN 083 441 0030 to LM**

1. **LM** Yes sir
2. **BN** How's it broer
3. **Discussion about employing personal protectors by DSO – not in full**
  - a) Do you remember the CV I gave you for the guy from the presidential protection unit
  - b) Declined, have to go on normal process
  - c) Head hunt and interview
  - d) They already had good candidates
  - e) so they recommended these candidates
  - f) but 2 of them
  - g) 1 guy for Vusi, well Vusi when he was still Vusi
  - h) 1 for my office has declined
  - i) ..
4. **BN** I would recommend this guy for you in particular
5. **LM** Is it
6. **BN** He can sing Mshini Wam nicely
7. **LM** Laughs
8. **BN** no, seriously, I seriously recommend him
  - a) He is with me – I won't dump him
  - b) They did interview him
9. **BN** The guys who interviewed him were from VIP PU, he is from Pres PU
10. **LM** Rivalry between units
11. etc
12. **BN** so, otherwise how are you doing - I am off to George
13. **LM** Ja, no, no, I understand
14. **BN** Can I date you for next week
15. **LM** Ja, ja
16. **BN** and this time I'll pay
17. **LM** ja, well I paid last time .. for the the tea and the water you know
18. **BN** so I will pay next time
19. **LM** : I just wanted to say, what is Mzi's company name,
  - a) I offered him a book and bottle of wine,
  - b) and my guys can't find the place
20. **BN** Its Mettalon
21. **LM** Oh, Mettalon
22. **BN** In Rivonia, next to Macdonalds
23. **LM** Ja,
24. **LM** to have it delivered
25. **BN** So therefore ...
26. **LM** I just wanted to say, between you and me, this was the last time that
  - a) Leonard Frank McCarthy, attempted to predict the outcome of a judgement
27. **BN** Ja
28. **LM** You know that cunt Ian Farlam and Tom Cloete
  - a) They were fighting with Kemp and Zuma's counsel during the hearing
  - b) So much so that we all thought they were on our side
  - c) They were actually ridiculing them
29. **BN** Yes
30. **LM** At some point Farlam apparently said to this guy, stop

Protection unit

SCA judges  
who heard the  
search warrant  
appeal

- a) Or is it Tom Cloete said to Kemp, stop, stop, stop
31. **BN** Yes
32. **LM** Tell me what is wrong, where is this warrant unlawful,
33. **BN** Yes
34. **LM** What is it that they have taken that does not fall within the confines of the warrant
35. **BN** Yes
36. **LM** So you read the judges body language
37. **BN** Yes
38. **LM** And then they come and fucking spin around just like this to drop you
39. **BN** No, they dropped us?
40. **LM** No, no, no I am saying we won in the end but it was damn close thing
- a) It was 3 2
41. **BN** are you serious
42. **LM** 3 judges for us
- a) And the guys who were, who we regarded as, as, as batting for us,
- b) that's Farlam and Tom Cloete,
- c) turned at the last minute and gave a dissenting judgement
43. **BN** Both of them?
44. **LM** Jissus,
45. **BN** and the one you said you thought he was not with you, who was it
46. **LM** No, they say there was this um, this one judge,
- a) Poonan, the Indian guy, he asked nothing
47. **BN** Yes
48. **LM** Dunstan Mlambo asked one or 2 questions
- a) Both Farlam, Tom Cloete went for the other side
- b) Robert Nugent initially asked us some very tough questions
49. **BN** Ja
50. **LM** In the end Nugent, Poonan and Mlambo came home for us
- a) And wrote a very good judgement which we feel will stand the test of time
- b) But I am just saying, you know, I decided after last night...
- c) I will never again try to predict the outcome of a case
51. **BN** I am shocked by Farlam
52. **LM** But someone said, you know, Frank Kahn said,
- a) that is Ian Farlam, he will do it to you
53. **BN** ja, that's typical of him
54. **LM** Ian Farlam will do it to you
55. **BN** ja, that's typical of him, ja
- a) So therefore
56. **LM** : No, no, we, I am now also studying the judgement you see, like a good coloured
57. **BN** But this guys have already said they are taking the matter up
58. **LM** Ja, But this does not mean that one has to hanger? on there, you know,
59. **BN** I agree with you
60. **LM** But I want to just, .. I am seeing these guys ...
- a) I just want to get a sense of their views,
- b) think things over a little,
- c) this, this is a legal issue, that uh, we will get to the right decision
61. **BN** Ja, ja, ja, ja
62. **LM** But nothing will happen in a rush, man

SCA judges  
who heard the  
search warrant  
appeal

The NPA  
prosecutors ?

Zuma

<p>a) it is not going to happen that we say to the guy?  b) on Wednesday, come and appear on Thursday</p> <p>63. <b>BN</b> Ja, ja  a) in any event, the CC must, must indicate if they want to hear it then ne</p> <p>64. <b>LM</b> Ja, ja, ja  65. <b>BN</b> Orrait, boet, enjoy the weekend  66. Bye</p>	
<p>6. 26.11.07 20h43 <b>BN</b> to <b>LM</b> 083 441 0030</p> <p>1. <b>LM</b> Hello  2. <b>BN</b> Yes sir  3. <b>LM</b> Howzit, howzit, howzit  4. <b>BN</b> No, ok broer, how are you  5. <b>LM</b> Ok, ok, I just thought I would check see how you are doing  6. <b>BN</b> Ja, not doing very well man,  7. <b>LM</b> Is it  8. <b>BN</b> not very well at all, you know.  9. <b>LM</b> hmm  10. <b>BN</b> I am still telling .. I am so shocked man  11. <b>LM</b> Ja sjoe  12. <b>BN</b> And uhh, its still uhh a, its the, the shock you know  13. <b>LM</b> Hmm, hmm  14. <b>BN</b> Uhh, so that is something, that you need to, I need time to work on it,  15. <b>LM</b> Ja  16. <b>BN</b> But we have just been shocked,  a. Our 15? you know  b. I have just been, you know, just been shocked, shocked, shocked, shocked ...  17. <b>LM</b> hmm  18. <b>BN</b> all the other stuff went the way we had sort of talked about :t  a. If you remember I tell you we would probably get 5 – ne  b. we got all the 4 we got the 4 that we had said were were going to get...  c. Uhh, and, but the way we lost in the provinces where we were going to lose  d. It is still even now it is just something that I can't explain,  e. I don't understand it, you know, I just don't understand it  19. <b>LM</b> Ja  20. <b>BN</b> and I can't find that there are only 9 people in the whole province of Natal...  a. It just does not make sense  b. I mean 26? in Mpumalanga, it does not make sense  21. <b>LM</b> 26  22. <b>BN</b> it does not make sense at all  23. <b>LM</b> ... Gauteng?  24. <b>BN</b> Well the Gauteng is fine, I don't know we can, that one we can turn around  a. that one is not, uh, it is not a train smash there  b. quite a number of branches that we can turn there  c. so Gauteng is easy to turn, that one we can we can turn around  d. Gauteng, and Northern Cape, we turn around –  e. Northern Cape, uh, we would have won, but those guys cheated  f. And the number of votes they cheated is exactly the number that we lost</p>	<p>Discuss ANC provincial nomination conferences held the previous weekend</p>

- by
25. **LM** hmm
26. **BN** So that 1 is not a big deal, it is a small province
- a. And so we, that 1 we will turn around
- b. Northern Cape and Gauteng we will turn around –
- c. That one we are not bothered about it
27. **LM** Hmm
28. **BN** Its, its the, its Mpumalanga and Free State and Natal man
- a. that is giving us a real problems,
- b. I am, it shocked the system
29. **LM** Ja it is
30. **BN** hmm, we knew we were going to lose, but we did not think that ...
- a. And it is obviously, it is not natural Leonard
- b. you have, when you have your president being rejected
- c. by such a huge majority in a province like that
- d. You would find, I mean, if you find for example that ...
- e. If you look at all the other provinces,
- f. you can see that people have a difference of opinion,
- g. difference of views right
31. **LM** Yea
32. **BN** And it is normal, but that one is not normal
- a. It is clear that uh
- b. it is like somebody wanted to seal in??
- c. all the ballot papers and then returned them in ??
33. **LM** There is something wrong there – and also , that is my first reaction, there is something wrong
- a. My reaction was two fold. it is either that the one side
- b. deliberately is obfuscating the issue, by saying, no go and vote
- c. in droves against this guy - the real picture will emerge at the conference
- d. or these guys cooked the books ... and I agree with you xxx
- e. absolutely .. something very, very ugly
34. **BN** In Natal, I mean, the comrades did say to them that look guys
- a. vote for this guy know on the first round, don't show your hand
- b. don't show your hand because these guys
- c. might disqualify you from attending the conference
- d. So one can understand it, but really, not to this extent
- e. But you can't explain 15 in Mpumalanga, it is just not ..
- f. there is something there is something that we just don't understand
- g. so we are trying
35. **LM** Who's auditing and verifying the results
36. **BN** You don't need anything like that it is here the people
- a. Was just can be able to know who must be get into the ballot paper
37. **LM** Hmm
38. **BN** so that voting is not that critical except that it shows you the trend
39. **LM** Its shows what
40. **BN** It shows the trend
41. **LM** Ja
42. **BN** I mean take the bloody Women's League,
- a. There is a decision that there must be 50 50, right
- b. So in the top 6 there must be 3 women and 3 men, ok

- c. Are you agreed?
43. **LM** Yes
44. **BN** So, there must be this 50 50 quota, there is a 50 50 quota
- the **NEC?** has taken that decision
  - Zuma's?** slate, they only have 2 women in the top 6
  - you understand, only 2
45. **LM** hmm
46. **BN** The women go and vote against women, they have just voted now
- They put in, Zuma got 29 Mbeki got 25
  - Kgalema got 26, Nkosazana got 24
  - The women's league voted against the women as deputy president
  - Can you believe that
47. **LM** SJoe
48. **BN** and voted to put in more men that the **books?** more women
- And that's the Women's League for you
  - There is something wrong there
49. **LM** So I understand
50. **BN** In fact something seriously
51. **LM** I thought they were they were they were pro president – that what it read
52. **BN** They were last week laughs, last week they were, today they've changed
53. **LM** shit
54. **BN** because they have seen the winds
55. **LM** hmm
56. **BN** So you're the only one who can just save this country from its madness
57. **LM** hmm
58. **BN** You know
59. **BN** I just can't believe this thing, I really can't believe it, man, I don't know,
- So, so we are all busy now doing some soul searching
60. **LM** Hmm
61. **BN** And a, and then the ...
62. **LM** And what does the big man say, is he orraait? Mbeki?
63. **BN** I don't know,
64. **LM** Hmm it is very spoken to? **spooked?? (indistinct)**
65. **BN** hmm I went to a **(indistinct)**, I want to, I will try to call him later tonight, Mbeki?
66. **LM** Hmm
67. **BN** he's been in meetings the whole day,
68. **LM** Is it Mbeki?
69. **BN** At Shell house of all places (laughs)
- Ja, ja **that?** something
70. **LM** hmm
71. **BN** ja
72. **LM** Ja, no, I thought just call, hear how, how you are doing
73. **BN** no I am not doing very well, man
- I am not doing well, too,
  - I am not doing well my brother,
  - I am not doing well
  - So, I am now going to compete with you for that job at the World Bank
74. **LM** laughs
75. **BN** so you had better not talk to me about it
76. **LM** ja, I just put up as a reference, you might compete

<p>77. <b>BN</b> I am going to compete with the <b>views?</b>, you know</p> <p>78. <b>BN</b> You know I got uh, I am saying this confidentially</p> <p>a. I got a call from Charin de Beer today</p> <p>79. <b>LM</b> Yes</p> <p>80. <b>BN</b> She, she wants to leave the NPA</p> <p>81. <b>LM</b> hmmm</p> <p>82. <b>BN</b> what happened, do you know?</p> <p>83. <b>LM</b> no, I have no idea. I think there is just a lot of people who are disillusioned with the events of the last 3 months?</p> <p>a. No, there is more, it is not only her I am saying. <b>(indistinct)</b></p> <p>84. <b>BN</b> ja, that's terrible man</p> <p>85. <b>LM</b> Ja</p> <p>86. <b>BN</b> hmm, ja that's really not good ?</p> <p>87. <b>LM</b> where you this week, up in Gauteng?</p> <p>88. <b>BN</b> Ja, I am in Mozambique, are you on leave,</p> <p>a. I am supposed to be in Mozambique on Wednesday</p> <p>b. are you in Gauteng</p> <p>89. <b>LM</b> I took leave you said I should, I am down Cape Town down here at my flat</p> <p>a. I asked one of my, my sound engineers to record</p> <p>b. some special music for you and your wife you know</p> <p>90. <b>BN</b> Ja</p> <p>91. <b>LM</b> Do you know <b>Lillian ??</b></p> <p>92. <b>BN</b> Oh ok</p> <p>93. <b>LM</b> <b>Quality ???, nice songs, some excellent quality. sounds great (indistinct)</b></p> <p>a. But I will call you when I am up there again</p> <p>b. At this stage my flight is on Thursday</p> <p>c. I did what you said I should do I must say</p> <p>94. <b>BN</b> you did right, right thing</p> <p>95. <b>LM</b> up until Friday, the, the,</p> <p>a. then I received a strong memorandum to say charge and charge now</p> <p>96. <b>BN</b> Friday</p> <p>97. <b>LM</b> Ja, no this Friday, the team says we have been fucking around</p> <p>a. with this thing, and we are allowing ulterior considerations to play in</p> <p>b. And it will become an impossibility later</p> <p>c. we must take action and deal with it and "finish and klaar"</p> <p>d. as Jackie Selebi said,</p> <p>e. but, that's another story; we will talk when I see you</p> <p>98. Bye</p>	<p>DPP in Jhb at the time</p> <p>Appears BN requested that LM obtain the view of the team to bolster the argument should it be decided to proceed sooner</p>
<p><b>7. 6.12.07 11h07 LM BN 083 401 0030</b></p> <p>1. <b>BN</b> Congratulations</p> <p>2. <b>LM</b> with what</p> <p>3. <b>BN</b> on the landlord</p> <p>4. <b>LM</b> Laughs, no</p> <p>a) No the landlord, he says he is not</p> <p>5. <b>BN</b> but congratulations, nevertheless</p> <p>6. <b>LM</b> No thank you</p> <p>7. <b>BN</b> At least you got him, you know</p> <p>8. <b>LM</b> I should not be credited for any of this by the way, I did not</p> <p>9. <b>BN</b> is this the beginning of things now, are things beginning to roll</p>	<p>Agliotti</p>



10. **LM** no, I don't know enough of it, you see, um,  
 a) I hope, I hope this is not the way it is going to pan out  
 b) I first want to take a long hard look at this matter  
 c) But as you know, I am on leave till Monday  
 d) In the real sense, I don't involve myself with
11. **BN** that's good, very good  
 a) This fellow has agreed to a term of imprisonment
12. **LM** Who is it
13. **BN** Glen Agliotti
14. **LM** No, no, no, no, no, I think his prison terms has been suspended,  
 a) and he pays that money to the asset forfeiture unit and a big fine
15. **LM** ahh
16. **BN** Oh, ok, how much
17. **LM** I think he's paid half a million altogether
18. **BN** Ah
19. **LM** On suspended for 10?
20. **BN** On condition
21. **LM** .. that he testifies against anyone in relation to the drug case
22. **BN** Ja, ok, ok, haai, haai well done at least you got him
23. **LM** you well otherwise
24. **BN** no, no, otherwise we well man
25. **LM** How was your trip
26. **BN** no, it was good, I was thinking about taking my family there you know
27. **LM** Mbali ?? (Zimbali?)
28. **BN** Ja
29. **LM** it is brilliant man  
 a) And your visit to Sun City was good
30. **BN** ja, ja, ja, ja it was nice, there going to see the golf for 2 days
31. **LM** ja
32. **BN** I am sitting in Kimberley
33. **LM** What you are doing there
34. **BN** I am running a workshop here on human rights, it is my spousal duties  
 a) It is coming at bad timing, I need all the time I have to do other things  
 b) Do you have contacts here
35. **LM** oh, I only really know Steven
36. **BN** Oh, Steven Majiedt,
37. **LM** Ja, Steven Majiedt,  
 a) and the one guy the one guy ou Abrie that you nominated to ah .. you did
38. **BN** I remember,
39. **LM** He is still there
40. **BN** I remember, ja I remember,  
 a) no I am thinking which delegates I can go and see,
41. **LM** Which what
42. **BN** Delegates,
43. **LM** Uh
44. **BN** who can take me to delegates, you understand ?
45. **LM** oh I see, ja, no, no, no I, I don't have sufficient contacts there,  
 a) the one guy who might be a contact we are on verge of charging,  
 b) so I don't know
46. **LM** Maybe that is the one we should go for( laughs), that will give us more

<p>votes</p> <p>47. <b>LM</b> Ja, ja</p> <p>a) Your earlier view still stand by the way</p> <p>48. <b>BN</b> You know, we were very complacent Leonard</p> <p>49. <b>LM</b> hmm</p> <p>50. <b>BN</b> We did not understand the inroads this fool has made</p> <p>a) He has just about bought everybody</p> <p>51. <b>LM</b> With money from whom</p> <p>52. <b>BN</b> ahh?</p> <p>53. <b>LM</b> With money from whom</p> <p>54. <b>BN</b> Hey man, from everywhere, ogh, time, hey from everywhere boet</p> <p>55. <b>LM</b> Hmm</p> <p>56. <b>BN</b> Ja, so, hake broer, are you in Cape Town</p> <p>57. <b>LM</b> No, no, I came back remember</p> <p>a) I came back for the weekend and I am in Pretoria</p> <p>58. <b>BN</b> Oh, ok, I will chat to you - let's meet over weekend</p> <p>59. Ok</p>	
<p><b>8. Wed 12.12.07 10h15 SMS exchange BN &amp; LM</b></p> <p>1. <b>10h20 BN</b> what time are you filing ?</p> <p>2. <b>10h24 LM</b> we're stretched. It has tripled in size now. Likely to file tomoro afternoon or Friday-morning only. what's up ..?</p> <p>3. <b>10h29 BN</b> The sooner the better. Not later than tomorrow. It will assist a great deal</p>	<p>NPA's reply to Zuma leave to appeal SCA search warrant judgement to Con Court in. It was due on 14 Dec.</p>
<p><b>9. Wed 12.12.07 10h41 LM to BN 083 441 0030</b></p> <p>1. <b>BN</b> yes sir</p> <p>2. <b>LM</b> Fill me in</p> <p>3. <b>BN</b> Huh</p> <p>4. <b>LM</b> Fill me in we should be one of</p> <p>5. <b>BN</b> laughs</p> <p>6. <b>LM</b> We must have one of those Yengeni nights – remember we said we will not leave this fucking hotel until this thing is done, done</p>	<p>Reference to a meeting with Yengeni's lawyers re plea bargain</p>
<p>7. <b>BN</b> until its done, this is one of those</p> <p>8. <b>LM</b> hmm</p> <p>9. <b>BN</b> Because if this thing comes out the way we discussed yesterday,</p> <p>a) those key issues, right</p> <p>b) it, it, it can be a devastating one for them,</p> <p>c) and it will cause people to wake up</p> <p>d) and to know what they are actually doing</p> <p>e) without being dramatic, without you making any arrests,</p> <p>f) it will say, this is what we have this is what we have,</p> <p>g) and we are forced to state it now so that people must,</p> <p>h) people will wake up and say look, let us think what are we doing</p> <p>10. <b>LM</b> ja, I think, you know, Friday, by Friday people are packing their bags,</p> <p>a) they won't even read the fucking newspapers</p> <p>11. <b>BN</b> That is the thing you see, that is the thing,</p> <p>a) that is why it would have been good if it could come out today (ie Wedn)</p> <p>12. <b>LM</b> Today is difficult, I will I will call a Tony Yengeni night,</p>	<p>NPA reply to application for leave to appeal to the Con Court.</p> <p>Need to file it earlier to make greater impact on delegates to Polokwane.</p>

<p>a) we are not leaving here until we finalise this tomorrow morning. b) and file by lunch time and give it to the media,</p> <p>13. <b>BN</b> Excellent, ok, ok, ok 14. <b>LM</b> Orrait 15. <b>BN</b> You made my day 16. <b>LM</b> Enjoy your holiday, uh 17. <b>BN</b> This place is nice, you know, I have never been here 18. <b>LM</b> where is that, can I join you 19. <b>BN</b> at this thing, Grand Roche in Paarl 20. <b>BN</b> In Paarl, no, it is class, you know when I still used to work in Cape Town a) Frank Khan used to speak, that that is b) They used to call this place the grand old, old lady or something c) He thought that that was the best place in the whole of the Western Cape 21 <b>BN</b> it fucking is 22. <b>LM</b> that place is there to sit there and eat there on that stoep, 23. <b>BN</b> I am sitting here on the stoep now .. wonderful place 24. <b>LM</b> There is nothing to beat it no 25. <b>BN</b> And you watch all those mountains around here a) To think that I spent 2 years of my life just across the road here 26. <b>LM</b> I can't believe it 27. <b>BN</b> 2 years of my life, I never saw this place 28. <b>LM</b> you never saw it 29. <b>BN</b> no 30. <b>LM</b> They say it is in the same league as the Mount Nelson, if not better 31. <b>BN</b> It is absolutely, it is beautiful, very nice, you know, very nice a) Ok boet 32. Sharp 33.</p>	<p>Former DPP in Ctn.</p> <p>He was in prison in Paarl</p>
<p><b>10. Thurs 13.12.07 12h20 LM to BN 083 441 0030</b></p> <p>1. <b>BN</b> Hi broer 2. <b>LM</b> What is the mood like? - 3. <b>BN</b> Is it out? 4. <b>LM</b> no, no, no, no, I am just checking the pulse of securities? a) You know, I thought I would give call you once a day, twice a day b) even while you are on leave, to hear whether the position has not changed c) But that thing will only be filed tomorrow morning, man d) I can only get so much out of these people</p> <p>e) What was Tony's advocate name at the time f) We sat in the hotel and worked out the plea, g) he was from the Eastern Cape, man, I actually liked him</p> <p>5. <b>BN</b> Where did you sit 6. <b>LM</b> Remember, you and I sat in 2003 in a hotel with Tony Yengeni's advocate 7. <b>BN</b> Vuyo Notshe 8. <b>LM</b> Ja, the Notshe days are over. We can only get so much out of these guys. a) We sat last night till 10 past 11</p>	<p>Cont discussion about Con-- Court papers</p> <p>position or script appear to refer to whether Zuma should be charged before or after Polokwane Yengeni</p>

b) And by then Steinberg decided wants to go home	DSO
c) And the Kid wants to start his leave because his mother is at the end of her life and he wanted a last holiday with her	prosecutor Billy Downer DSO
d) And one of Du Plooy's were on leave	Investigators
e) And Trengove is on leave	NPA Counsel
f) And I sat drafting with one advocate and we probably finished half of it now	
g) Salmon must look at it, and Trengove said he wants, it is so important,	NPA counsel
h) he would like to see it before it goes in	
i) because he must argue the damn thing, which is fair	
j) So we will probably only file tomorrow at about I think 10 to 1 they said,	
k) we got a date for 10 to 1 with the Registrar	
9. BN ok how does it look?	
10. LM it is ugly, really ugly, its ugly,	
a) but you see what you need is someone who could nitpick and read through all that shit of 212 pages, and just get to para 79 ...	
11. BN Can I get a draft, can you deliver a draft at my place?	
12. LM Where are you know?	
13. BN no, I will be in Johannesburg	
14. LM Ok, you will be back, ok	
15. LM I thought you said you are starting your leave and you will be there	
16. BN Ja but it is part of my leave	
17. LM I was actually coming to Cape Town to see you, but ok, no, no its fine,	
18. LM I will get, I will rather come myself, I don't want to take changes	
19. BN No, because I will get there late tonight,	
20. LM no I will wait for you, or call me when you are here,	
a) or I will see you first thing in morning.	
b) Or you come to me, I don't know, but I, I don't want intermediaries here,	
21. BN ok, you're right, you're absolutely right	
22. LM ja you know, Zuma will say we are conspiring against him	
23. LM can I ask, and the script has not changed yet?----	
24. BN Ja, no	
25. LM because I really feel like going to Polokwane and charge him there	
26. LM laughs	
27. BN What is the circus that was taking place yesterday with oboet?	Selebi: there were rumours that he was being arrested after NPA announced the review team had completed its work
28. LM I don't know, I will never know, try to	Acting NDPP
29. LM and then Mpshe and them get into cars and drive to the court	
a) and peep through dark windows and then the media snaps them	
b) And then Mpshe, you know the lure of publicity has destroyed many a man and woman	
c) My wife said to me last time, if it was you, he would have driven,	

d) Because Mpshe was at a breakfast, e) Mpshe was at a breakfast for his former PA Chevonne f) And from there he went to have a quiet little chat with a few senior police officers g) Then he drove via the court, and then he drove to Oubot's house	Selebi
30. <b>BN</b> To do what 31. <b>LM</b> god ask me, so, ja, it was really, a) so, ja, it was really, someone should be made mampara of the week, b) I just don't know who c) But it really is bad d) The president said I must speak to Fenal e) and just ask them to quiet down a little, which I did f) But I mean, it doesn't .. g) We are doing more damage to ourselves than the Mail and Guardian, h) we are just fucking things up ourselves	Editor of M&G?
32. <b>BN</b> That's true, that's true, absolutely true, you know, that's true 33. <b>LM</b> I met with her now and I conveyed those sentiments a) She said Leonard, it is not your guys speaking, I would tell you if its your guys speaking to us, we have our own sources b) But the problem is that your department, your ministry, and between your ministry and Mpshe, they are fighting so much, c) That we are having a field day d) You inflict the damage yourself, don't blame us ?	
34. <b>BN</b> That's true 35. <b>LM</b> she says we are being kind to you because we know a) you are strong guy there, b) you don't talk shit, umm, there is nothing controversial about you, c) But as for the rest, don't blame us if we if we d) if we ridicule them a little because they are doing it to themselves	
36. <b>LM</b> she said she had an interview with the president yesterday 37. <b>BN</b> Who 38. <b>LM</b> Ferial 39. <b>BN</b> Is it, o, that's good, that's a good one 40. <b>LM</b> One with president and one with Trevor 41. <b>BN</b> He is also doing, the president is doing City Press tomorrow 42. <b>LM</b> Well, is it, it is important 43. <b>BN</b> ja it is very important 44. <b>BN</b> Can you tell me something, how was Nkosazana this morning 45. <b>LM</b> Shocking 46. <b>BN</b> No 47. <b>LM</b> Jissus, shocking a) That's why I sent SMS b) She could not say what the fuck she stands for c) She was tentative, vulnerable, insecure, took long d) you know with the media, you are famous for 15 minutes e) when the guy asks the question, f) you must be you must be very, very sure about what you want to say, g) You must be assertive, you must be confident, h) You must sound intelligent, i) you must sound like someone who wants to be a president for gods sake	

<p>j) and I did not see that, none of that  k) I did not hear any of it, after 7 minutes I switched off  l) I realised it was a lost cause  m) She should rather have said nothing  n) She's done herself, and I think that whole initiative rather a some day?  o) Oh, I don't know, maybe it got better during the day, I heard on the 11 o'clock news that  p) She said if she is nominated to be president, she will take it, so what  48. <b>BN</b> ah, she did not say who she will support  49. <b>LM</b> No she's shocking man  a) I don't know what the president's line is on this, but, a bit disappointing  b) My son was in the car with me, he said, dad switch it off  50. .... discuss LM son for a while  51. <b>BN</b> Ok boet, we will chat then</p>	
<p>52. <b>LM</b> But listen, I, I, I think you guys must just keep your heads open  a) about the "when" factor because  b) I mean we will, we will, we will file our documents tomorrow   c) we will, uh, Mpshe is going on leave tomorrow and I will be acting   d) We will have our section 2e order and our, our ...  e) you know we will have finalized the processing of the decision  53. <b>BN</b> As long as you don't do it this weekend  54. <b>LM</b> If we hold it back, it will be because the clever people like you and others  a) are saying to us that the country needs cool heads  b) but I, I would hate to have be seen to have been wrong later  55. <b>BN</b> just don't do it this weekend, that's all  56. <b>LM</b> no, no, I just say keep an open mind, I don't know how things,  a) you know, these things  57. <b>BN</b> No, not this weekend, whatever,  a) I can't keep an open mind on that, as long as it is not this weekend  58. <b>LM</b> No, no, I won't, we won't move,  a) I am just saying, if things change, let us know  59. <b>BN</b> O ja sure, sure, no, I will do  60. <b>LM</b> it might, I don't know, it might  61. <b>BN</b> It won't change,  62. <b>LM</b> It won't, ok  63. <b>BN</b> It won't change, ja, it won't change, ja  64. Bye</p>	<p>Apparent reference to whether Zuma should be charged before or after Polokwane. Mpshe was going on leave. Refers to the authorisation by the NDPP of a racketeering prosecution</p>
<p>11. 14 Dec 07 10h32 <b>Min of Justice to L.M 083 647 8838</b>  1. <b>LM</b> talks off line  2. <b>LM</b> Minister Hello Minister  3. <b>Min</b> Hi, Leonard how are you  4. <b>LM</b> Orrait, yourself Minister</p>	



- f) but I, I, you know, I mean, I don't know Minister,
- g) if you ask me I would think that I should send you a copy of this affidavit

23. **Min** ok

24. **LM** If I was, if I was the Minister and the NPA

- a) I actually told Mpshe he must tell you about this
- b) Because we don't have a choice, you see, the constitution,
- c) after the SCA gave its ruling on the 8th of November
- d) Mr Zuma was supposed to file his notice,
- e) if he wanted to apply for leave to the Constitutional Court
- f) He has to file that by the 29th, he filed by the 30th
- g) The then Constitutional Court gave us till today to file, so we don't have a choice,
- h) it is just a legal process
- i) But I think I think Minister should have

25. **BM** Ok

26. **LM** the affidavit

27. **LM** Can I get you a draft

28. **Min** But I also, we must find a way that you communicate

- a) that there is nothing that is being done that is being political
- b) or, or vindictive, and that is all you are doing
- c) its some naughty people are
- d) you must condemn what happened yesterday

29. **LM** ja

30. **Min** You must then condemn the hype around what is happening today

- a) That in normal countries it is a normal legal process
- b) And you must explain what it is, you know ..
- c) And that they should not politicise you, you know,
- d) you are responding to a court, a matter that is in court
- e) I think you must be heard to be saying that and Mpshe
- f) And, you know, even if you say it in a backdrop there is NPA Tlali Tali because at the moment it is confusing

NPA media  
liaison person

31. **LM** I must say I am completely unaware,

- a) Minister says there is a lot of hype about this
- b) Because we have not spoken to anyone ..

32. **Min** well, people are not sleeping here, I mean people did not sleep

- a) There is rumours, you have to quash those rumours
- b) And then me and Mpshe is going to that
- c) I am sure everyone is just crumbling
- d) I received calls from people you don't expect calls from
- e) People who are usually very eh minimalist in their emotions, you know
- f) But its the, the, the that the, the, that the..
- g) And if it comes out that you are filing before you guys explain
- h) and you chastise whoever did what they did around Jackie, you know
- i) you need to very strongly dispel, and create an impression that you, you
- j) that you trust that there will be no such interference
- k) so that you give us strength so that there is never such interference
- l) otherwise it is an environment where everything is leaked? out

33. **LM** no, no I appreciate that

- a) But let me ma send, I will get my guys to phone and hear who is driving Minister and get it to Minister in an envelope



- b) And I will wait to hear when you have time  
c) and you can tell me where I can see you
34. **Min** You know what ..
35. **LM** Because Mpshe is going on leave ....
36. **Min** Listen, I am in Limpopo, I am Limpopo bound,  
a) so giving it to me now won't help, what I, a, have done
37. **LM** Is it
38. **Min** I am expecting to have proper meetings with you next week on my return  
a) Where we will, you will even appraise me about processes and stuff like that  
b) You know one thing that upsets the president some time back,  
c) upsets us around uVusi, is that Vusi came banging with things, you know
39. **LM** Yes, laughs
40. **Min** And he does not even have the decency of knowing that a president  
a) Nobody stops you from doing your work, but sensitive things are sensitive things  
b) and that the president, has to, let's say for example, a decision is taken that people are being prosecuted  
c) He has to call a meeting, he has to brief the senior police and say this and this  
d) He has to find a replacement  
e) You can't just come, as if you are not arresting a common thief  
f) and pick up a senior person from the street  
g) The president then, has then find time to go and talk to  
h) because it is about institutions of state,  
i) you don't want to demoralise that and whatever and then  
j) You can't just go  
k) I mean yesterdays thing  
l) When people were telling me  
m) I was saying it will never happen again  
n) They was saying, can you imagine these people gung ho  
o) These people, who are with cameras,  
p) who are going to go and pick up men from the streets  
q) I said that is never happen going to happen, you know  
r) we are not in the wild west
41. **LM** well, I was completely unaware of that thing,  
a) I don't know what has gone on there
42. **LM** but Minister, I won't send affidavit then,  
a) I will wait to here from you when you are back next week  
b) Where are we likely to meet, in Pretoria or Cape Town, where will Minister be ?
43. **Min** Well I will be ...
44. **LM** except, I must be in Durban one day of next week, I must do some planning
45. **Min** One day, well I will be home on the 21st,
46. **LM** 21st, yes so you will be in Johannesburg
47. **Min** I will be in Johannesburg on the 21st,
48. **LM** Ok, orraait, I will then mah wait to hear from Minister
49. **Min** Yes, but I think dispel all these rumours please ne,
50. **LM** We will do that, we will do that

Pikoli

<p>51. <b>Min</b> thank you very much  52. Keep well</p>	
<p><b>12. Friday 14.12.07 10h53 Lm to BN 083 441 0030</b></p> <p>1. <b>BN</b> Yes sir</p> <p>2. <b>LM</b> are you in position where I can drop something off  a) or send someone to drop something off for you</p> <p>3. <b>BN</b> if you can drop it at home, I am not there yet,</p> <p>4. <b>LM</b> No, no, no</p> <p>5. <b>BN</b> do you want to give it in my hand?</p> <p>6. <b>LM</b> well the one thing is an 8 pager, which you should read because the rest</p> <p>7. <b>BN</b> Sorry</p> <p>8. <b>LM</b> I am saying the one thing is an 8 pager, which you should read it, it deals with whatever is new and, a,  a) The rest is just a regurgitation of same shit we have heard for the last 3 years  b) Our minister called, she is obviously very antsy  c) She says people are talking there's rumours  d) And eih we must, do we know what we are doing  e) I said I can send you a copy of the full 166 page affidavit  f) She says, no, no she doesn't want that  g) She is Polokwane bound she will only see me when she is back  h) But then I must make public statement to dispel the rumours  i) I said I don't know what rumours you are talking about  j) We have, haven't done anything  k) What we are doing now is part of a court process  l) They applied for leave to appeal to the Constitutional Court and we decided answer  m) I am saying, they applied for leave to appeal to the Constitutional Court  n) and we must answer and we are answering by today</p> <p>9. <b>BN</b> Yes, yes</p> <p>10. <b>LM</b> So, anyway, I don't know why everyone is so nervous  a) And that I also just wanted to send you, your Christmas gifts,  b) you must tell me when you are home, man</p> <p>11. <b>BN</b> Ja, no, let's give them Sunday</p> <p>12. <b>LM</b> ja, but I need to get, I wanted to get this thing to you, you know</p> <p>13. <b>BN</b> I want to get that thing but you are refusing to drop it at home</p> <p>14. <b>LM</b> But I can't leave it in envelope with drivers and things, no, its too risky.</p> <p>15. <b>BN</b> Ok</p> <p>16. <b>LM</b> It is either my guy drives to wherever you are  a) and give it in your hand, which can also</p> <p>17. <b>BN</b> it would not be possible, I am in East London right now</p> <p>18. <b>LM</b> Ok</p> <p>19. <b>BN</b> For this thing of benefit of Makhaya Ntini</p> <p>20. <b>BN</b> I am just flying in here now</p> <p>21. <b>LM</b> we can also fax it to you,</p> <p>22. <b>BN</b> you can, ok, wonderful, I will give you a fax no,  a) give me another what, I'll, in 30 min</p> <p>23. <b>LM</b> but you must physically stand there and wait for it</p> <p>24. <b>BN</b> I will, I will be there, that's why I said 30 minutes</p>	<p>LM sends a short summary of key newsworthy issues to BN for apparent distribution to the media</p>

25. LM Ok	
26. BN I will be next to it in 30 minutes	
27. Bye	
<b>13. Friday 14.12.07 12h03 SMS BN to LM 083 441 0030</b>	
1. BN The fax number is 0406532223. Thanks.	
<b>14. Friday 14.12.07 12h32 SMS BN to LM 083 441 0030</b>	
1. BN I am standing next to a fax machine. Hope you wont forget me.	
<b>15. Friday 14.12.07 12h43 SMS BN to LM</b>	
1. BN at 12h43: Got it Thank you very much.	
2. LM at 12h56: Hold on to it for a while, until ..	
<b>16. Friday 14.12.07 13h08 LM to BN 083 441 0030</b>	
1. LM talking in office: where is Tlali, call him quickly, must see him before I go	NPA
2. BN yes sir	spokesperson
3. LM I just wanted to say its been filed,	
a) so it is ok you can show it to a guy on the beachfront too, I am told	
4. BN Ok	
5. LM and it filed in court, anyone can access it –	
a) it is filed with the Registrar of the Constitutional Court	
6. BN It has been filed already	
7. LM Just now, I just got an SMS 5, 3 minutes ago	
8. BN Ok	
9. LM But the other thing, I am worried I may not see you on, over weekend,	Bulelani
a) I am just going send your wine there to your house ne	
10. BN no, no you must still give me, remember, we must meet, because you must give me what you want for Christmas	
11. LM If I must start drawing up a list, I will bankrupt you, so	
12. BN sorry	
13. LM If I had to start drawing up a list, I am going to bankrupt you, so a	
14. BN Give me a list of things that I will choose from	
15. LM Ok, well I ...	
16. BN I know a person at your stage and at your level we don't buy things	
a) because they need, they buy them because they like them	
17. LM No, no my problem is a person of need right now	
a) But I will think about it and let you know	
b) Send the guys to drop your things off there	
18. BN Don't send it, I will come and collect it. Are you leaving ?	
19. LM I am meeting German advocate in Cape Town on Monday, ...	Thomas Hausen
20. B u leaving on Sunday –	?
21. LM I'm leaving on Sunday –	
a) and then from Cape Town we are going to Durban	
b) um, it is a long story	
22. BN Where are you new year's eve	
23. LM Then back in office	
24. BN Where are you new year's eve	
25. LM that is, what it is on 31	
a) You know everyone is going on leave, so I am acting NDPP So I am here	

in Pretoria

26. **BN** You are not in Cape Town, I am going to do a party in Cape Town on the 31st

27. **LM** No, no I have got an extended family you know.

a) I actually wanted Margaret and everyone to go with me, let's go away,

b) the upshot of all that we don't have money, no 1

c) No 2 you said I must take all my leave, so I took my leave and now I must suffer for it

28. **BN** let me call you when ... people are making a noise here

**17. Sun 16 Dec 2007 19h04 LM to Faeik Davids**

1. **FD** Ja

2. **LM** ek weet nie wat die SMS beteken nie

3. **FD** explains

4. Soccer discussion for 1 min 30 sec

5. **LM** I am in Cape Town in my flat, don't have a TV

6. **LM** As Liverpool wen, dan kan Thabo Mbeki dalk opkom

7. **FD** Het ek jou vertel Lennie, uh, ek was gister daar in East London.

8. **LM** ja

9. **FD** ek en Willie, toe kom ons, toe kry ons vir Homer man

10. **LM** o ja, homer is mos daar ja

11. **FD** Homer, hy het mos daai Ntini game gaat kyk, ne

a. Dis fantastic ~~xxx~~ ...

b. Maar, sy kop het mos kleiner geraak, ne, sy kop is nie meer so groot nie,

12. **LM** Dis waar, sy, kop, dis van stress, dis van stress oor sy toekoms

a. Hy nou mos as Zuma wen, moet hy eerste uit land uit is, en ek tweede

13. **FD** kyk hier, wat gebeur't het, is uh, hier is, hier is die game mos nou

a. Ons gaan watch 'n bietjie,

b. Sorry, waarvan praat ek

c. ek het die game so half gewatch die Vrydag aand

d. toe kry-ek nou, nou vir Homer—

e. ek hou dit 'n bietjie light, man,

f. praat 'n bietjie golf hier en daar en dit en so aan

g. Kom ou Willie in business lounge en sit ou Willie saam met ons

h. Ek sit ...

14. **LM** Waar is julle nou, waar is die game

15. **FD** Die game het ek die vorige aand gewatch

a. Maar vergeet die game

b. Ons is nou in die business lounge

16. **LM** O, die volgende oggend, die Saterdag

17. **FD** Die Saterdag, ja middag oggend mos nou

a. Nou praat ek en hy 'n bietjie golf

b. En Homer brag nou hy is al 10 handicap

c. Ek se dis kwaai Homer, dis kwaai hoo

d. hier kom ou Willie in

e. En ou Willie sit ook nou daar en ou Willie begin toe besigheid te praat man

f. Ah, toe gee ek mos nou pad,

g. ek wil nie nou weer hoor van die besigheid nou nie

h. Ek weet al wat hy gat se

i. Eerste, die beste, ek sit nog net so half met vark ore?

Apparently FD  
had sent LM an  
SMS re English  
soccer

Hofmeyr and a  
reference to  
Ngouka

- j. Da vat hy vir dinges se Homer
  - k. Willie, wat is verkeerd met die president,
  - l. hoekom staan hy in onse pad as ons vir Selebi will prosecute
  - m. Ek check, au, hier maak die ou 'n poes van homself daa
18. **LM** haai
19. **FD** Toe staan ek politely op, ou Leonard, ek staan
- a. Versigtig toe Homer, uh, Homer, heel dignified vir hom
  - b. My weight is a? Hy praat mos nou saggies man
  - c. Hy se, maar waar hoor jy die president het dit ooit gese die man moenie geprosecute word nie
  - d. Waar het jy daai gehoor, hey
20. **LM** mmh
21. **FD** miskien het hulle 'n nervousness gehad oor die timing
- a. want wie wil nou die election influence, huh, vir die man wat inkom
  - b. toe sit hulle hom mooi op sy plek
  - c. ek sit hom agterna op daai plane nog
22. **LM** ok, wat se hy
23. **FD** vir Willie, ek se Willie waar kan jy soos 'n poes wees om die man daai te vra?
24. **LM** Hey
25. **FD** Hy se, ja, hy se ja, ne, hy het 'n mistake gemaak
- a. En ek se, ok wat die man se antwoord is
  - b. Maar ek het dan vir jou gese laaste keer, waar niemand,
  - c. waar die president die ding wil stop,
  - d. miskien is hulle nervous oor die timing
  - e. Hy se toe, naai, maar hy is heel geworried man, hy so in 'n worry kamer toe
26. **LM** Ma, ma weet jy wat,
- a. hy praat met die verkeerde mense en hy praat uit sy beurt uit
  - b. kyk, ek en hy het 'n weddenskap, ons het 'n weddenskap gevat,
  - c. ek het gese Thabo gaan wen
  - d. Hy was so confident, ne, hy gee vir die ander kant
  - e. of wie ever die ander kant is, odds van 20 to 1
  - f. so as, ek het hom klaar die R200 gegee
  - g. maar hy se toe as hy verloor dan moet hy mos nou R4 200 gee
  - h. maar daai is nou, ok, daai is nou tussen kollegas in lighter way
27. **FD**: ja
28. **LM** Wat hy nou doen is, hy loop en praat met mense
- a. En hy, hy, hy se, hy kritiseer basies Mbeki se campaign
29. **FD**: Daai's die waarheid
30. **LM** Hy vergeet hy is nog in government
31. **FD**: Daai's die waarheid
32. **LM** Hy kritiseer vir Mbeki en se Mbeki must stood out of the way
33. **LM** En hy praat al klaar van hoe Zuma dinge bymekaar sit
- a. En hoe Zuma dinge gaan doen
34. **FD**: Daai's die waarheid
35. **LM** en die moontlikheid is dat uh Zuma uitgeknoek gaan word in elk geval
- a. Maar dan is sy manne nog steeds daar
  - b. En hoe word daar gepraat van Vusi wat dalk terugkom
  - c. En Kgalema Motlanthe wat so vir Vusi back
  - d. En wat, maar ok, van die goed tel hy by ete tafels wat hy wat hy bywoon op

- e. Maar weet jy wat,  
f. he is being painted as someone that's disloyal to this government
36. **FD** hmm
37. **LM** That has walked over,  
a. en dis sinister want dis nie waar nie,  
b. Maar ek se nou maar net vir jou  
c. Just like he has walked to the other side, almost
38. **FD** Maar Leonard
39. **LM** And then he is now actively criticising this administration  
a. En ek meen hy werk nog hierso
40. **FD** Mah ek se, is nie net perception nie, laat ek jou maar iets se  
a. Hy het begin, ne, deur te se hy haat vir Zuma soos die pes  
b. Toe se, toe oor die laaste maand of twee, toe begin hy nou hier, Mbeki  
c. Toe een aand toe se ek, mah, het jy evidence  
d. dat die man iemand anders te doen dat hy 'n Machiavellian is ...  
e. Ons weet hy is, hy's n operator, Mbeki, maar het jy evidence oor die kak?  
f. Hy het my netnou gese,  
g. Nou orrait, ek dink is partly deel dat Mbeki het hom uitgeskop daar  
h. Ma weet jy, maar is waar wat jy se, he is actively 'n Zuma man
41. **LM** (indistinct)
42. **FD** Ons sit dan in die plane toe se ek, nou weet jy ou Willie  
a. Ek het jou nog nooit gese nie maar jy weet,  
b. Ekke sal nooit a Zuma man wees, Zuma ouens support nie,
43. **LM** ja
44. **FD** ek gaan dit nie 'n track record nog die head van die party, national,  
a. van die, van die majority party wees  
b. plus almal daai crap  
c. lys dit net, never mind, wat Mbeki ooit in sy lewe gedoen het tot op nou toe  
d. daai ou is 10 keer beter as Zuma man
45. **LM** ja
46. **FD** anyway, daai, toe praat ons nou  
a. Weet jy wat ons sit in die executive meeting  
b. Nou die dag by onse Exco  
c. Sal die ou nie afsak nie, hey ons moet iemand in kry  
d. wat 'n bietjie favourable is aan die Zuma kant
47. **LM** You're not serious
48. **FD** Ek kyk hom net so aan  
a. Ek se Willie, ek wil nie die issue debate hier nie  
b. ek se ek dink nie dis 'n goeie idee nie, nie 'n goeie idee nie  
c. Toe se hy, naai nie 'n ou wat 'n volle Zuma man is nie
49. **LM** hmm, so 'n in between ~~that's?~~ almost
50. **FD** Ek se ek dink nie dis 'n goeie idee nie  
a. Haai Leonard, daais waar daai ou is, daais waar daai ou is  
b. Daai ou kom nou vir  
c. Weet jy, by elke end of the year function, elke engagement met die staff  
d. Doen die ou 2 dinge  
e. Hy se vir die staff, hy is verskriklik jammer hy het nie baie aandag aan hulle gegee nie
51. **LM** Oh ok
52. **FD** Hy gaan dit reg maak, hy belowe, hy maak dit reg,

- a. En hy wil net vir Faiek bedank vir die werk wat Faiek tot dusver ingesit het,
- b. maar hy is een van die dae terug
- c. Laughs,
- d. ek kyk hom so, ek het net gelag

53. **LM** You can't be serious??

54. **FD** ek het net gelag, Leonard, en dink by myself, jarre ou Willie.

- a. Man, dis waar die ding nou uitkom
- b. maar, anyway, jy moet die game watch

55. **LM** no, I will, I will

56. **FD** Dis 'n warme game

57. **FD** Tot wanneer toe is jy in die Kaap,

- a. ek is, more vlieg ek al, more aand, gaan
- b. kyk hier ons, as jy in die Kaap is en sal darem die een show te gaan kyk,
- c. Joe Barber at least

58. **LM** Is it

59. **FD** Ja XXX

60. **FD** Ny, but tot wanneer toe is jy in die Kaap

61. **LM** Ja, am leaving again on, on Tuesday afternoon

62. **FD** oh, orrait

63. **LM** Bel my as jy hier is maybe we can get together

64. **FD** As jy Maandag daar is, is jy die Maandag aand daar

65. **LM** that's tomorrow night

66. **FD** Ma, ma kom ons maak dit nou so, kyk hier, ek gaan nou vroeg afvlieg,

- a. dan is ek die Maandag aand daar, dan kry ons vir die Maandag aand.

67. **LM** Ok, that's fine

68. **FD** Ek sal you SMS met die details

69. **LM** OK, thanks

70. **FD** Bye

71. **LM** Bye

#### 18. Sun 16.12.07.15h13 BN 083 441 0030

1. **LM** Ja

2. **B** Yes sir

3. **LM** I am just checking how you are doing

4. **B**: no, I am doing great man, are you back

5. **LM** no, no just arrived in Cape Town,

a) Are you around

b) I just arrive in Cape Town, are you, I thought you are still in the Eastern Cape

6. **BN** no, no I am back, I need to chat to you,

7. **LM** how are

8. **BN** No, no they are looking good

9. **LM** Is it

10. **BN** The other thing, thing is bad, man, ne, terrible,

11. **LM** What thing

12. **BN** The conference is very bad, hey, it is extremely divisive

a) The people have bussed, thugs and hooligans

13. **LM** no, I saw this morning and switched off,

a) I just watched the first part, I thought auw

14. **BN** it is, it is depressing,

<p>15. <b>LM</b> people they for their own leaders any more?</p> <p>16. <b>BN</b> you see, they bussed thugs and students in there</p> <p>a) Now, how they think they are going to be able to run that thing</p> <p>b) I don't know, themselves</p> <p>c) The way they behave, nobody can ever say that he is looking forward,</p> <p>d) he wants to identify with this organisation</p> <p>17. <b>LM</b> it is hooliganism</p> <p>18. <b>BN</b> Its bad</p> <p>19. <b>BN</b> It is absolutely</p> <p>20. <b>BN</b> no, we must chat, ne</p> <p>21. <b>LM</b> ja</p> <p>22. <b>BN</b> I had a chat with this fellow now, he's going to call you immediately after conference.</p> <p>23. <b>LM</b> Hmm</p> <p>24. <b>BN</b> I met him yesterday, so I need to chat to you about it</p> <p>25. <b>LM</b> Ja, no, no its fine, ah, when would be good time – Tuesday night</p> <p>26. <b>BN</b> I am in Johannesburg now, then I go to Eastern Cape, when are you coming back</p> <p>27. <b>LM</b> I am only coming back Tuesday afternoon</p> <p>28. <b>BN</b> Orrait, let me see, let me see what I can do</p> <p>29. <b>LM</b> Ok</p>	<p>Mbeki</p> <p>Mbeki ?</p> <p>they probably talked later – see sms below</p>
<p><b>19. Sun 16.12.07 10h57 SMSs between Luciano to LM +44 771 722 7607</b></p> <p>1. <b>LM</b> cats look defeated</p> <p><b>21h25 till 22h23 +44 771 722 7607</b></p> <p>2. <b>LM</b> I've been advised to give ouboet &amp; oujan a break in the interest of SA.... Tenuous times. QV?</p> <p>3. <b>L:</b> O Tempores o mores! Cui Bono? Primus salus pro familia McCarthy et facimus novae vitae.</p> <p>4. <b>LM</b> Don't have a dictio nary, Meaning...?</p> <p>5. <b>L:</b> Tell you when I see you next wk for delivery of Christmas presents!</p> <p>6. <b>LM</b> Too late</p> <p>7. <b>L:</b> Who is asking you?</p> <p>8. <b>LM</b> Highpower. Can't disclose. Gov in po wer (sic). Undertaking.</p> <p>9. <b>L:</b> What did Jesus say? Give to the emperor what is due to him and to the church what is due to her. You serve at the pleasure of the emperor. Any other choi</p> <p>10. <b>L:</b> ce wld mean not serving at the pleasure of the emperor.</p> <p>11. <b>LM</b> I hear you Emperor sir. They're asking for a review.. What</p> <p>12. <b>L</b> Primus salus amicus et familia. That's the motto!</p> <p>13. <b>LM</b> Yea. Threatening to expose no 1 ..</p> <p>14. <b>LM</b> Approach holds ev en (sic) if Lume looses ... (sic)</p>	<p>Andre Pienaar from Kroll, a private intelligence operative close to Mbeki</p> <p>May refer to Mbeki's group</p> <p>Ouboet is Selebi, Oujan is Zuma.</p> <p>may refer to Zuma</p>
<p><b>20. Mon 17.12.07 10h15 to 10h20 SMSs Luciano to LM +44 771 722 7607</b></p>	



1. L: Thought over night – 1. Recommend we help you find 2 sympathetic and credible international lawyers that can join each of the 2 reviews.@	
2. 2. International component important for SA's reputation and your own. If carefully selected will support objective.	
3. 3. In ouboet's case need international component to deal decisively with o sullivan factor. Matter also high profile given K allegations, media interest	
4. and focus on crime in run up to 2010.	Selebi
5. 4. Iro Oujan recommend a comprehensive review is done of ALL MLA and prosecution cases are done flowing from arms deal not just his by review panel with	Kebble ?
6. international lawyer as you originally recommended. Cont@	
7. 5. You can then deal with oujan in context of broader review.	
8. 6. If you are going to do this in interest of SA recommended you request	
6.1 You submit review report to special committee of 4 ministers - justice, intel,	Zuma
9. foreign affairs and safety and security.	
10. Do NOT take sole responsibility. Yr current line management structure will result in sole responsibility.	
11. 6.2 Recommend you come to clear agreement about SAG support for the next phase of yr career including a date.?	
12. 6.3 You are going to need resources incl. special budget because above all the media will have to be managed locally and globally. End.	SA Govt?
<b>21. Mon 17.12.07 10h46 SMS LM to Luciano +44 771 722 7607</b>	
1. Thank you captain. I'll digest. Will see what happens to morrow. We'll talk when you're here. Keep well. Luciano	
<b>22. Mon 17.12.07 19h38 LM to BN 083 441 0030</b>	
a. BN: Hello	
b. LM: Can you speak	
c. BN: Ja, sure	
d. LM: are we actually going to vote or not	
e. BN: Ja, the whole thing start tonight	
f. LM: Is it	
g. BN: Ja, most probably, maybe, ja, they will start in the morning. tomorrow	
h. BN: And we will get the results on Wednesday morning	
i. LM: Hmm, What does it look like	
j. BN: no man, it is looking good, it is looking good ja	
k. BN: I mean their behaviour, their people running?, they are showing what	

they are trying to build.

- l. **LM:** Ja
- m. **BN:** It ahh, It's a, I mean it's a bad,
- n. **BN:** so I am, no I am sitting there at home myself, but from the reports I am getting from the guys they are very confident
- o. **LM:** someone said to me, my barber he he thinks yesterday's events might actually work in no 1's favour because many of the people who were there must say to themselves, hey, if this is the ANC of the future under
- p. **BN:** Exactly
- q. **LM:** Under the other guy, this is not what we had in mind
- r. **BN:** Ja, and then the insult and intended? support, because this was his supporters who were disrupting the conference
- s. **LM:** Ja
- t. **BN:** and, and he sat there quietly, did nothing
- u. **LM:** Ja
- v. **LM:** You know, it's terrible what they did, absolutely terrible, nobody else xxx
- w. **LM:** the worst is this stuff we send out, I have been watching international TV today, all 3 channels carry this, we look like bunch of hooligans man
- x. **BN:** hmm, isn't it
- y. **LM:** Jesus
- z. **BN:** hmm, it's terrible you know
- aa. **LM:** anyway, I just wanted to check with you, you said you were not sure about tomorrow night, because you, you said you might go somewhere
- bb. **LM:** Hello, hello ...

**Cut off**

**Mon 17.12.07 19h41 LM to BN 083 441 0030**

**Calls again**

1. **BN** ...yebo
2. **LM** Sorry I don't know what happened (phone was cut off)  
—a. No, I was saying, I also called just to check about tomorrow night because you said you were not sure if you will be available
3. **BN** No, no, I will be out
4. **LM** Ok then I'll
5. **BN** I am leaving early in the morning for the Eastern Cape  
a. So let's meet early in January
6. **LM** Ok, ok
7. **BN** Unless you are in Cape Town between Christmas and new year
8. **LM** Ja  
a. I will let you know
9. **BN** If we can do that, that's fine
10. **LM** Orrait
11. **BN** We do need to chat, but this one said is going to call you
12. **LM** Ok
13. **BN** when he comes back before he leaves for Christmas ja
14. **LM** no, That fine
15. **LM** Orrait ok
- 16.

Mbeki

**23. Tue 18.12.07 22h10 Mzi Khumalo to Livi New number**

1. **LM** Hello

2. **MK** Leonard
3. **LM** Hello, hello
4. **MK:** Leonard, its Mzi Khumalo, how are you
5. **LM** Orrait, and you Mzi
6. **MK** Very well, xx, you know, the line is very bad, you know,
  - a) this is a bad day for the whole country
7. Both Laugh
8. **MK** It is a bad day for the whole country, but we should all just steady now
  - a) and sit and reflect on what next ?
  - b) For the whole festive season we go through that heh
9. **LM** ja, no I am shocked, I am ..
10. **MK** But this is , ah, its uh, its uh, I was never,
  - a) I was just talking to a few a few comrades now saying you know
11. **LM** Where you now
12. **MK** At my house in Sandton, and you
13. **LM** no, no I am here in Pretoria I was watching stuff on TV
  - a) I was given all these assurances, that scores are being made up,
  - b) that the backlog is being worked away, and the guys are confident.
14. **MK** You know I can't believe the SMSs I have been receiving
  - a) saying no we are winning, and this
  - b) people simply lied to all of us, huh
  - c) You know, I stopped everything, for last 3 weeks I worked flat out on this
  - d) and you know on Ma..., on Saturday on Saturday two weeks ago,
  - e) I went to Bulelani I said to Bulelani, I have been on the road
  - f) I have been talking to people
  - g) You know the level of hatred against Bulelani and the whole newer establishment
15. **LM** Its unbelievable
16. **MK** Its unbelievable man
  - a) You know, you know people were telling me?,
  - b) we don't care if he is your friend or what
  - c) We don't care what the Hefer commission said
  - d) We believe Bulelani worked for the, worked for the state,
  - e) worked for the apartheid state
  - f) The guy was an enemy agent,
  - g) we don't care what uh, what, uh, Hefer commission said
  - h) And I went and told him
17. **LM** You told him
18. **MK** I went and told him, you know, I am a very straightforward person
  - a) I went and told Phumzile, I said you know my sister
  - b) I love you so much we are so close
  - c) But this Thabo's camp has a big, big liability
  - d) It is you and Terror Lekota
  - e) With you two, we are going to lose
19. **LM** oh you told her
20. **MK** ja, I was clear, you know, I was trying to be as circumspect as possible
  - a) Because I felt that if Phumzile and Terror could get out of this list, our chances would ..
21. **LM** things would get better
22. **MK** things were going to get better

Mlambo  
Ngcuka

- a) because I was talking to people in Natal and I said I said you know
  - b) and I told the president
  - c) you know, having Phumzile in the top 6 list
  - d) people believed that it was because
  - e) Thabo Mbeki wants her to be the next president
23. **LM** yea
24. **MK** and they just said, we'll show him,
25. **LM** yea
26. **MK** its never going to happen
27. **LM** Sjo
28. **MK** Its been a ...
29. **LM** no its unbelievable
30. **MK** unbelievable
31. **LM** as you said that that, that you know with all the clever people
- a) In, in, in support of the president and given the resources they have
  - b) and who their opposition is,
  - c) that really, they should be able to beat these guys
32. **MK** oh, no, not
33. **LM** But really
34. **MK** I had, I went and told them that Maharaj was back in full force
- a) They had Mac Maharaj there coordinating the whole thing
  - b) And the whole cabal crowd was back in full force
35. **LM** hmm
36. **MK** they had Mac Maharaj, Zuma will have a cabinet which will include Maharaj
- a) And all those guys the first thing they will do is to pardon Shabir Shaik
37. **LM** What happens next ?
38. **MK** It is going to quite interesting to watch
- a) Well, its, we have only just, not much we are going to do
  - b) Everybody in the festive season, drink, eat and enjoy ourselves
39. both laugh
40. **MK** drink, eat and enjoy ourselves
- a) And very early in the xx, we must sit and talk seriously
  - b) and decide what, what we are going to do
  - c) You know the interesting thing,
  - d) and its going to be a very interesting assessment
  - e) Firstly, Kgalema, who is a guy really they claim who is not Zuma
41. **LM** Kgalema, what about Kgalema
42. **MK** Kgalema knows
- a) and has always accepted that Zuma is going to be charged and convicted
43. **LM** Yea
44. **MK** So he has positioned this thing and used Zuma as a Trojan horse
- a) That Zuma is going to be charged
  - b) Everyone expects in their camp because I have friends in their camp here
45. **LM** Yea
46. **MK** They expect that Zuma will be charged by April next year
47. **LM** Yea
48. **MK** They expect that Zuma will be charged
- a) and that he will convicted maybe by the end of the year
49. **LM** Yea

50. **MK** So then Kgalema will step on to the podium and become the next president:  
 a) So everyone expects that, its ok , Zuma is being used here and people will get rid off  
 b) The question is, does Kgalema try and stay a middle line  
 c) Or he will go, he will continue on this Zuma ticket
51. **LM** Yea
52. **MK** Surrounding himself with thugs and do all these things  
 a) Or he try and will step back and be a reasonable person  
 b) And, and, and stay a middle line
53. **LM** Yea
54. **MK** If I am a betting man, I think Kgalema will dump Zuma  
 a) But he will remain with those guys who put him in power  
 b) He is not going to turn around and ignore them and try to do the right thing  
 c) But I think everyone knows and expects Kgalema  
 d) that Kgalema will be next president  
 e) He may even say that Zuma would be tried, convicted  
 f) and he will then pardon him  
 g) And then he becomes the next president
55. **MK** But amongst the serious people in Zuma camp  
 a) For them, this it is about resourcing, its about this, its about that  
 b) They don't not expect Zuma to be the next president
56. **LM** Are you serious
57. **MK** I know, I talk to them every day, you know  
 a) The reason I went and told Bulelani and Phu  
 b) Because I am talking to the guys  
 c) I knew what is in their minds and what they are saying and what the issues are
58. **LM** Hmmm
59. **MK** So they know, everyone, that is why everyone, even Kgalema  
 a) Did you see the news conference Kgalema had
60. **LM** With Debra Patta
61. **MK** No, no, no today
62. **LM** No I did not see, I travelled back to Cape Town
63. **MK** No, Kgalema, everybody, well Kgalema says the case is wrong?  
 a) but everybody expects that Zuma will be charged
64. **LM** Ja
65. **MK** everyone expects that Zuma will be charged
66. **LM** Ja, no, I did not see it , I saw an interview with Debra Patta  
 a) He did say something about this case  
 b) He says yee, this case will just carry on forever  
 c) It is more than that, so then there is no case  
 d) Or it gets struck off and, and then we charge again  
 e) Or threaten to charge  
 f) And then Zuma takes this legal issue
67. **MK** ja, they are saying it is a the never ending thing  
 a) But he, they all expect that he will be charged  
 b) Even on the whole CNN,  
 c) the whole international media is talking about Zuma  
 d) and the fact that he is facing corruption charges next year
68. **LM** Yea, I saw that, I watched BBC a lot in the last two days

- a) because I just wanted to see how the international media are dealing with this
- b) so I think you are right, let's eat drink ...
69. **MK**: let's eat drink be merry
70. **LM** Did you get wine, the book I sent you ...
71. **MK** My brother thank you so much, you know, thank you so much
72. **LM** I just wanted to be sure you got it, because I know you are a travelling man
73. **MK** ja I have been, no, I did receive, uh, I am ready to drink, well
- a) The wine I kept it among the wine I will drink with special friends
74. **LM** ja no enjoy it, as you say
- a) Let's be merry, and festive and we will live to regroup another day,
- b) let's wipe the blood off our faces.
- c) Hey, I feel bad about it,
- d) my wife says to me you look like you lost your mother,
75. **MK** No, no
76. **LM** I don't feel good about this
77. **MK** Relax, relax, where are you guys going for Christmas
78. **LM** Ag we are poor coloureds, you know, we don't have money
- a) so we will just hang around here in Pretoria
79. **MK** ok, ok
80. **LM** but maybe you and I can meet, have breakfast or something
- a) are you are you going away
81. **MK** ha, I have a, I have a place,
- a) I went to KZN, in, in, I go to KZN, and, and, I am supposed to leave on Thursday
82. **LM** Yes
83. **MK** Ah, to Durban, and then I will be in a farm in Mooiriver
- a) just with regular folks, eating and drinking
- b) and I've got Moss and a few of the guys coming to the farm
84. **LM** Yea
85. **MK** So, it is very easy, so, if you want to get out and meet people,
- a) Drive out, and go xx
86. **LM** Ja, now, I will call you
87. **MK** it is easy, it is cheap you know
88. **LM** Ja
89. **MK** it is easy, it is cheap you know
- a) and some people who think like you could have fun xxx next week
- b) then we regroup early in the year
90. **LM** ja, ja no, I will call you
- a) I may go down to KZN for business reasons, I must see Mr Moerane
- b) But uhm, I will call you, maybe I can meet you there
- c) Maybe we can meet when you are back here in the new year,
- d) we can organise something
91. **MK** I am here I am here until Thursday
- a) But if go down or come down with family,
- b) We will just be having fun between Christmas and new year
92. **MK** Ok, ok, no, I will let you know I will let you know
93. **LM** Thanks for phoning, I appreciate it, keep well
94. Bye

Former econ  
advisor in  
Mbeki's office?

Senior counsel  
in DSO case

<p><b>24. Wed 19.12.07 12h26 SMS BN to LM</b></p>	<p>The morning after defeat of Mbeki</p>
<p>1. <b>BN</b> From now onwards you are on your own. Its imperative that you finalise your future plans pronto.@ 2. <b>LM</b> sorry 3. <b>BN</b> Thanks, it's a sad day for our country</p>	
<p><b>25. Wed 19.12.07 12h26 BN to LM 083 441 0030</b></p>	
<p>1. <b>LM</b> Hallo 2. <b>BN</b> Yes sir 3. <b>LM</b> I don't know what to make of your message, is everything orraait there 4. <b>BN</b> how can you ask that question, a) I mean you, you know the agenda and 5. <b>LM</b> with you personally, I mean 6. <b>BN</b> no, no I'm fine, me, I'm fine 7. <b>BN</b> you know that you are a lawyer 8. <b>BN</b> what else can they do, I don't work for them, a) eh, there are 2 things they can do to me b) one is, is to harass me by detaining me day in day out c) I have been through those things with the regime and I survived that d) I did not run away from this country when the regime was detaining me, e) when there was detention, you know, and eh, no 1 ... f) and No 2, I am not ashamed of the things that I did, g) and I think it was the right thing to do h) so I am going to stand my ground and fight them back ... i) and I don't think they can do anything actually j) it is just that the people of this country are so afraid of crossing the authority k) so that they think they think that they have no rights 9. <b>LM</b> hmm 10. <b>BN</b> and secondly 11. <b>LM</b> And they have gone into conspiracies that they ... 12. <b>BN</b> -exactly, and secondly, that I don't think they-themselves want to do-anything to me, 13. <b>LM</b> Hmm 14. <b>BN</b> they don't want to, they needed me, you know, because they were campaigning 15. <b>LM</b> on your ticket 16. <b>BN</b> on this ticket, of being a victim, that there was a conspiracy a) hatched by Mbeki and he used me to implement that. b) for which he compensated me by giving Zuma my wife's, his, job, 17. <b>LM</b> Yea 18. <b>BN</b> By giving my wife Zuma's job a) They needed that, and the masses, the poor gullible people b) believed that and you know 19. <b>LM</b> Yea</p>	<p>Refers to SMS above and to protect LM for the future</p>
<p>20. <b>BN</b> So, that's where we are at a) What I meant about my message to you was, eh, eh, b) it is important that you sort out where you are going, immediately.</p>	
<p>21. <b>LM</b> Ja</p>	
<p>22. <b>BN</b> And I think that the sooner you get out of that place, the better for you.</p>	
<p>23. <b>LM</b> Umm</p>	

24. **BN** Let them sort out their mess, this is not your responsibility.  
 a) they want to sort out the mess, this is not your, let them sort it out themselves
25. **LM** Ja
26. **BN** Ja  
 a) That what I say
27. **LM** You're right you're right your absolutely right
28. **BN** There is nobody whose going to be out there covering your back,
29. **LM** Hmm
30. **BN** you are exposed completely, and I don't think you deserve that
31. **LM** yea
32. **BM** yea
33. **LM** yea ok
34. **LM** well, ... I am still shocked, I must say this ...
35. **BN** same here, I mean firstly, it was on Sunday that I knew we can't win this thing  
 a) Because you can't have, when I realised those people there that this ...  
 b) 60% of the people who were there are not the ANC members, Leonard,
36. **LM** Sjo
37. **BN** These are not ANC people, ANC doesn't behave in that fashion  
 a) Did you see what happened to the president and Terror and those ...  
 b) That's not, that is not ANC behaviour, that is not us  
 c) The movement has been hijacked, broer,
38. **LM** Hmm
39. **BN** So, this is not the organisation that we fought for, died for, struggled for, went to jail for  
 a) That's not how we do things in the ANC
40. **LM** ja
41. **BN** and we don't this sorts of things  
 a) these are not the values we, we you know that we have, it is not  
 b) So therefore, you are dealing with people who are foreign to our movement  
 c) as the president said  
 d) With a behaviour and people who are foreign to our movement  
 e) And so you can't appeal to those people's conscience
42. **LM** ja
43. **BN** Ja, that's what I meant broer
44. **LM** So its bad
45. **BN** Of course it is, but I am not worried about myself, to be honest with you  
 a) I am really not worried about myself, right, I frankly don't think that  
 b) I mean,  
 c) They can try to harass me but harassment is something that I am used to
46. **LM** Ja  
 a) So its where you are?  
 b) at least you are able to show something
47. **BN** So where you are, at least you should be able to show something  
 a) Absolutely, so harassment is something, it is not something that's foreign to,  
 b) something that I am used to  
 c) I've got a free equal??  
 d) It is not going to be the last time, the first time that is happening, however



<p>48. <b>LM</b> are you saying I should leave this decision  a) and let other people deal with it because I mean  49. <b>BN</b> I never said that. I never said that,  50. <b>LM</b> Oh  51. <b>BN</b> I am just talking about you knowing where you going,  52. <b>LM</b> Ja  53. <b>BN</b> and securing that immediately  a) No, I am just talking about you, I am not talking about your work.  b) I am talking about you - the person  54. <b>LM</b> Ja  55. <b>BN</b> Ja  56. <b>BN</b> Your work is your work, you deal with it, but your person,  a) I don't think you must find a ...  b) You see, me, I am, I can afford, I've got my own businesses, I run my own things, I am independent, I am independent, so, ja  c) and I don't do business with government  57. <b>LM</b> Hmm, hmm  a) No orraait, we will, we will see how things,  b) I mean is the government going to do anything, is it just ...  58. <b>BN</b> Sorry  59. <b>LM</b> Is the government ah, how do you say to, to hustle together  a) and carry on with their lives over Christmas...  60. <b>BN</b> I have no idea  61. <b>LM</b> Hmm  62. <b>BN</b> But I don't think you are likely to see anything emerge now until mid-January,  63. <b>LM</b> Yes  64. <b>BN</b> Ja. because people are going to take off, people are too tired  65. <b>LM</b> Ja  66. <b>BN</b> They are going to take off, go and relax and uh come back in January  a) and see how things pan out  67. <b>LM</b> Ja  68. <b>BN</b> Ja  69. <b>LM</b> Orrait, well  70. <b>BN</b> Ok  71. <b>LM</b> Is there someone at your house  72. <b>BN</b> Ja, the police are there  73. <b>LM</b> Ok, it does not matter  a) No, these guys just wanted to drop off your stuff but we'll keep it until  74. <b>BN</b> No, keep it until new year ...  75. Bye</p>	<p><b>BN</b> <b>LM</b> must still take the decision. Later <b>LM</b> says it was taken that day</p>
<p><b>26. Wed 19.12.07 16h06 LM to BN 083 44: 0030</b>  1. <b>BN</b> Hi broer  2. <b>LM</b> We want to move on Friday, man  3. <b>BN</b> Huh  4. <b>LM</b> I say we want to move on Friday  5. <b>BN</b> ok  6. <b>LM</b> But I mean we have become so accustomed  a) to checking with everyone whether they think it is fine ...  b) and we have a minister who is saying that she is totally physically,</p>	<p>Intend to summons Zuma on Fri 21 Dec</p>

<p>emotionally and psychologically committed to Polokwane</p> <p>c) and from there she is going on holiday</p> <p>7. <b>BN</b> Hmm ..</p> <p>8. <b>LM</b> I don't know whether that other call you referred to will ever come,</p> <p>a) I think these guys feel humiliated</p> <p>b) and the longer we delay, the worse it becomes,</p> <p>c) we make it impossible for ourselves to act</p> <p>d) If the guy wants us to meet and um .. and just do it</p> <p>9. <b>BN</b> hmm, ja</p> <p>10. <b>LM</b> There is a view that we should do some planning with the police for whatever reason,</p> <p>a) but I mean then, involving them is as much as, as good as telling everyone we are doing it</p> <p>b) The guy will know before we even come</p> <p>c) The guys said there you know this ...</p> <p>d) Unclear? deal a week ago with it ...</p> <p>11. Call ends abruptly</p>	<p>Mbeki call ?</p> <p>Mbeki?</p> <p>Zuma</p>
<p><b>27. Wed 19.12.07 18h41 Minister of Justice to LM, later Mbeki</b></p> <p>1. <b>LM</b> Minister</p> <p>2. <b>Min:</b> Yes Leonard, I missed your call</p> <p>3. <b>LM</b> No, ag I just wanted to hear how you are doing</p> <p>4. <b>Min:</b> ok, there is no eh any emergency or anything?</p> <p>5. <b>LM</b> well, there are things I want to discuss with you, including the Zuma case,</p> <p>a) but I am told by Rose that you, it is going to be difficult to see you until the 8<sup>th</sup>.</p> <p>b) And I said well even if it is just an hour, anyway I will come to you</p> <p>c) but she said she will first speak to you and see</p> <p>6. <b>Min:</b> Hmm, And so you know Leonard,</p> <p>a) I was so, I am under pressure here on Jackie's matter,</p> <p>7. <b>LM</b> ja</p> <p>8. <b>Min:</b> how did it go to media know,</p> <p>a) why should anyone report that now they have given the Minister a report,</p> <p>b) and we have taken a decision, what on earth is happening</p> <p>9. <b>LM</b> this is Mpshe and Tlali I said to them on Thursday before I left, can you just say nothing</p> <p>a) Andre Pruis and the police came to see me, they say Leonard how do you people deal with communication, he saw me on Saturday morning</p> <p>b) he said they are not protecting Jacky here</p> <p>c) but the point is there is no reason for you to give a blow by blow account</p> <p>10. <b>Min</b> no, absolutely this? blow by blow account, it just have no clue</p> <p>a) it has put me under such terrible pressure</p> <p>11. <b>LM</b> I can imagine</p> <p>a) I think, you know, between you and me, Minister,</p> <p>b) I think, while Mr Mpshe is on leave, he gets called by the media, him and Tlali</p>	<p>Mpshe had announced that Selebi review panel report with recommd given to Minister</p> <p>SAPS Deputy national comm</p>

Hofmeyr

- c) and they feel pressurised to say something
- d) And I don't know where Willie stands in this,
- e) but it's, it's interesting to me that suddenly this thing have shifted to say
- f) ah, ah,
- g) they are ~~not making to~~ brief the Minister about anything.
- h) They have already, we have already taken decision,
- i) we just need to meet with her
- j) Now this is, ja, I don't know, I really can't account for it
- k) I phoned Tlali today, I can't get hold of him,
- l) his phone has been off the whole day,
- m) I think he is also on leave

12. Min Hmm

13. LM because I wanted to say to him say to him, listen, from now on, return them and refer them to me, I'll just dodge them, say nothing

14. Min: No thanks Leonard umm

15. LM How is it going there

16. Min Ag, its ok, just, just hold

#### Phone is handed to president

17. Pres: er, advocate, how are you?

18. LM I am well, I am well, thank you

19. Pres: eh, do you know who is speaking?

20. LM it sounds like the president?

21. Pres: Yes

22. LM How are you President?

23. Pres: ok, thanks, now I'm, I am eh, eh - you have to choose Leonard now

a) whether you say former president or president

24. LM laughs, You will always be my president, you will always be my president

25. Pres: no Leonard, no, I wanted just to say that

a) eh, eh the Minister told me some time back that you had asked to see me,

26. LM yes

27. Pres: and indeed I had agreed, but then I, you know,

a) you, you see my busy-ness, I get so busy, up and down and so on

28. LM ja

29. Pres: And she indeed reminded me about it, and I, I said to her no,

a) Eh eh as soon as we come back from here, before I disappear

b) on some short holiday, ok, I'll, I will try and, and track you down

30. LM Yes, no that is fine president

31. Pres: Is that ok

32. LM Ja that is fine, I will be right here in Pretoria?

33. Pres: Oh, ok

34. LM I can come to wherever you want me to come

35. Pres: oh, ok, orraait, switch? I should be able to call you back on Friday

36. LM ja, no, I will be here

37. Pres: Orrait, ok, no, just hold on, ok

Phone is handed back to Minister

38. Min ok, Leonard, please guys, don't do anything that is funny

39. LM No, no nothing will happen that why I wanted to see Minister that

a) Just to know whether I can have an hour please

b) I don't want to make your life difficult

Arrange to  
meet on Friday

<p>40. Min: I am out of town</p> <p>41. LM Come please,</p> <p>42. Min: Ok</p> <p>43. LM give me an hour, orraait. But call me</p> <p>a) I really just called to say, I wasn't going to talk about any of this</p> <p>b) I sincerely just wanted to know how you are doing</p>	
<p><b>28. Thur 20.12.07 9h36 to 12h50 SMS LM and Luciano +44 771 722 7607</b></p> <p>1. L: what time would be convenient for me to bring Christmas presents tomorrow morning?</p> <p>2. LM Court Classique, c/o Schoeman &amp; Beck ett, Arcadia.</p> <p>3. L: I will be there. See you at 9. Thanks !</p>	Unclear if presents??
<p><b>29. Mon 24.12.07 11h49 LM voicemail to Fanie Davids +2782 467 4016</b></p> <p>1. LM Davids, uh, McCarthy here, give me a ring please, you send me 'n gevaarlike sms nogal hier voor Christmas. No, I am Thabo man, I mean we are still wiping the blood from our faces, or the egg, or egg and blood. Saw the man on Friday evening, we planning a comeback strategy Lennie. And once we have achieved that, we will clean up all around us my friend. Bye</p>	Mbeki

**30. Sat 29.12.07 21.23 Minister of Justice to LM 083 647 8838**

1. **LM** Minister
2. **Min** Leonard, how are you
3. **LM** Orrait and you
4. **Min** Ja, no, I am ok
  - a) just two things or maybe 3
  - b) you know, I still have not looked at, at what you have gave me
  - c) that dossier, the DVD, anything, anything
  - d) there is a DVD there, is it a DVD
  - e) what is the story about that thing
5. **LM** no, no remember now
  - a) since I spoke to you in Cape Town about my own intentions for the future,
6. **Min** ok
7. **LM** I then met with president
  - a) And I wanted to give Minister feedback about that on the 28th
  - b) but then we could not meet
  - c) so that that is really just a memorandum requesting ...
8. **Min** I tell you something (or tell me something), I do know now that ' need to meet you on a number of issues
  - a) We will have to see, I don't know when
9. **LM** Ja
10. **Min:** but listen, 2 things,
  - a) The 1, you know, umm, umm, the heat is on
  - b) you see, I did ask uh Mpshe, ne,
11. **LM** yes
12. **Min** Because you know, you sit in the NEC, and you know those things
  - a) I did say to Mphse, Mpshe, you know what, there is no way
  - b) that people will accept as fair if you guys don't go to prosecute sooner,
13. **LM** Ja
14. **Min** not like immediately, but sooner,
15. **LM** Yes —
16. **Min** otherwise they will read conspiracy, and really the situation is bad. ..
17. **LM** ja
18. **Min** And I said to him, you know what we don't want even
  - a) to find intellectuals and professionals saying,
  - b) ai, honestly there is a story here
19. **LM** ja, ja
20. **Min:** And that is why they are pushing the German thing
  - a) they are saying, hey, if this is dirty
  - b) then there are, there is other dirty linen in cupboards, you know
21. **LM** yes
22. **Min** so we must not think that these things won't plager? up later
  - a) So we need to be need to be neat ?
23. **LM** Ja
24. **Min** And know that we are acting very honestly and what have you
25. **LM** Ja
26. **Min:** I said to Mpshe, Mpshe, why,
  - a) He, he then said boBilly are pressing for sooner,
  - b) in fact, they were angry that there was even that slight delay
27. **LM** No, no that was me

The German  
arms deal  
investigation?

28. <b>Min:</b> oh, it's you, its quite soon?, its fine, it does not matter	
a) I then said to him, you know, I don't see why you objectively as prosecutors	KZN judge
b) can't approach, approach a JP that this thing is going to take place	president
c) and please, and say that this is a priority thing and what	
29. <b>LM</b> Hmm	
30. <b>Min:</b> So No 1 phoned me just, this afternoon and said but Bridget	Mbeki
a) how do you charge now,	
b) and then appearance, the court starts in, in, in August?,	
c) it is because there is pressure on him, you know what I mean.	
31. <b>LM</b> Ja	
32. <b>Min:</b> so he? said no, I did, uh say to Mpshe? uh I didn't say to him, listen ..	
a) it is prudent to go the route of, you know, so there is no big gap, you know	
33. <b>LM</b> ja, but then I can explain to Minister what happened,	
a) Firstly we, we, we took the decision on technically already on the 19th	
b) There, was a slight defect in the charge sheet	
c) Which caused us to have it re-signed on the 24th.	
34. <b>Min:</b> oh	
35. <b>LM</b> We then could not, we then could not get hold of, of,	
a) We could not get sense of where they are and how we serve it upon them.	
b) And then we then looked at law, and we thought, the law says you serve at the official address of the person, and we decided then to do it	
c) we could not do it on 27 <sup>th</sup> and that's why it was done on the 28th	
d) We tried to get hold of Hulley, I think, we must write a report about that	
e) Hulley's phone was off, we left messages, he would not come back	
f) We tried to get hold of the Judge President	
36. <b>Min:</b> so you took a, the decision when already	
37. <b>LM</b> it is in that memo	
a) But the decision was taken on the 19th,	
38. <b>Min</b> Of August,	
39. <b>LM</b> of December	
a) but then there was a technical defect	
b) and the, the, the sheriff wanted more, wanted more copies	
c) and then there was small mistake that I saw that Tanda made	
d) so I got him to sign it again on the 24 <sup>th</sup>	
40. <b>Min</b> Oh	
41. <b>LM</b> He then signed it	
a) Then just to get the parties together,	
b) to get the sheriffs activated to serve the subpoena	
c) that took us until the 28th	
d) We tried to get Hulley on the day to arrange a date,	
e) he would not pick up the phone	
f) Funny enough he picked up his phone for the media but not for us,	
g) his phone was off	
h) In the end, we emailed the subpoena to him when we served it	
42. <b>Min</b> Oh	
43. <b>LM</b> We then we went to the JP's office,	
a) and Minister, the, the, the court rolls work like this	
b) They book the court rules, they book the court rolls per semester	
c) And, and the registrar spoke to our people	
d) and said that the first semester is already fully booked up.	

e) So, the second semester starts on the 4th of August

44. **Min** oh

45. **LM** And because we, we, we envisage that

- a) if they take all the points that they have taken
- b) And they fight on all fronts as they have said they would
- c) They said they are going to bring an application for a stay
- d) and all these things on the news tonight
- e) Then this is likely to be at least, well not at least,
- f) but by approximation about a 4 months trial
- g) And that's why we took the date of 4th of August.
- h) We also wrote to them, and said if this date, it does not suit you
- i) or you would want earlier date,
- j) we can together approach the JP and arrange an earlier date
- k) because we are ready, we said to them that we have a forensic report,
- l) we got your answers to your further particulars,
- m) we have got a charge sheet, we are ready to start now
- n) if they say they want to start in February xx
- o) But Minister they don't want this trial to start, they will,
- p) I can assure you now, they will bring an application for a stay of prosecution
- q) That is why I said in my letter to you, I am perfectly happy to engage
- r) in a plea, in discussions about a plea agreement
- s) But they will have to approach us and they won't
- t) or I don't think they will, I mean
- u) But uh that's, that's really the reasons for it
- v) Its not that we are not that we are nasty

46. **Min** I don't say you should do that now

- a) But when it gets heated
- b) You need to give a professional response to this
- c) So that its the prosecution that talks, not us
- d) Instead of blaming me
- e) You know, you see as you explaining it, it makes sense
- f) But you, I mean, too many other people, and they waited and steamed
- g) Its like they did Xxx

47. **LM** I was tempted today to respond

- a) I got calls here from Moegsien Williams, from Kevin Ritchie
- b) Left messages, Jeremy Gordin, Sunday Times, City Press
- c) But I am still where I spoke to Minister on Thursday
- d) We cannot, we, we will start war of words if we say anything public at this point
- e) And, and it is issues that we
- f) 1: I don't think we can win it because there is just a populist noise about it
- g) And secondly, these same issues will be, will be,
- h) will become pertinent in the trial
- i) We have an explanation for every step of the decisions we have taken
- j) I, I felt, that even if we speak, now is not the time
- k) Things are inflamed, everyone is saying something,
- l) and this one is saying this
- m) I see Fikile Mbalula now says it is Mbeki, Mbeki is behind everything
- n) He called Msphe xx

48. **Min** May I say something, you'd have to break your mould later
49. **LM** ja, later not now
50. **Min** And the point and whatever
51. **LM** Yes, yes
52. **Min** because you see, he was saying can we please correct
- a) these people are saying there is a conspiracy
  - b) Can the truth be said
  - c) And I can't say it
  - d) you are, you are perfectly able to talk for yourself as as as the prosecution
  - e) And I don't see why I should start today, you know
53. **LM** no, no, no we can do it, but my attitude was
- a) And that's why I said to Minister on Thursday night
  - b) I think we should, just for once
  - c) We have a press statement that is prepared
  - d) And we prepared that Friday when I sat at Minister's house
  - e) it was given to me by the prosecutors
54. **Min** The other thing, no
- a) you see because of this perception of executive fiddling
55. **LM** Yea
56. **Min** I mean, there is no pressure, you know, that xxx is unfair ??
- a) I think you need to revise the statement post this week and whatever
  - b) And actually indicate, and, and very, almost truthfully
  - c) that I would want to see, even your interaction with me, you know
  - d) So that people know, really the power is in your hands
57. **LM** Yea, but I agree with Minister
- a) But I, I thought let them first uh vent their anger,
  - b) to say whatever they want to say, to see how the dice rolls
  - c) Because whatever we say, it will come up in the trial,
  - d) to say, when did you take this decision
  - e) Because Zuma's big point, Minister
  - f) one of his strong points or big points, is undue delay
  - g) that's why we could, now I hear that someone say,
  - h) why did we have to come and disturb his Christmas
  - i) We should not, could not wait,
  - j) every day we wait is something that will count against us
  - k) When he brings all his arguments about, to have the matter struck-off
  - l) Or to have a stay of prosecution
  - m) So this is a unique case
  - n) But you need to understand the legal intricacies
  - o) And I am saying those things will, will, will reverberate again in the main trail
  - p) And so, that's why I thought, I mean the whole world is against me
  - q) Even Mpshe called me today saying
  - r) shouldn't we say something, the people are harassing him as well
  - s) I said no let's say nothing, let's stick to no comment
  - t) Tlali is upset, he says he does not know what to say
  - u) Downer called me,
  - v) he said Leonard, we are being called names left, right and centre
  - w) I said, for what, it is all bluster – and we can't win by responding
  - x) I mean, the president knows

Mbeki ?



- y) LM Laughs
  - z) that he has got nothing to do with this case
  - aa) He is on leave
  - bb) He has not called Mpshe back, he has not promised Mpshe a position
  - cc) The first time Minister got know about it
  - dd) Was when I told Minister, I think I said
  - ee) Like we spoke to you on Thursday evening
  - ff) And I said we will are going to issue subpoena tomorrow
  - gg) And the next day I sent you an SMS to say we have acted
  - hh) That's perfectly in line with the law
58. **Min** you did say that,
- a) you did tell me that I am going to issue a subpoena tomorrow
59. **LM** yes, yes, that's Thursday night
- a) So and then I sent Minister an SMS on Friday
  - b) But I am saying, these things will come out
  - c) We must just be careful with ourselves with our timing
  - d) It would have been nice if one could get commentators and you know
  - e) who could write about it
  - f) I see Steven Friedman has done it, to say it is absolute nonsense
  - g) Him and Marinus Wiechers
  - h) But, I don't know, I, I, I don't know
  - i) Let's see how things will pan out this week
60. **Min** I .. was thinking of you?? ...
61. **LM** I will be open and honest but there is ....
62. **Min** You know the other thing, I want to know our march on the Selebi thing
- a) Because that also is creating a nightmare for us
  - b) I don't know what is happening
63. **LM** I wrote a memo to Minister
- a) Minister must just check the memo, all the answers are there
64. **LM** I said that Selebi's counsel has written to us
- a) He has asked a whole host of questions
65. **Min** You know, I am refusing to read, you know why
66. **LM** Because you are on leave
67. **Min** If I start, I start absorbing, I start working
- a) I am not going to read until new years eve
68. **LM** ja, no, no, take it easy
- a) But just on Selebi, I am saying there we are,
  - b) We are writing back to them to say they have got until 8th or 9th,
  - c) I am not sure, I think it is the 8th, to make their representations,
  - d) We will consider it
  - e) And we want to take a, a position on the matter by,
  - f) I think it is the 15th or the 16th
  - g) It is there in the memorandum
  - h) I mean, Minister can tell president or whoever asks about that
  - i) But there is one thing, where I said to Tlali we are complicating about it
69. **Min:** Actually, can I say something
- a) In truth, this is, these are prosecutorial matters
  - b) I don't think the president should come in, and what have you
  - c) I think for me, eh, the the problem that we had before
  - d) was kicking doors of ah, ah from an armed side

- e) for me it was just unacceptable  
f) And generally that I could not talk to my NDPP
70. **LM** Yea
71. **Min** but I think that you have all the freedom to do your work,  
a) But we can also ask, but you know,
72. **LM** Ja
73. **Min** to say, I was asking Mpshe, why did you say  
a) now you have the report with me, I don't decide your constitution?  
b) we need to get the ???  
c) but I said, no, that was the silly answer
74. **LM** it was a very silly answer, a very silly answer
75. **Min** This is an administrative thing, it is neither here nor there
76. **LM** no, it makes it look like you must first ah, ah vet the thing
77. **Min** Oggg
78. **LM** I told, I had a long chat with Corky  
a) I said, Corky, don't take calls at 20 to 7 in the morning  
b) If you don't know the number, don't pick it up  
c) If it says private number, don't pick it up  
d) Because they catch him cold,  
e) he then, uh, instead of saying to them, look, I can't speak to you about this,  
f) he starts ...  
g) This thing about Zuma he, uhh  
h) where he said that we have a good case and the decision is imminent  
i) They caught him cold, they caught him at 20 to 7 in the morning  
j) He was sitting in his bed, that's what he tells me
79. **Min** my goodness
80. **LM** and I mean, just take it then,  
a) you see Minister that's the problem with communications  
b) if I, if we go public now and explain to you  
c) the more questions get asked, and we explain more and more and more  
d) about things that would come up in the trial  
e) That is why there is this rule of sub judice  
f) Corky has now said – let me give Minister an example (break up for few seconds)  
g) ... have done their work,  
h) He has looked at the case, there is a very, very strong case  
i) This is on the day that Zuma is elected president  
j) and the decision is imminent  
k) I can tell Minister, there are people in the ANC,  
l) They are the ones who align themselves in their in their hatred for Bulelani  
m) Who says that that statement by Corky is worse than Bulelani's statement  
n) And that statement, is something that Billy Downer will now have to explain in trial  
o) Because Zuma is looking at all those things as ammunition to, to  
p) defuse?? his application for a stay of prosecution  
q) Meanwhile he says that this whole case is all unfair  
r) the prosecution has, has mishandled the case, we have abused our powers  
s) And Mpshe's statement slips nicely into that whole thing  
t) That's why I said to him, Corky say nothing  
u) And that's why I said to Downer and them let's say nothing about .

Mpshe

81. **Min** Can I, can I tell you something – I just want this whole nightmare to go

82. **LM** I agree with that's why I am saying,

- a) is there not a mediator who can talk to JZ
- b) you know the Rapport – these Afrikaans newspapers are funny
- c) last week they recommended the following,
- d) listen to this, now they, this is the Rapport
- e) they said, Zuma must work out a plea with the state and
- f) The state must be benevolent enough not to insist that he goes to gaol
- g) and then the ANC should sort out the politics around who presents that ANC
- h) And who is the future government of the ANC
- i) And then Mbeki must do with Zuma
- j) what Lyndon Johnson did with umm Nixon and give him a pardon
- k) This is the Rapport
- l) So I am just saying to Minister,
- m) I mean that is not my domain, my domain is a prosecutor

83. **Min** you know what, I am also, I am shocked because

- a) I phoned you, remember and said you must not close door for a plea bargain

84. **LM** Ja, that was the Friday night, I remember

85. **Min** Hmm

86. **LM** Hmm

- a) No, but I am saying, it is, at some point
- b) And this is before Minister took office
- c) I was told, this was in passing
- d) that Joe Matthews was going to come and talk to us
- e) to work out a plea agreement

87. **Min** who is that

88. **LM** Joe Matthews, old man Joe Matthews

89. **Min** Ok

90. **LM** Nothing came of it

- a) So, but I am saying, you see we as prosecutors,
- b) because of the, the history of the case
- c) And the animosities and the legal strictitudes
- d) It would not be prudent? for us to, to approach the other side
- e) In any event, they are, have got their tails up and want to fight this thing
- f) Someone else must talk sense into his head
- g) and into the heads of his counsel to say, go and settle this thing
- h) It would have to come from a ...
- i) But, I agree with Minister that the sooner it goes away, the better
- j) Because it, it, it takes up all our energy
- k) The same with Selebi case – both of them
- l) Meantime we've got other things to, to deal with

91. **Min** I really cannot get involved in this things, uhh

- a) But sjoe, no, I just wanted to know what's happening, and uhh

92. **LM** I think the president must instruct Mukoni Ratshitanga

- a) To say, the president knows nothing about this xx
- b) I mean, you know, that Downer and them have been wanting
- c) And Mbeki's office can mos say that, why do they want us to say that
- d) Downer and them have been wanting

Former ANC  
and IFP  
members

Presidential  
spokesperson

- e) to interview the president for the last 4 years – he has steadfastly refused  
 f) his office hasn't been involved in this at any level I mean I personally
93. **Min** neither have I
94. **LM** if I have seen him 5 times in my life, it is a lot  
 a) In fairness to him, he is he's, he's strict with, you know ,  
 b) He, he, he is very procedural when it comes to these things  
 c) I, I, I could not believe that he has never asked me about it  
 d) So, why why can't they say that he's got no business with this  
 e) He, he came back from the conference and went on leave  
 f) And the decision, as I said, was actually taken before the conference
95. **Min** but it must be said by your guys, ne
96. **LM** You think so?
97. **Min** I think so, at the time you communicate  
 a) You must say really say how you relate to the executive  
 b) myself included, the president and stuff like that  
 c) especially the president because it is not fair
98. **LM** no, it is not, and the impression is that he sits there  
 a) and he instructs he, he flexes his muscles as the newspapers say
99. **Min** Ja, sjoe
100. **LM** Anyway, this thing, Minister said there were 3 things  
 a) The first one, was the xx case one  
 b) There are some changes Minister would want to make to the memorandum
101. **Min** oh
102. **LM** about my request to vacate office  
 a) And the other two matters, I thought were the Zuma and Selebi cases
103. **LM** I am willing to see you tomorrow, any time on Monday or Tuesday also  
 a) even if it has to be in the morning or after lunch
104. **Min** I think Monday would be good, huh
105. **LM** Ok, let's make Monday, let's make Monday  
 a) I am just, I am just meeting Mpshe at 10 o'clock about the Selebi case  
 b) So any-time from 12, 11:30, no 12 is better, any time from 12 onwards —
106. **Min** you know what I want you to do for me
107. **LM** Yes Minister
108. **Min** I would want you to meet me when you are discussing the Selebi
109. **LM** Ja
110. **Min** and uh, the and we will look at papers over the weekend  
 a) If there is a lot of mumbo jumbo
111. **LM** Ja
112. **Min** about conspiracy, I would want us, I would want you to clear that
113. **LM** Ja
114. **Min** I don't, I do know that people are very, very upset  
 a) In fact this thing is so serious, out there in the public  
 b) people really now are believing there is a political conspiracy  
 c) And I don't know of any and I am quite confused  
 d) Umm, with these allegations
115. **LM** Ja
116. **Min** so, we may need to have a good communication strategy
117. **LM** ja, no, what I will do is,  
 a) I will take statement that the prosecutors have drafted  
 b) I will see what is in the domain at the moment and tomorrow

- c) I will draft something early Monday morning and
  - d) If you say I must come 12 o'clock or 1 o'clock I will come
  - e) I will come and I will say, this is what we can say
  - f) And then we must decide whether it is feasible to say that all over
  - g) and create a further round of after shock
  - h) And is it legally, is ah,
  - i) is it not risky, given that the same issues will come up in the trial
  - j) but I'll, I'll be ready
118. **Min** I was going to say, the other thing, sorry to interrupt,  
a) We are finished with this ne
119. **LM** Ja, ja
120. **Min** I was going to say, I was thinking  
a) This attorneys office, Gideon (Gillian?) and something  
b) is Maduna's outfit – I want to say
121. **LM** I don't know
122. **Min** If it is, it may present problems of patronage  
a) You know, when people start scratching and saying things, you know  
b) So I would want us to examine that me and ...  
c) When you come on Monday
123. **LM** Ja, I do think though that they were appointed in 2001 already,  
a) 2001 or 2003
124. **Min** At least I don't mind there, I mean from the Ministry
125. **LM** Ja, ja, we will look at it  
a) I will check for information in the meantime
126. **Min** Thanks ne
127. **LM** Orrait, Minister, I will wait to hear from you about Monday
128. Bye

Bowman  
Gilfillan (where  
former MOJ  
Maduna  
worked)  
assisted with  
David King  
matter - he was  
no involved in  
the case

**31. 9.1.08 19h44 LM to Bi: 063 441 0030**

- 1. **BN** Yes sir
- 2. **LM** sorry man, my phone died on me
- 3. **BN** Oh, ok
- 4. **LM** Are you occupied at the moment
- 5. **BN** Uh
- 6. **LM** Are you occupied
- 7. **BN** You mean right now, where are you
- 8. **LM** No, no, I am in Pretoria. I just thought, ah, umm, I don't know  
a) if it is prudent and advisable to speak to you on the damn telephone again
- 9. **BN** No its not, I try to come back to you  
a) Where are you tomorrow
- 10. **LM** I am here in Pretoria
- 11. **Bi** oh um
- 12. **LM** How are you tonight, bad?
- 13. **Bi** No, ja, um
- 14. **LM** now, well call me tomorrow, and we can try and work out something
- 15. **BN** I was trying to see, to find time
- 16. **BN** Your tomorrow is quite bad,
- 17. **LM** no, no
- 18. **BN** How is your Sunday?
- 19. **LM** No, that's too late, yea

Discussion  
about Selebi  
application for  
permanent stay

<p>a) That's why, even prepared to come and see you now</p> <p>20. <b>BN</b> Ok, um, oh, let's find a place, ok, let's do it, let's meet somewhere</p> <p>a) You know the um, you know when you, you know the hotel called um</p> <p>b) ok let me, um, I will SMS you, the name of the place</p> <p>21. <b>LM</b> Ok</p> <p>22. <b>BN</b> Bye</p>	
<p><b>32. 10.1.09 16h23 BN to LM 083 441 0030</b></p> <p>1. <b>LM</b> Can we speak on these lines?</p> <p>2. <b>BN</b> No, no, this is fine, because this is an official thing – I have been implicated</p> <p>a) in wrongdoing and I need to respond to it officially and formally</p> <p>3. <b>LM</b> Hmm</p> <p>4. <b>BN</b> I would like to, do you think you can get me a copy of the papers</p> <p>a) I need to take legal advice</p> <p>5. <b>LM</b> Ja</p> <p>6. <b>BN</b> Ja</p> <p>7. <b>LM</b> No, we will get it to you</p> <p>8. <b>LM</b> We are just in a difficult spot, when do you want it</p> <p>9. <b>BN</b> I don't know when are you going to respond, by when are you filing,</p> <p>10. <b>LM</b> We are filing tomorrow</p> <p>11. <b>BN</b> I need to have a formal position,</p> <p>a) what am I saying about the allegations that are being made about me</p> <p>12. <b>LM</b> For what it's worth, I think it will be good if you can, if you can,</p> <p>a) if you can, if you can file ah separately almost</p> <p>b) you know what I am saying</p> <p>13. <b>BN</b> I don't know, that's what I want what I want to hear what my counsel will say</p> <p>14. <b>LM</b> No, I would be good because, because I mean one of</p> <p>a) the guys said today that you know that subtle little statement there</p> <p>b) about you and the FBI and the CIA, god knows</p> <p>c) But that means we must get the papers to you today</p> <p>15. <b>BN</b> Exactly, what it means, can you email them to me</p> <p>16. <b>LM</b> Let me just find out, I am sure we can, let me just check with David</p> <p>(LM tries to find David his PA, talks to him)</p> <p>17. <b>LM</b> No, no, here's David, its orraait</p> <p>a) To D: Can you email this thing, the whole application, you've got it on email</p> <p>b) This thing</p> <p>c) No, no I am saying we can, can you email it to me, ja</p> <p>d) <b>To BN:</b> Ok, we will get it to you</p> <p>18. <b>BN</b> Ok boet</p> <p>19. <b>LM</b> But you must give me an email address</p> <p>20. <b>BN</b> My email address, David has my email address, it is</p> <p>a) <u>Bulelani@vuwa.co.za</u></p> <p>b) Spell it out</p> <p>21. <b>LM</b> Ja I think it will be good</p> <p>a) But, but remember our strategy is to kill urgency tomorrow</p> <p>b) Secondly to demonstrate the merits of our case</p> <p>c) And thirdly to deny ulterior motive</p> <p>d) And get the judge to throw it out completely</p>	<p>Discussion about Selebi application for permanent stay</p>

<p>e) That gives us straight to Ackers?</p> <p>22. <b>BN</b> I agree</p> <p>23. <b>LM</b> We don't want to make an undertaking</p> <p>24. <b>BN</b> Absolutely</p> <p>25. <b>LM</b> And say we are not ready</p> <p>26. <b>BN</b> I agree</p> <p>a) You are filing tomorrow and then when are you going to court</p> <p>27. <b>LM</b> We are going to court tomorrow</p> <p>28. <b>BN</b> So you will file ...</p> <p>29. <b>LM</b> We will argue,</p> <p>a) Tomorrow we say there is no merit in this application, it is not urgent</p> <p>b) We then file a whole host of things to show that this case has own facts</p> <p>c) It can't be influenced or engineered or manufactured by anyone</p> <p>d) And then thirdly, we then say that this ulterior motive is, is a, is bluster</p> <p>e) Judged by the following facts you know, etc, etc, etc</p> <p>f) And then, and then we say we are ready to argue</p> <p>g) And the judge must just rule tomorrow or over the weekend</p> <p>h) So we can act</p> <p>30. <b>BN</b> Excellent, that's good, wonderful</p> <p>a) Ok will chat to you later</p> <p>31. <b>LM</b> Orrait</p>	
<p><b>33. 27.2.08 10h13 LM to BN 083 441 0030</b></p> <p><b>Discussion about Browse Mole report in Parliament</b></p> <p><b>Transcript to be finalized</b></p>	
<p><b>34. 3.4.08 16h43 LM to BN 083 441 0030</b></p> <p>1. <b>BN</b> Hey</p> <p>2. <b>LM</b> you know, I am beginning to wonder whether I have committed offence an offence or something</p> <p>3. <b>BN</b> You have, you know, you have made a serious offence, you know</p> <p>4. <b>LM</b> this ah, I have browsed</p> <p>5. <b>BN</b> I am just arrived, I have been out of the country, Aberjedan</p> <p>a) And I, I met with the guys from Ukraine</p> <p>b) And the guys from the Ukraine were saying</p> <p>c) Mr Pikoli, he is the best dancer in the world</p> <p>6. <b>LM</b> No orrait, let me not keep you,</p> <p>a) I just want to run something by you very quickly</p> <p>b) Umm, and I actually don't care these days</p> <p>c) who is listening to the phone as well</p> <p>7. <b>BN</b> ja</p> <p>8. <b>LM</b> I was approached by the World Bank, for this position</p> <p>a) To head up the IMT, previously you know</p> <p>b) So they approached me again</p> <p>c) and we went through a whole process of interviews</p> <p>9. <b>BN</b> ja</p> <p>10. <b>LM</b> And last night they called me to say, no they liked my face</p> <p>11. <b>BN</b> ja</p>	<p>international meeting re corruption in Ukraine. Pikoli had been there for another meeting not long before</p> <p>Integrity Management</p>

a) The president called me, ah Zellick	World Bank President
12. <b>BN</b> ja	
13. <b>LM</b> It is quite a prestigious position there, its like a vice president, or so	
a) There is still the option open of a contract	
b) But I mean this looks obviously much more attractive	
14. <b>BN</b> That's very nice	
15. <b>LM</b> Now, they want to speak to you –	
16. <b>BN</b> To me	
17. <b>LM</b> yes, because I have given you as a reference	
a) But I said I have not primed the references, until ..	
b) obviously you wait until you hear what they say	Manuel
c) So, they want to talk to you and Trevor	
d) But I don't need is for people to talk shit about me	
e) I am worried that all these things that are going on around now	
f) might hurt my international chances	
g) Because they are looking for a guy who is squeaky clean	
18. <b>BN</b> No, no, go for it	
19. <b>LM</b> Its fine, do you have, do you have access to Trevor	
20. <b>BN</b> ja, what must I do	
21. <b>LM</b> I am trying to see the president this weekend	
a) Because I said to Zellick, you know	
b) When I saw the president, I told him that you will call him	
c) I just want to see the president first	
d) But I, he definitely wants to speak to Trevor	
e) Although in fairness, I have not put him up as a reference	
f) We are not that close	
22. <b>BN</b> Trevor serves on the board	
23. <b>LM</b> Huh	
24. <b>BN</b> Trevor serves on the board	
25. <b>LM</b> ja, but, someone needs to Trevor. I am asking you a favour	
26. <b>BN</b> I will speak to him	
27. <b>LM</b> Hum	
28. <b>BN</b> I will speak to him, I will call him	
29. <b>LM</b> say Zellick wants to talk to him about the vice president of IMT position	
a) They want to announce it next week	
b) But it is all very, very discrete at the moment	
30. <b>BN</b> Ay, it will be nice to have a friend in Washington	
a) I am already coming to spend my holidays there	
31. <b>LM</b> ahh, will you let me know Bul	
32. <b>BN</b> Ja, i don't know where he is, I will look for him and call him	
a)	
33. <b>LM</b> ja, but I am saying, you guys are close enough, I . . . I	
34. <b>BN</b> I will speak to him, I will do it for you, don't worry	
a) I will be seeing you this weekend	
35. <b>LM</b> Let's target Sunday	
a) Friday night or Sunday, 1 of the 2	
36. Bye	



35. 7.4.08 19h46 LM to BN 083 441 0030

1. LM Hello,
2. BN yes boet
3. LM You, you you must be in bad spot can hardly hear you
4. LM Can you hear me now
5. LM Ja, its better
6. LM I am saying I tried to call her again about an hour ago
  - a) And she has not responded,
  - b) you think I should just send her an SMS and leave it at that
7. BN What are you going to say in the SMS?
8. LM I just want to say that the World Bank wants to have a conversation with her
  - a) and the president, I have been trying to reach her and leave it at that
9. BN do they want to talk to her
10. LM They firstly felt that they would be very uncomfortable if this thing comes out
  - a) and I have not spoken to her
11. BN no, no do they make it as a condition that you must get her permission
12. LM no, no, they don't, they don't, it is a courtesy
  - a) she is not one of my references, so you know
13. BN So, you want to, you want her blessings
14. LM I want what
15. BN You want her blessings
16. LM I want the big man's blessings
  - a) She knows about his, without knowing the details
  - b) But I mean, it might be that, they say, If they take this thing to the board tomorrow,
  - c) subject to their clearances
  - d) its tantamount to this thing coming out
  - e) so they are trying to reach the president
  - f) I am wondering should I communicate with her at all-
  - g) or should I just leave her
17. BN You have called her
18. LM I have yes, and she ...
19. BN You have called her, and she did not return your call
  - a) Leave her after that, there is nothing she can do to you now
  - b) You have worked with her
  - c) They are going to release you, that's in December, they have known that
  - d) There is not a xxx on the relations ?
  - e) You have briefed her in December
  - f) And, so, as far as you are concerned,
  - g) You have done everything else, they have known that
  - h) There has been all the speculation about you leaving and so forth
  - i) And no one?? is denying it
  - j) And don't do anything more than that
  - k) I will see if I can see her tomorrow, I will find out
  - l) I will call her
  - m) I will come back to you

Mabandla ?

Mbeki

1. Date 7.11.2007 cell BN 10h25	
a. LM?? Read Bus Day re in line with your thinking	Bus Day 7.11.07 Editorial about fact that it appears to be Mbeki's benefit when Zuma is not facing charges
b. LM: He says he will speak to the man when he is back over the weekend, but he feels very strongly that I should not see <u>the guy</u> directly c. BN: So that he has a shield, so that if this issue comes up then he is ok, I don't know what the fuck	There is regular reference to the need to meet or discuss with the man, the other fellow or guy or he. In some cases it is clear that it is the President. In other cases it is not clear who is meant.
d. BN: Read the Business day today – that line, <u>you know about my statement beforehand</u> , but that fellow never spoke to me	Article on Gevisser book which states that Mbeki asked Zuma to resign before the prima facie statement
e. ... f. BN: but it is still long way away (before you go) g. LM: the thing is happening in January boss, we even discussed it h. BN: Why do you wake me up in the morning for that?	LM possible appointment to World Bank
i. LM: The main thing is really my meeting with the other guy what came out of this. Judgement as on us much quicker than what I thought, and I really I must make a call j. BN: you know it is very interesting there is different points of view across the board k. LM: Do you want to join this dinner with Mzi l. BN: We had dinner on Sunday, quite a number of people were there, mine, Dlamini? m. BN: His view is complete opposite, he and Sam agrees with you i. I put a hypothetical question to them, lets assume the judgement comes out in next few weeks and its in favour of these guys, what must happen? ii. Mzi was the only one at the table who said we must do it now iii. If he is honest, he will tell you everyone else there disagreed	Discussion of timing of charge of Zuma
n. LM: <u>Our guy</u> slipped out to the media that he wants nothing to do with this – your acting <u>NPP</u>	
2. 7.11.2007 13h23 a. LM: I was not sure what wicket we ended b. LM: Are you now not going to see me as you initially indicated c. BN: I said I will wait until we hear what <u>this other fellow is saying</u> d. BN: There is not a wrong or right here e. BN: Nobody knows what the presentation is likely to be f. LM: Lets see what the aftermath is	Continued discussion
3. Date 9.11.07 16h20	Inappropriate

<p>a. LM : I promised Mzi a book and bottle of wine, I need his address to have it delivered</p> <p>b. <del>Long discussion on future of JZ case</del></p>	relationship
<p>4. Date 26.11.07 20h43</p> <p>a. BN: I am not very well at all, I am so shocked, trying to work on it, it's the shock. I need to time to work on it, just been shocked, shocked</p> <p>b. BN: remember said we thought we would get 5 – only got 4</p> <p>i. Cant explain why lost so badly in ones we lost</p> <p>ii. Gauteng we can turn around – not a train smash, Northern Cape also, but they cheated</p> <p>iii. Not is just not normal to have such large majorities</p> <p>c. LM: There is something wrong there – either delegates don't want to show their hand now or they cooked the books</p> <p>d. BN: I just cant explain the majorities</p>	Discussion about ANC provincial nomination conferences
<p>e. ....</p> <p>e. BN: You the only one who can save the country from its madness</p> <p>f. LM: hmm</p> <p>g. BN: yabona</p> <p>h. BN: I just cant believe it,</p> <p>i. LM: Is he oraait,</p> <p>j. BN: I don't know,</p> <p>k. BN: I want to, I am trying to call him later tonite, he is in a meeting tonite, at Shell house of all places (laughs)</p> <p>l. BN: I will now have to compete with you for that job at the WB</p> <p>m. ....</p> <p>n. LM: I did what you said I should do and I must say, on Friday, I got strong memorandum that says charge and charge now - the team says we have been fucking around with this thing, they say I am allowing ulterior considerations – it will make it impossible to do it later – we now must take action and deal with it now</p> <p>o. <del>Is another story, will talk with you later</del></p>	LM to save the country
<p>5. Date cell 6.12.07 16h20 BN</p> <p>a. BN: I am in Kimberley, do you have contacts here</p> <p>b. LM: only (mentions 2 names)</p> <p>c. BN: I am thinking which delegates I can go and see, who can take me</p> <p>d. LM: I don't have sufficient contacts, the 1 guy I know we are on verge of charging</p> <p>e. BN: <del>Maybe we should</del></p> <p>f. LM: <del>Your earlier view still stands</del></p> <p>g. BN: <del>They have bought everyone</del></p> <p>h. LM: With money from where</p>	BN request LM to identify potential ANC conference delegates in Kimberley to be lobbied
<p>6. SMS from BN to LM Wednesday 12.12.07 <del>time</del></p> <p>a. When are you filling (sic)</p> <p>b. We'r stretched. It has tripled in size now. Likely to file tomorrow afternoon or Friday afternoon only. What up!</p> <p>c. BN: The sooner the better. Not later than tomorrow. It will assist a great deal</p>	Refers to the NPA's reply to Zuma's application for leave to appeal to the Con Court in the search warrant matter. It was due on 14 Dec.
<p>7. Date Wednesday 12.12.07 10h41</p> <p>a. ....</p> <p>b. LM: We must have one of those Yengeni nights – remember we said we will not leave this fucking hotel until its done</p>	The reference is to a meeting with Yengeni's lawyers that lasted late into

<p>c. <b>BN:</b> If this thing comes out the way we discussed it yesterday,</p> <ol style="list-style-type: none"> <li>those key issues, right</li> <li>it will be a devastating one for them,</li> <li>and it will cause people will wake up to know what they are actually doing</li> <li>without being dramatic, without you making arrests,</li> <li>this will say, this is what we have this is what we have, we are forced to state it now and people will wake up think what are we doing</li> </ol> <p>d. <b>LM:</b> Friday, by Friday people are packing bags, they won't even read the fucking newspapers</p> <p>e. <b>BN:</b> That is the thing, that is the thing, that is why it will be good if it can get out today (ie Wednesday)</p> <p>f. <b>LM:</b> Today is difficult, I will call a Yengeni night, not leaving here until we finalise this tomorrow morning, we file by lunch time and give it to the media,</p> <p>g. <b>BN:</b> you made my day</p>	<p>the night</p> <p>The NPA's reply to Zuma's application for leave to appeal to the Con Court in the search warrant matter was due on 14 Dec.</p> <p>This is a discussion about the need to file it earlier so that it can be reported in the newspapers before the delegates leave for Polokwane.</p>
<p><b>8. Date Thursday cell 13.12.07 12h20 BN</b></p> <p>a. <b>LM:</b> What is the mood like?</p> <p>b. <b>BN:</b> Is it out?</p> <p>c. <b>LM:</b> no no, I am just checking the pulse of securities</p> <p>d. <b>LM:</b> You know, I thought I will give call you once a day, twice a day to hear whether the position has not changed</p> <p>e. <b>LM:</b> That thing will only be filed tomorrow</p> <ol style="list-style-type: none"> <li>...</li> <li>I can only get so much out of these guys, we only worked to 10 past 11</li> <li>The kid wants to go on leave, WT is on leave and wants to see it,</li> <li>So we will prob only file tomorrow at about 10 to 1, we have a date for 10 to 1</li> </ol> <p>f. <b>BN:</b> how does it look</p> <p>g. <b>LM:</b> its ugly, you need someone who can nitpick and read through all that shit of 212 pages, and look at para 79 ...</p> <p>h. <b>BN:</b> Can you deliver a draft to my place?</p> <p>i. <b>BN:</b> I will be in Johannesburg</p> <p>j. <b>LM:</b> I will get, I will rather come myself, I don't want to take changes</p> <p>k. <b>BN:</b> No I will be late tonight,</p> <p>l. <b>LM:</b> I will wait for you, or see you first thing in morning. I don't want intermediaries here,</p> <p>m. <b>BN:</b> ok, your right,</p> <p>n. <b>LM:</b> Zuma will say we are conspiring against him</p> <p>o. <b>LM:</b> can I ask, the script has not changed yet,</p> <p>p. Ya, no</p> <p>q. <b>LM:</b> because (don't) feel like going to P and charging him there</p>	<p>Cont discussion about the need to file Con Court papers earlier</p> <p>The <b>position</b> or <b>script</b> are apparent references to whether Zuma should be charged before or after Polokwane</p> <p>LM undertakes to deliver a draft of the Con Court papers to BN personally to avoid it becoming known</p> <p>It is unclear whether he says he "do" or "don't" want to do this</p>
<p>r. <b>LM:</b> But listen, I think you guys must just keep your heads open about the "when" factor because I mean we will file our docs tomorrow, we will, Mpshe is going on leave tomorrow and I am acting.</p>	<p>The when factor is an apparent reference to whether Zuma should be charged before or</p>

<p>s. We will have our section 2e order and our our ... we will have finalized the processing of the decision</p>	<p>after Polokwane.</p> <p>The s2(e) order is a reference to the authorisation for a racketeering prosecution that must be issued by the NDPP</p>
<p>t. BN: As long as you don't do it this weekend</p> <p>u. LM: If we hold it back, it will be because the clever people like you and others are saying to us that the country needs cool heads but I would hate to have be seen to be wrong later</p> <p>v. BN: just don't do it this weekend</p> <p>w. LM: it might change</p> <p>x. BN: I cant keep an open mind, u can't do it this weekend, our minds wont change</p> <p>y. BN: Just don't do it this weekend</p> <p>z. LM: I wont move this weekend, if this change, just let us know</p> <p>aa. BN: it wont change</p>	<p>BN makes it clear that they do not want Zuma to be charged before Polokwane despite the fact that everything is in place to do so</p>
<p>9. Date Friday 14.12.07 BN 11h38</p> <p>a. LM: are you in position where I can drop something off or send someone to drop something off</p> <p>b. BN: drop it at home, not there yet</p> <p>c. LM: the one thing is a 8 pager, which you should read because it deals with whatever is new</p> <p>i. The rest is just same shit we have heard for the last 3 years</p> <p>d. ....</p> <p>e. LM: I want to get this to you, I can't leave it in envelope with drivers and things it is too risky. My guy can drive to where you are and give it to you</p> <p>f. BN: its not possible, in EL</p> <p>g. LM: Can also fax it to you,</p> <p>h. BN: I will give you a fax no</p> <p>i. LM: You must physically stand there and wait for it</p>	<p>LM prepares and sends a short summary of key issues that are newsworthy to BN for apparent distribution to the media</p>
<p>10. Min J 14 Dec 07 10h32</p> <p>a. <u>M: o there is so much panic. I called tipshe yesterday about how to arrest the old man</u></p> <p>b. <u>The old man as in JS or JZ</u></p> <p>c. <u>Zuma</u></p> <p>d. <u>LM: Have to file in CC today</u></p> <p>e. <u>I was talking to MM – don't want a loss of lives</u></p> <p>f. <u>Min: Is it an indication that you are charging them</u></p> <p>g. <u>LM: They said they have made a recommendation to us by 3 Dec</u></p>	
<p>11. Date Friday 14.12.07 SMS time BN to LM</p> <p>a. BN sends a fax no. by SMS to LM</p>	
<p>12. Date Friday 14.12.07 SMS time BN to LM</p> <p>a. Got it. Thank you very much</p> <p>b. LM: Hold onto it for a while, until (sic)</p>	
<p>13. Date Friday 14.12.07 BN 12hxx</p> <p>a. LM: I just wanted to say its been filed, I am told you can show it even to the guy on the beachfront</p> <p>b. LM: It is in court, anyone can access it – I just got an sms, it was</p>	<p>LM informs BN that papers have been filed and can be</p>

<p>filed 3 min ago</p> <p>c. ...</p>	distributed
<p><b>14. Date: 15.12.07 LM and F Davids</b></p> <p>a. Soccer discussion</p> <p>b. Zuma wins, leave country</p> <p>c. WH: EL discussion, why is Pres standing, WH talks to wrong people, get talk to people criticize TM</p> <p>d. Talks about how JZ will do things, even if knocked out, will have people in place</p> <p>e. WH painted as being disloyal to govt, walked over to other side</p> <p>f. WH started out saying he hates JZ</p> <p>g. F: I wont ever by a Z man, talk about someone in SIU favourable to Z camp</p>	
<p><b>15. Date 16.12.07 BN 15h13</b></p> <p>a. BN: am back, I need to chat to you,</p> <p>b. BN: we must chat, ne</p> <p>c. LM: ja</p> <p>d. BN: I had a chat with this fellow, he's going to call you immediately after conference. I met him yesterday, I need to chat to you about it</p> <p>e. ...</p>	<p>Apparent arrangement to meet the President – see call 24.</p>
<p><b>16. Date 16.12.07 SMS exchange between Luciano to LM</b></p> <p>a. LM: cats look defeated</p> <p>b. LM: I have been advised to give Ouboet &amp; Oujan a break in the interest of SA.... Tenous times. QV?</p> <p>c. L: O Tempores a mores! Cui Bono? Primus Salus Pro Familia McCarthy et facimus novae vitae.</p> <p>d. LM: Don't have a dictionary, Meaning....?</p> <p>e. L: Tell you when I see you next wk for delivery of Christmas presents</p> <p>f. LM: Too Late</p> <p>g. L: Who is asking you?</p> <p>h. LM: High Power, can't disclose. Gov in power. Undertaking.</p> <p>i. L: What did Jesus say? Give to the emperor what is due to him and to the church what is due to her. You serve at the pleasure of the emperor. Any other choice wld mean not serving at the pleasure of the emperor</p> <p>j. I hear you emperor sir. They're asking for a review. What.</p> <p>k. Primus salus amicus et familia. That's the motto</p> <p>l. Yea. Threatening to expose no. 1</p> <p>m. Approach hold even if Lume looses (sic)</p>	<p>As far as can be established, Luciano is a private intelligence operative</p> <p>Ouboet is Selebi Oujan is probably Zuma</p> <p>The Christmas present appears to be information of some kind that is required</p> <p>Presumably a review of the cases</p>
<p><b>17. Date 17.12.07 SMS exchange between Luciano to LM</b></p> <p>a. L: Thought over night – 1. Recommend we help you find 2 sympathetic and credible international lawyers that can join each of the 2 reviews.</p> <p>2. International component important for SA's reputation and your own. If carefully selected will support objective.</p> <p>3. In ouboet's case need international component to deal decisively with o sullivan factor. Matter also high profile given K allegations, media interest and focus on crime in lead up to 2010.</p> <p>4. Iro Oujan recommend a comprehensive review is done of ALL MLA and prosecution cases are done flowing from arms deal not just his by</p>	<p>Proposal for what appears to be a further review panel for the Selebi (and Zuma) matters</p> <p>The Selebi review panel had concluded its work at the end of November 2007.</p> <p>K is probably Kebble</p>

<p>review panel with international lawyers as you originally recommended. cont</p> <p>5. You can then deal with oujan in context of broader review.</p> <p>6. If you are going to do this in interest of SA recommended you request</p> <p>6.1 You submit review report to Special Committee of 4 ministers justice, intel, foreign affairs and safety and security. Do not take sole responsibility. Yr current line management structure will result in sole responsibility.</p> <p>6.2 Recommend you come to clear agreement about SAG support for the next phase of yr career including a date.</p> <p>6.3 You are going to need resources incl special budget because above all the media will have to be managed locally and globally. End.</p>	<p>SAG = SA Government? The review panels appear to be linked to the future World Bank position</p>
<p><b>18. Date 17.12.07 SMS exchange between Luciana to LM</b></p> <p>a. Thank you Captain. I'll digest. Will see what happens tomorrow. We'll talk when you're here. Keep Well. Luciana</p>	
<p><b>19. Date 17.12.07 BN 19h41</b></p> <p>a. ...</p> <p>b. BN: We do need to chat, but this one is going to call you when he gets back before he leaves for xmas</p>	
<p><b>20. Date: 18.12.07 time Mzi Khumalo</b></p> <p>a. Mzi calling LM</p> <p>b. Welcome back, bad day for the whole country</p> <p>c. LM: given all these assurances, scores are being made up, backlog being worked away</p> <p>d. ...</p> <p>e. MK: We must now sit and talk seriously about what we are going to do. Hmm.</p> <p>f. MK: Everyone expects that Z will be charged again</p> <p>g. LM: I saw that internat media all expect this, struck off etc, but will happen!!</p> <p>h. LM: Did you get wine and book I sent you</p> <p>i. LM: Lets be merry, regroup and live to regroup another day, wipe the blood off our faces. I don't feel good about it</p>	
<p><b>21. Date 19.12.07 SMS BN to LM 12h25</b></p> <p>a. BN: From now onwards you are on your own. It is imperative that you finalise your future plans pronto.</p> <p>b. LM: sorry</p> <p>c. Thanks, it's a sad day for our country</p>	<p>The morning after result of the election of the ANC office bearers in Polokwane was announced</p>
<p><b>22. Date 19.12.07 12h26</b></p> <p>a. LM: how are things going, are things ok</p> <p>b. BN: how can you ask, you know the agenda, you are a lawyer</p> <p>c. BN: what can they do, there 2 things they can do to me</p> <p>d. BN: Firstly, they can harrass and detain me day in and day out – have been through that before under the previous regime. I am not ashamed of the things I did, will stand my ground and fight them</p>	<p>Discuss outcome of Polokwane and possible harassment of BN</p>

<p>back</p> <p>e. <b>BN:</b> secondly, I don't think they want to do anything to me, they don't want to, they needed me, they are campaigning on this ticket, of being a victim. So they need me, that there was this conspiracy, that I got the President to give my wife Zuma's job</p> <p>f. ...</p>	
<p>g. <b>BN:</b> What I meant about my message: it is important that you sort out where you are going, immediately. And I think that the sooner you get out of that place, the better. Let them sort out their mess, this is not your responsibility, they want to sort out the mess, let them sort it out themselves</p> <p>h. <b>BN:</b> There will be nobody covering your back, you are exposed completely, and I don't think you deserve that</p> <p>i. <b>LM:</b> I am still shocked</p> <p>j. <b>BN:</b> I am not worried about myself, they can try to harrass me, but I am worried about you</p> <p>k. <b>LM:</b> you saying ' should leave this decision and let other people deal with it</p> <p>l. <b>BN:</b> Not saying that, I never said that, I am just talking about you, know where you are going, securing your future. I am talking about you personally, not talking about your work. I can afford, am independent, I don't do business with government</p> <p>m. <b>LM:</b> ok, will see how things go, is the government going to do anything. Are they going to hustle together ...</p> <p>n. <b>BN:</b> wont see anything till mid January, people will rest now and see how things pan out</p>	<p>Refers to SMS above and to protect LM for the future</p>
<p><b>23. Date Wednesday 19.12.07 BN 16h06</b></p> <p>a. <b>BN:</b> Hi</p> <p>b. <b>LM:</b> I say we want to move on Friday</p> <p>c. <b>BN:</b> ok</p> <p>d. <b>LM:</b> We have become so accustomed to checking with everyone whether they think it is fine ... and we have a minister who ... is going on holiday</p> <p>e. <b>LM:</b> I don't know if that other call you referred to will ever come, these guys are still humiliated</p> <p>f. <b>LM:</b> The longer we delay, the worse it becomes, we make it impossible for ourselves to proceed. If the guy wants us to meet and um .. and just do it</p> <p>g. <b>BN:</b> Ja</p>	<p>Probably Friday, 21 Dec</p>
<p><b>24. Date: 19.12.07, after result: Minister of Justice, President</b></p> <p>a. <b>Min:</b> There is no immediate emergency or anything?</p> <p>b. <b>LM:</b> there are things I need to discuss some things, incl the Z: difficult to see you before 8th</p> <p>c. <b>M:</b> Under pressure here under JS matter, why did it go to media that given Min a report, we have taken a decision Said to them on Thurs</p> <p>d. <b>Don't know where W stands on this, we are not going to brief the Min on anything. Already taken decision</b></p> <p>e. <b>Shifted, dont need to brief Min, just go ahead</b></p> <p>f. Phone is handed to President</p> <p>g. <b>Pres:</b> Do you know who is talking?</p> <p>h. <b>LM:</b> It is the President</p> <p>i. <b>LM:</b> You will always be my president, you will always be my president</p>	



<p>j. <b>Pres:</b> The Minister told me some time back you had asked to see me, and indeed I agreed, but you will have seen my business</p> <p>k. <b>Pres:</b> Will do as soon as back from here, before I go on holiday, should be able to call you back before Friday</p> <p>l. Phone is handed back to Minister, and a short discussion takes place</p>	
<p><b>25. Date: 20.12.07 SMS LM and Luciana</b></p> <p>a. <b>L:</b> what time would be good for me to bring Christmas presents tomorrow morning?</p> <p>b. <b>LM:</b> Court Classique (gives address)</p> <p>c. <b>L:</b> I will be there. See you at 9. Thanks</p>	Delivery of Christmas presents
<p><b>26. Date: about 24.12.07 LM and F Davids</b></p> <p>a. <b>LM:</b> gevaarlike sms here just before Christmas. I am TM man, we are still wiping the blood from our faces, egg or egg and blood from our faces</p> <p>b. <b>LM:</b> Saw the man on Friday evening, we planning a comeback strategy</p> <p>c. <b>LM:</b> Once we have achieved that, we will clean up all around us my friend</p>	Allegiance to Mbeki, confirm that they met, and are planning a comeback strategy
<p><b>27. Date: 29.12.07 Minister of Justice</b></p> <p>a. DVD there</p> <p>i. <u>Spoke to you in Ctn about my own intentions about the future</u></p> <p>ii. <u>Met pres – wanted to brief you</u></p> <p>b. 2 things, the one: the heat is on</p> <p>i. I did ask NDPP</p> <p>ii. <u>No ways people will accept as fair if you guys go to prosecute sooner, otherwise they will read conspiracy, and really the situation is bad</u></p> <p>iii. <u>That is why they are pushing German thing – we must not think that these things will not come up later</u></p> <p>iv. <u>That's why people were angry that there was even this slight deviation</u></p> <p>v. <u>I then said to them, why cant you approach it gently, how do you charge now, appear in court in august?</u></p> <p>vi. <u>I said no, did say it is prudent to go the route where there is no big gap</u></p> <p>c. Let me explain to Min what happened.</p> <p>d. <u>we technically took the decision on 19<sup>th</sup> Dec, slight defect in c sheet, re-signed on 24<sup>th</sup>.</u></p> <p>i. <u>looked at law, serve at official address, could not serve on 27<sup>th</sup></u></p> <p>ii. <u>then did on 28 th</u></p> <p>iii.</p> <p>iv. <u>we took the decision on 19, tech defect</u></p> <p>v. <u>the sheriff wanted more copies, got him to sign again on 24<sup>th</sup></u></p> <p>vi. <u>small mistake Tanda made, got him to sign again on 24</u></p> <p>vi. only managed to serve on 28</p> <p>viii. hulley would not answer the phone</p> <p>ix.</p>	Internally, it appears that the decision was made on 21 Dec, the same date LM met with the President
<p><b>28. Date 9.1.08</b></p> <p>a. <b>LM:</b> Can we speak on this line, is it prudent to speak on the phone</p>	In Feb 2008 LM receives a copy of an intercept of a calls from his cell phone (it was
<p><b>29. Date 10.1.08</b></p> <p>a. <b>LM:</b> Can we speak on this line</p>	

	recently published in a court case)
<b>30. Date 3.4.08</b> a. Discuss the fact that he had been approached by World Bank and offered the position	World Bank position
<b>31. Date 7.4.08</b> a. Discuss that the President and the Minister will have to endorse him and release him for World Bank position b. <b>BN:</b> They are going to release you, that's in December, they have known that.	World Bank position

c.

**32. Min J 14 Dec 07 10h32**

This process of drafting, consultation and assessment was completed by 11 December 2007 and the NPA is currently considering the matter as a whole with a view to taking a decision on prosecution.

**33. Min J 29 Dec 07**

- a. DVD there
  - i. Spoke to you in Ctn about my own intentions about the future
  - ii. Met pres – wanted to brief you
- b. 2 things, the one: the heat is on
  - i. I did ask NDPP
  - ii. No ways people will accept as fair if you guys go to prosecute sooner, otherwise they will read conspiracy, and really the situation is bad
  - iii. That is why they are pushing German thing – we must not think that these things will not come up later
  - iv. That's why people were angry that there was even this slight deviation
  - v. I then said to them, why cant you approach it gently, how do you charge now, appear in court in august?
  - vi. I said no, did say it is prudent to go the route where there is no big gap
- c. Let me explain to Min what happened,
- d. we technically took the decision on 19<sup>th</sup> Dec, slight defect in c sheet. re-signed on 24<sup>th</sup>.
  - i. looked at law, serve at official address, could not serve on 27<sup>th</sup>
  - ii. then did on 28 th
  - iii.
  - iv. we took the decision on 19, tehcn defect, sheriff wanted more copies, got him to sign again on 24<sup>th</sup> snail mistake T made, got him to sign again on 24
  - v.
  - vi. hulley would not answer the phone
  - vii. I am happy to do a plea, but I don't think they would
  - viii. M; Concern that must explain properly
  - ix. Liff: ; Cant win public press war, should not comment
  - x. Why disturb xmas, to prevent undue delay
  - xi. The Pres is on leave, does not know about it, Min only told about it the day before
  - xii. I want to know our march on the JS thing,
  - xiii. memo to her
  - xiv. b; this is prosec matters, I don't think the pres should come in. previous problem was kicking in doors at armed sites, just you must do what you must do
  - xv. b; ndpp has now said – there is strong case against Z, CM statement is worse than BN one, cm statement makes it worse
  - xvi.

b.

**34. Min J 14 Dec 07 10h32**

This process of drafting, consultation and assessment was completed by 11 December 2007 and the NPA is currently considering the matter as a whole with a view to taking a decision on prosecution.

**35. Min J 29 Dec 07**

a. DVD there

- i. Spoke to you in Ctn about my own intentions about the future
- ii. Met pres – wanted to brief you

b. 2 things, the one: the heat is on

- i. I did ask NDPP
- ii. No ways people will accept as fair if you guys go to prosecute sooner, otherwise they will read conspiracy, and really the situation is bad
- iii. That is why they are pushing German thing – we must not think that these things will not come up later
- iv. That's why people were angry that there was even this slight deviation
- v. I then said to them, why cant you approach it gently, how do you charge now, appear in court in august?
- vi. I said no, did say it is prudent to go the route where there is no big gap

c. Let me explain to Min what happened,

d. we technically took the decision on 19<sup>th</sup> Dec. slight defect in c sheet. re-signed on 24<sup>th</sup>.

- i. looked at law, serve at official address. could not serve on 27<sup>th</sup>
- ii. then did on 28 th
- iii.

iv. we took the decision on 19, tech defect, sheriff wanted more copies, got him to sign again on 24<sup>th</sup> email mistake I made, got him to sign again on 24

- v.
- vi. only managed to serve on 28
- vii. hulley would not answer the phone
- viii. I am happy to do a plea, but I don't think they would
- ix. M; Concern that must explain properly
- x. LM: ; Cant win public press war, should not comment
- xi. Why disturb xmas, to prevent undue delay
- xii. The Pres is on leave, does not know about it, Min only told about it the day before
- xiii. I want to know our march on the JS thing,
- xiv. memo to her
- xv. b; this is prosec matters, I don't think the pres should come in. previous problem was kicking in doors at armed sites, just you must do what you must do
- xvi. b; ndpp has now said – there is strong case against Z, CM statement is worse than BN one, cm statement makes it worse

### 16/3 Meeting with Hulley, WH

\*On 14/12/07 check fax ± 12h43 to 044 653 2223, and also if page 1 of the fax is stored somewhere. There are a few other faxes around this time. This was being faxed to BT.

\*Hulley asks in terms of timing, he mentions the looming elections and also the con-court process. He alludes to the fact that if we withdraw, then he would advise his client to discard the Con Court process

### 6/3 Meeting with Hulley, WH re: reps in Hulley's office in Durban

\*Transcripts of LF , BT, Powell of telephone intercepts

\* Also sms messages

\*Also a lot sms confirming a lot of messages between LF and Kasrils

\* Meeting with TM which is confirmed by a sms to a certain person

\* Also messages/transcripts with Mzi Khumalo

\* Video end Oct 07 of Smuts Ngonyama in a lodge. Very sensitive as this a one-on-one, about how to impress the ...State leadership, reference to the Chief, Mzi Kumalo, Saki Macozoma, leveraging certain judges, even the CJ son in some misdemeanour to use this as leverage to influence him, use of state agencies.

\* Ivor Powell. He appears to know a lot of people in the security/intelligence community.

- Also let us read a long report of Bertha Kellerman, with a lot intelligence information pedalling.

\* It looks like this is the genesis of the Browse Mole information. It looks like after he resigned, Powell continued with these shadowy activities pursuing the Browse Mole slant.

\* Could not come right with the laptop.

### 9/3 continuation in WH's office

\* The sound is now fixed.

\* McCarthy and Davids, conversation in Afrikaans about a variety of things football mostly, Thabo ....., Zuma, Kgalema, off Vusi's back, a lot of inputs/advice from Davids.

\*McCarthy & BT: ANC and "his supporters". People on TV, a bunch of hooligans, we need to chat in Jan after Christmas

\* Voicemail to Davids, Thabo man, wiping blood from our faces, saw the man on Friday, planning a comeback strategy to clean up all around us.

\* LF with Kasrils. Pass by at some point this evening by 8h00 at the house.

\* LF with Kasrils, setting up an appointment to meet.

\*LF with Kasrils, to meet with Kasrils at ±16h00 in Cape Town from the Cape Town Airport. Apparently delivering something. "I have it"

\*LF with Beryl: Thanks for the intervention. Head of FBI in Nov. Wondered whether some of the recruits can go for a refresher course. This could cost about R200K, not to go to the DG, Brian to sign it. Discussed with Mpshe and the Minister. To do this in Feb.

\*LF to Bridgette Mabandla: Discuss a few things about Zuma's case at her house for an hour. Pressure under Jackie's case, about giving reports to the Minister. How did this go the media, giving reports to the Minister, etc. I don't want this blow by blow account in the media with Tladi, refer to me. I don't know how it got to the media. I can't account for it. Then TM was on the phone, is it former president. You'll remain my president, always. We need to meet, I will call you on Friday.

LF and Mzi Kumalo. Bad day for the whole country. Sit and reflect on what to do next.

\*I can't believe the sms's saying we are winning. People lying to us.

\*Level of hatred towards BT is unbelievable. We don't care about what Hefer said. We believe he was a spy

\* I went and told him with Pumzile.

\* I told Pumzile that my sister, you and Terror Lekota will lose. I told the President that keeping him Pumzile and Terror there, we were saying to me lose. LF says this is unbelievable, with all the clever people around the president. Mac Maharaj is back in full force. They'll pardon Schabir Shaik. Kgalema knows, always accepted that Zuma will be charged, convicted by end of the year. He uses Zuma as Trojan Horse. Kgalema will he consider a middle line. I think Kgalema will dump Zuma. Everybody knows and expect Kgalema to be next president. People in Zuma camp don't expect him to be next president and with Zuma convicted, Kgalema will pardon him. Kgalema knows that Zuma will be charged. The CNN, international media says he will be charged with corruption trial. LF says I watch BBC. Did you receive the wine and book I sent. Lets meet and regroup another day, I feel bad about this, and wipe the blood off our face. My wife says its like you lost your mother. If you can, come to the farm in Mooi River and meet with people who think like you. Come down with the family and we have some fun.

\* He will send us the sms's showing the dates/ times, especially between Fowler and LF detailing the timing of when some staff should be leaked to the media about Zuma's late wife to cause maximum damage to Zuma @ Polokwane.

\*Bridgette to LF: President want to talk to the police, to keep morale high. This is very important for the security of the country. This is the problem I had with Pikoli, he was not discussing things. I wanted to discuss a few other things with you, your approvals about the Zuma case. I really need to talk to you.

\*There is also a discussion between Jacobs and BT relating to the meeting he had with Mpshe on 12/12/07. Also reports to them about WH frustration with Bridgette.

\*He will also give us Luciano and the discussions with Fowler/BT and the LF/Jacobs discussions, and LF/Luciano.

\*It looks like Powell/Jacobs/LF had a lot of interactions in 2007 (Browse Mole??). Then he got information that as late as 2008 that he continued with his information gathering after McCarthy had left.

### **11/3 WITH Hulley**

\* Whether records with specific reference to the team, AS, Billy and George. Nothing at all, expect LM with Du Plooy, about filing a document down in Durban. Nothing absolutely on Mpshe.

\*He gives us a hard copy with heading "communication".

- In re: 8 Dec, there is no direct involvement of LF on these (except that he has link with the group).
- The only reference is when LF was talking to Fowler in re: timing the release for maximum effect for the Kate matter for release in the press.
- 17/12/09: LF and Luciano, an international tel number. They had a long discussion about the Zuma and the Selebi investigations. This is an sms.
- There is another mail (not provided) in which LF calls Jacobs about a meeting he had with Mpshe, also another one in which he tells him of his effort to meet the minister who seemed reluctant, and he then mentions of WH's frustrations with the minister.

16/3

meeting with Huddy, W/H

TO DO  
VERY  
LORD TITTO  
W/TH DAVID

\* On 14/12/07 short fax # 12443  
0446532223, and one of the  
the page 1 of the fax is stored  
somewhere there were a few  
other pages around this time  
→ This was being forced to  
BT.

\* Huddy asks in terms of timing, he  
asks the loom checked, and  
also the con count process. He  
alludes to the fact that if  
we withdraw, then he would  
advise his client to discard  
the con count process

SP1



6/3

Meeting with Buckley, Wilt re rep.  
on Buckley's Office in Durban.

\* Drafts of Lt. B.C. Powell of telephone  
interviews.

\* Also SMS messages.

\* Also a lot of SMS concerning a lot of  
messages between Lt. and Kengile.

\* Meeting with Tom which was confirmed  
a meeting for next day by a SMS to  
a certain person.

\* Also messages / transcripts with other  
people.

\* Videoed end, Oct 07 of South  
African government a wedge. Very  
significant in this way a one-  
man show, about how to improve  
the free state leadership, reference  
to the Chief, Mphahlele, John  
Mabasa, Mphahlele, Mphahlele  
judges, even the KJ saw in some  
circumstances to use this as leverage  
to influence him, use of state  
apparatus.

\* John Powell. He appears to know a lot of  
people in the security / intelligence  
community.

\* Also tells me read a  
copy report of B.C. Powell  
Kengile, with a lot  
of "intelligence" information.

\* Mr. Powell like this is the friend of  
the Brown whole information  
packaging. He looks like even



\* LF to Bridgette under the Dismiss

How did this <sup>case</sup> <sup>from</sup> <sup>things</sup> <sup>about</sup> <sup>you</sup> <sup>to</sup> <sup>the</sup> <sup>media</sup> <sup>case</sup> <sup>at</sup> <sup>we</sup> <sup>were</sup> <sup>for</sup> <sup>your</sup> <sup>reports</sup> <sup>on</sup> <sup>how</sup> <sup>some</sup> <sup>one</sup> <sup>to</sup> <sup>the</sup> <sup>change</sup> <sup>in</sup> <sup>fact</sup> <sup>was</sup> <sup>about</sup> <sup>from</sup> <sup>your</sup> <sup>reports</sup> <sup>to</sup> <sup>the</sup> <sup>what</sup> <sup>for</sup>.

I don't know how I got  
the memo out of it

not perfectly fair here.  
I don't want them blown  
by them etc - the media  
with Hathi, refer them to me.  
When Tom was on the phone,  
~~and~~ it from President.  
You'll remain my friend  
always. We need to  
meet, I will call you

\* If and when possible. Bad day for  
the whole country. But not  
sufficient to do next.  
I can't believe the Lord's saying  
we are winning. People  
~~they are~~ saying to us.

Heard of hatred towards  
D1 is unbelievable. we don't  
care about what Defer said.  
We believe he was a spy.

From  
19 and  
20 Dec  
07

I went and told him <sup>about</sup> the people

I told President that my notes you  
and I were afraid that the world  
d. The President that keeping him and I were  
we were going to be. I was very  
but say this is unbelievable  
with all the other people and I  
what we have is back -

full price, viz, 11 pounds  
 per head. I think  
 Kgalama knows a very <sup>accepted</sup> ~~the~~  
 game will be brought  
 forward by ~~and~~ of the  
 year. He runs game as I have  
 Kgalama will be considered  
 a middle line. I think

Heathens will strip from  
Every one known and

largest Regiments for the  
most Perfect People -

June 2. camp don't expect  
thunder to be next period;  
and with June southerly,  
Kalamazoo with parade  
again.

Every body knew that I was  
with be changed.

This all CWN; international  
media say he will be  
charged with ~~the~~ <sup>for</sup> the trial.  
~~says that~~ "ABC". And you

receive the wine and both drew  
bets used and reform yesterday  
~~isn't this~~ wife the blood  
of our face. My wife

3

says its like you lost you  
another. If you can, come to  
the Jam <sup>in the</sup> meet people  
who think like you come  
down with the family  
and we have now for

NB  
\* He will send us the SRC's showing  
the state funds, especially  
where funds of LF defuncting  
the timing of when some  
staff should be looked to the  
media about Juma's late wife to  
cause maximum damage to Juma @ Milwaukee

\* Bridgette to LF. President wants to talk  
to the Brie, to keep morale high.  
This is very important for the security  
of the country. This is the  
problem I had with the Brie, he  
was not discussing things. I  
wanted to discuss at first  
the things with you, your  
approach about the Juma  
case. I really need to talk  
to you.

NB  
There is also a discussion  
between ~~President~~ <sup>President</sup> and BT relating  
to the meeting he had with  
on 12/12/07.  
Also reports to them about with  
prosecutors with Bridgette.

WFSR

D

\* He will also join us Luciano  
and the discussions with  
Forley/ST, and the LT/father  
discussions, and LT/Luciano.

\* It looks like Russell/Father/LT  
had a lot of interest in  
2007 (Borneo state??). He  
was not informed that  
as late as 2008 that  
he continued with his  
unfortunate fathering after  
McCortney had left!

4/3 - with Huddy

\* Whether reads with specific  
reference to the team, AS, Becky  
and George. Nothing at all,  
except not with Dr. Plowry,  
about filling a document  
down in substance.

→ Nothing absolutely on Myphie

\* He gives us a backstory with  
hearing "communication".

→ For the 8/12, there is no  
direct involvement of LT  
on there, (except that he  
was back with the group).

→ The only reference is when  
LT was talking to father in  
he giving the release for

maximum effect for the Rafe matter  
for release in the press.  
~~the Rafe matter~~

17/12/09 LF and Lucciano, an  
international tel #. They had  
a long discussion about the fact  
and the celeb' investigations. It  
is an SMS.

Mike Huddy  
will try to diff  
this one, especially  
around 3pm

There is another man (not  
provided) in which of calls  
for a meeting he  
had with people; also another  
one in which he felt  
himself of his effort to meet  
the minister who seemed  
reluctant, and he then  
maintains of WH's positive  
with the minister.

#### 1/4 JZ reps discussion: WH, SILAS, NDPP, AT AND TRISH

\*Mpshe says he has received a response from LF, he reads, inter-alia, that he needs all the necessary and relevant facts in relation to the recordings.

- WH suggests that we also give him a set of questions like we did with Bulelani.
- We may even suggest that if he wants to listen to the tapes, he must come here, that is if NIA will be comfortable with that, which is unlikely.
- Silas raises what he says is a critical factor, which is, are we saying that is Bulelani Ngcuka and LF are the only players in the conspiracy/manipulation. Are we also going to approach the former president Mbeki. This is now complicated.
- Mpshe says the only important players in the tapes are BT and LF. Others are just mentioned.
- We sent LF the 25 questions we sent to BT.

\*Re the NIA there is no dot on former President and the Minister of Justice.

- We then go to the visit to NIA last night, and WH goes through his typed version of the events.

\*Mpshe says after listening to the tapes he can't separate Leonard's involvement, he got angry. He can't go on with this case. He has decided to drop the charges. We just need to prepare the motivation and how do we substantiate this decision. He says we have sufficient (information) to explain our decision.

- He has no doubt that the President may have been a player behind the curtains.
- He then goes on to the inferences that he draws about the involvement of Mbeki e.g the fact that you are on your own i.e you have no president to protect you.

\*Silas is prepared to abide by your decision. If you are satisfied and can justify I cannot say I disagree with your decision. I will just need a lot of work to prepare on the motivation.

\*WH says this is the most difficult decision. This is for legal reasons and for the organisation. This is the correct decision. This would lead the NPA to attack. This is not because we are weak. We need to think careful of what to say and how to package. We need to strategize on how to approach the team and need to have a proper discussion with them.

\*I say I respect the decision and that the fact that I might have come to a different conclusion, we should be very careful on how to manage this, avoid a cover – up. I would not be part of the cover-up.

\*Silas says there should be a valid and sound legal basis which he is not sure we have. This needs a lot of a research. There is also a possibility of a *nolle prosequi*. If you agree, you have to release the material, if not explain why not.

\* Thanda says he also supports it but it should be based on sound legal basis and we should be careful not to appear to be doing what McCarthy did for the Zuma.

\*In support of Silas point about the nexus, what we did by going to NIA was actually to legitimise an illegitimate process by Hulley.

---



\*I propose that we only use the Hulley tapes and not use the NIA tapes. Mpshe sort of agrees with me.

\*WH disagrees with me and says there is no train smash by using the NIA tapes but only refer to them.

Agreed that the press release is on Monday at 11h00.

#### 6/4 Meeting with WH, Mpshe, Silas, Trish, Thanda

\*LM gave his response saying he did not take the decision. Thanda and Mpshe did that and he then referred us to his lawyers, Webber Wentzel.

\*Faiek : He gave WH and Thanda answers and he is non committal. Refer to the conversation of 24.12.07. Thanda and WH to follow up on the "gevarlike sms"

#### 6/4 MEDIA CONFERENCE: ZUMA REPRESENTATION: DECISION ANNOUNCEMENT

1. Has there been any indication about TM involvement.
2. Did you ask TM any questions, if not why not.
3. The conclusion does not remove a cloud on JZ.
4. What discussion you had with Mothlante before and after his appointment.
5. How much has been spent.

1 and 2: No trace that TM was involved in the transcripts.

3 refer to 1 above

4 No

5. The costs have not been calculated

\*Will you ..... for saying the decision is yours and without being tainted

\*What does the timing of charges have anything to do with the wrongdoing. Your job is to prosecute offenders.

#### 20/2 Zuma reps

##### PHASE 1

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\* Intro by NDPP

\*Kemp, Hulley, Andrea

\*Will court repeat the written reps, the 2 documents, they will not deal with the papers. There are things not in the papers, that is what we are about today.

\* NDPP says there will be another date to engage.

\*Kemp says this is not ANC reps, wants to make this clear.

\*Investigation got momentum after the encrypted fax, 2 main investigations, others are ancillary, viz,

1. Shaik/Thint (bribery) and
2. secondly, the relationship with Shaik/Zuma

\* Harms? says conviction of Shaik is not automatically that of Zuma, differences are intention and admissibility.

\*Fax has odd features, why need a code in a meeting of 3 protagonists.

\*They don't pay Zuma, but Shaik. (this is peculiar)

\* What did the French do that needed protection. In this regard consider our view- he probably said I'll deliver but want to be paid, eg by dividends. So when the investigation might have led Shaik to say to the French, now pay me and I will get Zuma to help.

\*In other words we say this explanation more accords with what happened than what the state alleges.

\*If we go to court there will be an admissibility problem of the fax. He says the admissibility of fax by Squires is presented on a flawed conspiracy thinking. However, he almost pulled himself by his own boot straps, as it should have been outside the document. The admissibility against Shaik is an exception to the hearsay rule, is not applicable against Zuma.

\*Fax was illegally obtained by De Lique, probably to extort money. Her explanation is obviously a lie and will be attacked on that basis.

\* In all the searches, not a single document was found to support that Zuma played a role in this conspiracy.

\*In re witness: ?? are only Shaik and Thetard. Thetard says she won't testify and Shaik is not on the list of witnesses.

\*In the bribery, Zuma defence would be to say I don't know what you are talking about. In this regard there would be no case. In re the circumstantial evidence angle, he says actually these circumstances actually destroy the bribe argument, as he already had him in his pocket.

#### GENERALLY CORRUPT RELATIONSHIP

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\*These people had a long relationship, the things we say he did, he would have done it for everybody else. There was no secret about this. The issues of loan agreements, interests and so on, these were issues that they never paid any particular attention to it. Its unlike having a relationship with the Bank of London.

\*From Zuma's point of view this was an arrangement with a friend, with no strings attached.

\*In this regard, Mr Zuma's intentions will indicate as we explain in the reps. This is explicable in non-criminal terms.

That's all in the merits. Essence of the defence.

## Phase 2

\*If we go to the permanent stay, it will not go on in August 2009, there will be extensive disputes of facts based on leaks, political manoeuvres to tarnish Zuma, especially (by) McCarthy.

\*This will certainly go, eventually to oral evidence, we will have to cross examine people. This will then attract etc. The permanent stay will go on at least till middle of 2011.

\*He also says there are many aspects of the RICA Act in re: racketeering which will be challenged constitutionally as there are presumptions in favour of the state, Pikoli and Mpshe's decisions will be challenged, if the section 179 issue is not resolved in the Con Court.

\*When we started to represent him he was somewhat marginalised and isolated, he is no longer such a figure now. We now have considerable access to resources now. Shaik probably thought this was not serious and would get a slap in the wrist for company law offences. So we allowed the state some short-cuts. We wont make the same mistake. We will place everything in dispute.

\*This will take minimum 5 years. We want to make it clear that we will fight.

\*truly speaking, its only the S179 that we did on our own. All the other interlocutory applications were all in response to NPA actions. We were not just (going) to fall over and play dead. Its not fair to suggest that we sat in chambers and said we want to delay the case. All the fights we have fought were premised on us saying this will be for us to win the case not delay it.

\*Its not constitutional to prosecute a sitting president, which is a great probability. This is because he is an executive president, not ceremonial. if you let him sit for a trial for ±2 years, you will be paralysing the executive.

\*This trial will be very costly.

\*There is anger out there and it is inevitable that this will lead to chaos.

\*In the permanent stay proceedings we will mention the issue of senior NPA (officials) involved in political machinations. Whether we win or lose, but people wont forget it.

First, the off-the- record briefing. Why didn't any of the editors publish

- Also the interaction with Ngcuka and Maduna with the French (Thint)

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- The letter that Mbeki wrote and let Zuma sign
- The 23/08/03 press statement
- Ms Kellerman employment by Ngcuka to gather dirty intelligence on Zuma
- The Chile trip, most remarkable that they didn't discuss Zuma, and yet spend months of engagement in relation to Selebi
- McCarthy interactions with Bheki Jacobs, Trevor Fowler and advised McCarthy on how to deal with Zuma and
- used resources in the Presidency, Ngcuka, Luciano an Italian, Thomas Howzen, Ferial Haffajee, referred to Zuma as Ouboet, and Selebi as Oulan, Saki Macozoma, Mzi Kumalo, and financed several covert operations, Minister Kasrils, Oliver Powell, Ms Kellerman.
- Browse Mole matter, consider that the parliamentary committee was multi party and not just ANC. You know what they say about McCarthy.
- McCarthy, Fowler and Ngcuka discussed the release of the news of Kate suicide on 12 Dec 2007 to do maximum damage especially agitating for Mbeki's third terms. Talked to Mbeki in December 2007, also about Willie Hofmeyr about his frustrations with Mabandla.
- We have the high degree of conviction of the accuracy of this information.
- Whether it was lawfully obtained is besides the point, we will release it.
- McCarthy should not have been the person to brief Mpshe of when to act in December 2007. In these circumstances there is a way that McCarthy should have been the one to have done the briefing.
- He will have to consult whether to allow us to independently verify this information. A mechanism for this has to be found
- Whether the case can be objectively be proceeded with notwithstanding all these allegations, the fact of the matter is that all this will be in court papers.
- You are also aware of the allegations of political interference that Pikoli alleges.

#### DELAYS

\* Our stance is that the evidence has always been there since the days of Ngcuka. It has changed but only just slightly.

\*Msimang said in 2006 that the state has been responsible for the delay. In October 2006, Pikoli said the matter would be in court in few weeks. Yet its only re-instated in December 2007

\*We will be able to show a delay of 5 years at least since the day of Ngcuka's decision.

\*Leaks, either the press is lying that there were leaks.

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## CONCLUSION

\*If the case proceeds, all of us will be bruised. We will an executive at war with the executive. There will be a debilitating effect.

\*If you get a conviction and Zuma goes to jail. This will result in the majority of people have a loss of confidence in the criminal justice system.

\*Look at COSATU and the Taxis. This is a possibility of unrest.

\*There is always a possibility of pardon

\*If we win, the people will say all the harm to Zuma and the conviction was all in vain. Ngcuka was right after all. There was no *prima facie* case. Remember the saying "*who will guard the guardians?*" Let us be careful that people do not trust the NPA.

\*The price of an acquittal is just too high, and the war between the NPA and the Executive will reach unthinkable levels.

\*Even if there was this bribe there was no money that changed hands, do we want to go through all this and put the country through this and for what

\*Its clear that if we decide not to prosecute, its clear that the press will jump up and down but that is tough luck, that's what we as NPA are there for.

\*In re: the authenticity, he will discuss with his attorney, they will come back to us.

\*The reality is that this prosecution has been overtaken by events and the environment changed to what it was in 2003.

## With the team: Billy, Anton, George

\*They caution against a further engagement with them. This will lead us to a lot of protracted litigation.

\*I explained to them that the next engagement is not about being argumentative but to essentially give them our decision.

## 31/3. Musinda. WH, Mpshe, AT, Arthur et al

\*Worried about credibility and precedent implications for NIA

\*Agreed that this is all legal stuff obtained through valid warrants etc.

**12/12/07:** The Tony Yengeni night, discussing about something that shall come out at a certain correct time.

**13/12/07:** LF and BT when are you filing, how does it look, its ugly. Pls deliver it at my house, the script has not changed yet. A bit of disrespect to Mpshe. The ridicule to the Minister, they do it to themselves. Ferial had a meeting with President and Trevor. (BT says that's a good one). Keep your heads open about the when factor, Mpshe is going on leave. Don't do this weekend.

**14/12/07 @ 11h21:** Drop something at his house which is too risky. Fax and be next to the machine.

**14/12/07 @ 13h00:** Its filed now, you can show to the guy in the beachfront. Give me what you need for X-mas, I will bankrupt you.

**17/12/07:** LF-BT, I met this guy. Bussed in hooligans to the conference. Agree to meet.

**17/12/07:** LF to BT conference starting tonight need to chat in January. I met this man.

**19/12/07:** LF to BT I am not scared of them. They can't do anything to me. Get out of that place, you are exposed, get out of there, 60% of those people are ANC people. They can harass me. Its not the ANC

LF: should I leave this decision and let the other people sort it out.

BT: didn't say that, I am talking about you, I am fine. I have my own businesses. I don't do business with govt.

**19/12/07:** LF-BT: Minister is too committed to Polokwane, the longer we wait the worse it becomes.

LF to BT: Let us meet somewhere, I will sms you. They agreed to meet at Quartermain Hotel.

**26/02/08:** LF to BT: Long call about Browse Mole. BT is worried about how LF was portrayed d in a media conference. McCarthy is in Amsterdam. He reads for him all the headlines, Sowetan, City Press, Business Day etc. Told him that this is very embarrassing, you are in trouble, you will have to hide. There is nothing controversial here, you can blame me for bad judgment. I just said when I got the reports. I just said put it in the report. Says his mom says they should go to the lawyers but I said let them wait until I come back on Friday. I have done nothing wrong just blame for bad judgment.

**3/04/08:** LF to BT: about the offer from World Bank. Also want to have BT have him as referee and Trevor Manuel. Also told the WB President that BT will call. Also wants to speak to Mbeki. Should facilitate Trevor as referee.

**14/12/07:** LF to Mabandla: she is very concerned that we are about to arrest the old man (JZ). This is just notice to oppose leave to appeal of JZ. This is just a legal process. That you must condemn the hype around him. People did not sleep because of the rumours. McCarthy says he will forward the affidavit to him. He wants to give her. Says she is on her way to Polokwane. What upset the president is that Vusi was not sensitive to brief the senior colleagues

They then go to the tape of LF and Mabandla about the pressure she is under in re Jackie etc, and then Mbeki, please LF don't do anything funny.

**29/12/07:** LF to Mabandla: he is updating the minister about the Zuma matter. Minister is still concerned that we want to charge. Mistakes made by Thanda, which defects to be corrected by Thanda on 24 Dec. That is why we charged on 28 Jan.

Refer to the memo that explains this process.

He says they don't want the trial to proceed. LF says we are amenable to discussions for a plea. He explains that the need for charging is because of the unique nature of the case and his main point is undue delay. so we can't delay this.

The President has nothing to do with this. He is on leave.

Then she asks about the Selebi case. McCarthy says all the answers are in the memorandum. She says she is on leave and refuses to read until after she is back from leave.

Says he told Mpshe not to answer private calls. Told Mpshe that they caught him cold at 7 in the morning and instead of saying nothing.

He then refers to the Afrikaans newspaper that suggest that Zuma should plead. She says please don't close the door to plea bargain. Joe Mathews also tried to be involved.

Someone should talk sense to Zuma's head.

LF refers to the issue of being requested to vacate office, and the issue of the Zuma and Selebi case.

I want us to meet over the week-end to look at the papers. If there is mumbo-jumbo we need to address that.

**04/06/08:** Billy to Sam Sole. and Billy really refuses to disclose anything critical

**13/06/08:** Billy and Sam, have information on German (Thyssen) case. Billy does not say much here except that the engagements with Richard Young are not for publication. Mentions that the Dept of Justice is sitting on this thing and bring it back with queries.

**18/06/08:** Sam and Billy. Germans have withdrawn everything against Thyssen. They do talk a bit long here about BAE, the Germans, etc. Then Billy says something Sole says is very useful

And he didn't know.

Then can you tell me about what the Ministry and the Germans. There are some detailed explanations. Billy goes into a lot of detail about explaining how the law of MLA works involvement of the ministry and their responsibility etc.

## **CONCLUSION**

\*We have a longish discussion about the possession of the tapes by Hulley. We (me and WH) are asked to consider talking to Hulley releasing these tapes to the custody of NIA, this type of stuff cannot just be allowed to be in the public domain.

\*Agreed that we will go back to them depending on our own decision and also the packaging of press release in the event of the decision to withdraw. We will revert to them in this regard.

**31/3 JZ Reps. Discussions with WH, NDPP, Trish, Silas and AT**

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\*Mpshe says after the adjournment yesterday we decided to meet today to consider our verdict

\*There is a letter from NIA to say that they are ready to co-operate with the NPA in dealing with the phone tapings linked with the JZ matter, are prepared to provide the necessary information/documentation etc.

\*WH says we may have to disclose these tapes contents in the course of our own investigation.

\*Silas and Trish are a bit ambivalent of using these NIA tapes. We might also be committing an offence ourselves.

\*AT says we should be very careful, what if we find that JZ also had his own conspiracies, where will it all end.

\*A lot of discussion about political interference, executive interference, political conspiracy/manipulation etc

\*There is a view from some that all this has had no bearing on the offence being committed so these are just not related to the offences themselves.

\*There is yet another view that says all these LF and BT shenanigans have had an influence and tainted the process.

\*Mpshe asks whether when looking in retrospect – whether all the pressures exerted by McCarthy did not influence him, even maybe indirectly.

\*Mpshe says that he really would like to listen to the NIA tapes. We discuss issues of legality in connection with the Act, etc, and whether/how the NDPP should release this to the public domain.

\*In re: the Hulley tapes, me and WH are asked to go and call him. He says they are not willing to tell us who the sources are but are willing to give us the audio material.

\*Mphse says the DG of NIA is saying that he is ready to give us any material we request and even say that we can mention that NIA gave it to us.

---



→ will negotiate that we also  
have built a set of questions.  
I hope we deal with 6 problems.

NB

AR  
LV

IV  
VERY IMPOR 1000

→ why he says the only important players in the tapes is BT and CF. Others are quite overhyped

→ We send R.F. the 25 question  
we sent to BT.

Re the 2nd paper in a 2nd  
the 2nd paper in a 2nd



minutes of justice.

→ We then go to the visit to  
NIA last night, and WIA  
through the typed version of  
the events.

~~My~~ Mike says after listening to the tapes. He can't separate Leonard's involvement, 1st part - only. He can't go on with this case. He was deceived to drop the charges. He just need to prepare the indictment and how do we substantiate this suspicion. He says we have sufficient to explain our suspicion.

He has no doubt that the President may have been a player behind the ~~curtain~~ curtains.

He then goes on to the  
inferences that he draws  
about the involvement  
of Mbeki, and the fact  
that you are on your  
own, i.e. you have no  
president to protect you.

§ Silas is prepared for a bride  
by your election. If you  
are satisfied with the  
justice I cannot say I  
dislike the new law. I am  
not sure of it.

motivation

~~1~~ says this is the most difficult decision. This is for legal reasons and for the public interest. This is the correct decision, this would lead the NPA to attack. This is not because we are weak.

We need to think careful of what to say and how to participate.

We need to strategise on how to approach the team, and need to have a further discussion with them.

~~5~~ says I respect the decision, and thank the fact that I might have come to a different conclusion, we should be very careful on how to manage this, avoid a cover-up and would not be part of the cover-up.

~~1~~ says there should be a valid and sound legal basis. But he is not sure we have. This needs a bit of research. There is also a possibility of a noble foregiver. If you also get have to release the material, if not, explain Thanda, says he also supports it, but it should be based on sound legal basis, and it should be careful not to appear for the public interest. What is the point of it?



# In support of Silasfont about  
the news, what we did by  
going to N/A was actually a  
legitimate an illegitimate process  
by Hurray.

8. I propose that we only use the  
Huller tapes, and not the  
the NIA tapes. While not  
I agree with me.

6-2-14 ~~discusses~~ ~~with~~ me  
and says there is no team  
searching among the NIA  
files, but only refers to them

① Agreed that the press release is ~~sent~~ on Monday @ 11:00.

1/4. Meet with WH, Anne, Lisa,  
John, Monica

\* Had given this response saying he  
did not like the design,  
then he and wife did  
that and he then referred  
us to this lawyer; ~~whether~~  
whether.

\* Frank: He got WII and I stand as  
and he is non-committal.

Refer to the memorandum of 24/12/07  
made and with to follow up  
on the "furnishings" etc.

①

6/4

Media conference: June  
representing: Denver  
announcement.

1. Has there been any  
restructuring about the  
movement.

2. Did you ask for  
not just, if not ask

3. The woman does not  
provide a cloud on JE

4. What discussion you had  
regarding the before with after  
appended.

5. How much has been  
sp.

1.2. No. Last that he was  
involved in the transcript

3. Refs to 1 above.

4. No.

5. The cost was not been  
calculated.

(3)

\* will you say  
 saying the desire for  
 is there, and who by  
 limited

\* What does the principal  
 charges have any  
 to do with the  
 carrying out of your job  
 is to protect the public

2072

June Refs

Phase 1

- \* Info by NAPP
- \* Kemp, Helly, Anderson
- \* Will not repeat the matter  
~~the 2~~ does, they will  
 not deal with the papers.  
 There are things not in  
 the papers, that is what  
 we are about today
- \* NAPP say with the  
 another date to engage
- \* Kemp says there is not one  
 refs want to make them  
 clear.
- \* Investigation for moment  
 after the ending of fax,  
 2 main mortgages.
- NB | ✓ The main mortgage is  
 ① Shank / Smith (Bribery) -  
 ② 2ndly the relationship  
 with Shank / June.
- \* Henry says something  
 Shank is not a professional  
 that of June, difference  
 and information also  
 admissibility.
- \* Fax has old features, they  
 need a code in a  
 meeting of 3 participants.

They don't pay ~~France~~, but  
 share. (This is ~~principle~~)  
 What did the French  
 do that needed  
 protection. In this regard  
 consider our view - the  
 probably said I'll deliver,  
 but wants to pay up  
 by dividends. So with  
 that investigation ~~impl-~~  
 I can't let I think I  
 say to the French,  
 need pay me ~~and~~ I'll  
 get ~~from~~ to help  
 for other words, we say  
 this explanation ~~must~~  
 accord with what  
 happened than what  
 the state ~~et~~  
 if we go ~~to~~ ~~the~~ ~~the~~  
 court, there will  
 be an admissibility problem  
 of the fact. The ~~range~~  
 of the admissibility  
 the fact by ~~against~~ ~~it~~  
 presented on a flawed  
~~conclusion~~ ~~thinking~~ ~~However,~~  
 he ~~should~~ ~~putting~~ ~~himself~~  
 by his own ~~but~~ ~~steps~~  
 as it should have been  
 outside of the document  
 the admissibility ~~against~~  
~~the~~ ~~admissibility~~ ~~against~~



(3)

P. 21 (81/143198)

In the hearing rule  
 just applicable against Juma  
 fax was illegally obtained  
 by Deligne, probably for  
 without moving. The  
 explanation is through  
 a lie, and will be attacked  
 by the court.

In all the searches, not  
 a single document was found  
 to support that Juma  
 played a role in the  
 conspiracy.

For 14 witnesses: there are  
 only four in the list of  
 the fact says he won't  
 testify, and four in  
 the list of  
 witnesses.

In the bribery Juma's  
 defence would be to  
 say I don't know what  
 you are talking  
 about in this regard  
 there would be no

case.  
 honestly except relating  
 P.T.O.

In all the circumstances involved  
 and he says a truth  
 that is the only way to

stealing the bribe ~~apart~~  
 as a present, as he already  
 had him in his pocket

Generally corrupt relationships

- These people had a long relationship; the things we say he did, he would have done it for every body else. There was no secret about this: the money, the gifts and so on, there were no secrets that they were paid any particular attention - to it. It's a life having relationships with the Bank of India.

- From James point of view this was a friendship with a friend, with no strings attached.

- In this regard, and James' interference will make as an expert in the U.S. This is explicable in the non-commercial terms.

the only the amount

Phase 2

\* If we go to the Remnant Party, it will not go on, there will be extensive display of facts based on links, of political maneuver to further justice, especially in Canada. This I will certainly go, eventually to our independence, and we will have to cross-examine people. This will then attract attention to the Remnant Party will go on at least till November 2011.

He also says there are many aspects of the RPP that is the Ricketts which will be challenged constitutionally as there is a provision in favour of the Ricketts. The Ricketts' divisions will be challenged, if they the Ricketts' division is not resolved, in the court. When we started to speak him he was somewhat marginalised and not wanted, he is now the main focus of the

new. We now have considerable  
 access to resources now.  
 I think probably thought  
 this was not serious  
 and would get a slap  
 on the wrist for company  
 law ~~settle~~ offender. So we  
 allowed the state some  
 shortcuts. We won't make  
 the same mistake. We  
 will place everything in  
 dispute.

This will take minimum  
 five years. We want to make  
 it clear that we will ~~just~~  
 simply speak, it's only  
 that \$179 that we did  
 go on our own. All the

the information  
 application were all  
 in response to NSA before  
 we were not just for  
 fall over and play  
 dead. It's not for  
 to suggest that we  
 set in chamber and  
 said we want to delay  
 the case all the  
 rights we have ~~lost~~  
 thought have been ~~perme~~  
~~run~~ as ~~range~~ this will be  
 as ~~over~~ the phase, not delay it  
~~not~~ ~~what~~ ~~information~~ ~~not~~ ~~for~~

profligate or sitting (misdeed)  
which is a great probability  
"This is because he is an  
executive president, not  
circumway. If you let him  
sit on trial for 2 years  
you will be punishing  
the executive  
This trial will be very costly  
There is a great risk that  
and it is inevitable that  
this will lead to  
chaos.

\* In the permanent story  
proceedings we will mention  
the NAA ~~involved~~ and I remain  
involved in political  
machinations. Whether we  
win or lose, but people  
won't forget it.

→ Justified the off-the-  
record briefing. Why  
didn't any of the  
editors publish

→ Also the interference  
with the Nankai and  
machines with the bank.  
(Think).

→ The letter that was  
written and let you -

→ The 23/8/03 press statement  
and the editorial implications



for Mr. Kelly's third time. I talked  
to Mr. Kelly in December 2007,  
and spoke about Willie  
Hofmeyr about his frustrations  
with the Mabo case.

→ We have a high degree of  
the conviction of the  
accuracy of this information.  
→ Whether it was lawfully  
obtained or, beside the point,  
we will release it.

→ Mr. Conboy should not have  
been the person to brief  
us on the matter to be  
in December 2007. In  
those circumstances there is no  
way that Mr. Conboy should  
have been the one to  
have done the briefing.

→ He will have to consult  
whether to allow us to  
independently verify this  
information. A mechanism  
- for this has to be  
found.

→ Whether the case can effectively  
be proceeded with notwithstanding  
all these allegations, the  
fact of the matter is that  
all this will be in court  
papers.

UBAY  
RAB  
CITATE

→ The court will have to decide on the merits of the case.

My father's political interference  
 that ~~interfered~~ with the process

## Delay

\* The stance is that the ~~the~~ evidence  
 has always been there since  
 the days of Nkuruna. It has  
 changed, but only just-  
 slightly.

\* Blomberg said in 2006 that the  
 state has been responsible  
 for the delay. In October  
 2006, Rhotu said the matter  
 would be a court in two  
 weeks. It is only re-initiated  
 in December 2007.

\* We will be able show a  
 delay of 5 years at least  
 since the day of Nkuruna's  
 demise.

\* Looks either the press is lying  
 or there were leaks

## Conclusion

\* If the case proceeds, all of us  
 will be blamed. We will  
 have a example of war with  
 the government. There will be a  
 debilitating effect.

\* If you put in a case from any



June 4 jail. This will  
 result in the majority of  
 people have a loss of  
 confidence in the criminal  
 justice system.

→ Work at COSATU and  
 the Tories. This is a  
 possibility of resort.

→ There is always a  
 possibility of pardon.

→ If not ~~win~~ win, the  
 people will say all the  
 blame to James and the  
 country was all in vain,  
 Ngwenke was right after  
 all, there was no  
 public fair case. Remove  
 the phrase, who will find  
 the frauds. Let  
 us be careful that  
 the people do not  
 hurt the NPA.

The price of an acquittal  
 is just too high,  
 and the war between  
 the NPA and the Expend  
 will reach unthinkable  
 levels.

Even if there was this  
 bribe, there was no  
 money that charged  
 hands, do we want  
 to go through with

thus and part the country  
through this, all for what.

\* It's clear that if we decide  
not to prosecute, it's clear  
that the press will jump  
and down, but that's  
rough luck, that's what  
we as AAA are there for.

\* For the time being, he  
will discuss with his  
attorney, they will come  
back to us.

\* The ~~reality~~ reality is that this  
prosecution has been  
overtaken by events, and  
the environment is much  
changed to what it was  
in 2003.

WITH THE TEAM Bay, Sutton,  
George ~~and~~ brief your notes  
a Karpis

\* They caution against a further  
engagement with them. The  
will lead us to a lot  
of protracted litigation.

\* I explain to them that the  
to ~~very~~ ~~very~~ engagement

is not about being  
argumentative, but to  
seriously give them our  
decision;



Account of

17/12/07 LF-BT, I met this guy, based in Johannesburg to the workplace. Agree to meet.

17/12/07 LF to BT conference  
about tonight I need to  
check in tomorrow. I  
met this man.

19/12/07 LF-BT I am not scared of  
them, they can't do anything  
to me. That sort of thing  
place, you are exposed, get  
out of there, 60% of  
them of people are not  
ANC people. That's foreign  
to the ANC. They can  
harm me. Not not  
the ANC.

LF: Should I leave this decision  
and let other people sort it.  
BT: Didn't say that, I am  
fucking labour, you, I  
am afraid, I have my  
own business and  
don't do business with  
you.

19/12/07 LF-BT: Minister is too  
committed to the ANC, he  
leaves me alone. The ANC  
is not interested.

CF - BT



~~12/12/07~~: Let us meet tomorrow  
with JMS. There is a meeting  
at Quatman's Hotel.

26/2/08 <sup>AF - BT</sup> Long call about Brouse  
issue. BT is worried about  
how AF was portrayed in  
a media conference. McCarthy  
is in Amsterdam. He reads  
for him all the headlines,  
Forester, Citizen, Business Day etc.  
Told him that this is really  
embarrassing, not our  
fault, you will have to  
live. There is nothing  
controversial here, you can  
stand well for bad  
judgment. I got paid  
yesterday I got the reports  
I got paid for it in  
report.

*Consider  
this is a  
front  
report*  
Paul's own says they  
should go to lawyers,  
but I said let them  
wait until I get back  
on Friday. I have done  
nothing wrong, just blame  
for bad judgment.

3/4/08 At to RF about the offer  
from the World Bank. Also want  
to have BT have him as speaker  
and know what. Also told  
the WB President that BT will  
speak. Also wants to speak at  
the World Bank. Also told  
the WB President that BT will  
speak.

Trans on refer

14/12/07 - LF - Mabuth, she is very concerned that we are about to forget the old man, (TE). This is just not fine to have here to appeal of TE. This is just a legal process. That you must condemn the huge amount of time. People did not stop because of the remains. He is still saying he will protect the affidavits. He wants to give her, says she is on his way to Pitsoane. What report the president is that this was not signature to brief the same chapters.

→ They then go to the tape of LF about up bundle, about the person he is under in the. In fact etc, and the whole, please LF about the anything for

29/12/07. LF to Mabuth, she is updating the minutes about the matter. The minutes is still concerned that we want to change. ~~not~~ The minutes made by Mabuth which defect to the workshop. The minutes is 28/12/07. The minutes is 28/12/07.

Refer to the memo that explains  
this process.

→ He says they don't want  
the trial to proceed. If  
NB says we are amenable to  
discussions for a plea

Is this not  
plausible  
explanation

He explains that the need  
for changing is because of  
the single nature of the  
case, and his main point  
is under delay, so we  
can't delay others.

→ The President has nothing  
to do with this. He is  
on leave.

→ When she asks about the  
Sobhu case, Mchady says all  
the answers are in the  
memorandum. She says she  
is on leave and refuses  
to read, but after she  
is back from leave.

→ Jan Le told Mchady would  
ask owner, private call, told  
Mchady that they caught  
him at 7 in the  
morning, and instead of  
saying nothing,

→ He then refers to the African  
newspapers that report that  
Jan Le should plea.

He says she don't  
close that door to plea  
campaign.

for whatever reason that she  
involved.

Is this still  
with the  
prosecutor  
of section 38  
involved





Someone should talk sense into  
James's head

Shf refers to the issue of  
being requested to write  
to discuss office, and the issue of  
the June and September

I want us to meet over  
the week-end to look  
at the papers. If there is  
anybody who, by the need  
to address that -

9/6/08 Billy to Jan Cole, and Billy  
refuses to disclose  
anything critical.

13/6/08 Billy and Jan, have info  
on General case, Billy does  
not say much more, except  
that the newspaper with  
the copy are just for publication  
\* indicating that the Dept of  
Justice is attempting to  
this thing and policy of  
back with queries  
Jan & Billy

18/6/08 General have withdrawn everything  
against Jansen.  
They do talk a bit  
Now have about RPE,  
the German, etc. The  
Billy says something that for  
it is about him

There is  
not too  
detailed  
for now

Then can you tell me about  
what the briefing and the  
elements. There are more  
detailed explanation. ~~about the~~  
Bill goes into a lot of detail  
about explaining how the  
law of MIA works, involvement  
of the Ministry and their  
responsibility etc.

To do  
the  
with.

\* Conclusion: We have a briefish  
discussion about the possession  
of the files by Helder. We  
(me and NPA) are inclined  
to consider talking to Helder  
releasing these files to the  
custody of NPA. This type  
of stuff cannot just be held  
other to remain in the  
public domain.

→ Agreed that we will go  
back to them depending  
on the our decision, and  
also the packaging of the  
press release in the  
event of the decision to  
withdraw. We will revert  
to them in this regard.

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- \* We spoke today for the adjournment yesterday we decided to adjourn today & to consider our verdict
- \* There is a letter from NIA to say that they are ready to cooperate with the NPA with dealing with the phone tapings linked with the IT matter, are prepared to provide the necessary information / documentation etc.
- In 2014 says we may have to disclose these tapes, confidential in the course of our own investigation
- Sibus and Jiro are a bit ambivalent of using these NIA tapes. We thought also be committing an offence ourselves.
- AT says we should be very careful, what if we find that IT also had his own conspiracy, where will it all end
- A lot of discussion about political interference, executive interference, political conspiracy / manipulation etc.
- There is a view from some that all this has had no bearing on the offence being committed, so they are not related to the offence

themselves.

→ There is yet another view that says all these LT and BT shenanigans have had an influence and tainted the process.

AB // \* Myphahle asks whether, when looking in retrospect whether all the measures enacted by McCorty did not influence him perhaps negatively.

\* Myphahle says that he really would like to like to the NIA tapes. He discusses issues of legitimacy, like the Act etc, and whether/how NPP could release this to the public domain.

→ In re the Hurling tapes we are all asked to go and call him. He says they are not willing to tell us who the sources are, but are willing to give us the audio material.

AB // → Myphahle says the SG of NIA is saying that ~~and~~ he is ready to give us any material we request and even say that we can NIA give it to us.

\*

Special Meeting

18/3/2007

Present: Npslu, Hkay, Raminth,  
E. Mangalath, Popi Boy, Jyabong,  
Dennis, Baby,

→ Npslu → Unfortunately that things has happened  
this way.  
→ We need to make the right decision

→ Evidence got affected.

→ Sikonglu → In terms of process,  
→ we all merged all the  
documents

→ Discuss the merits & get out  
of the way

→ Propose dissect the views on  
the merits.

① Merits → We are all of ideas  
that there is a case

② President → looked at country world

→ Majority tend to protect the President

→ because, → practically impossible re relationships

→ The issue of "The President to be prosecuted" should be thrashed out in court

→ Wait for the legal process to be finalised before he is appointed

Storgyle → On the issue of public interest  
→ Case out clear that the Texas facts strong re the public interest

Rorante → You can not compare the two as the  
→ American has a election of the President is completely different

→ Our President elected by Parliament  
→ May I can you prosecuting sitting President

→ He will most probably have to go to Parliament to request them to relieve the President from his duties

Willa -  $\Rightarrow$  it is now  
 $\Rightarrow$  When we discussed the  
legislation a decision was  
made - President not  
normal  
 $\Rightarrow$  A stay of prosecution might  
be given for the duration  
of his term

Maloyi  $\Rightarrow$  interest of parties  
public interest

2<sup>ND</sup> Phase

Willa  $\Rightarrow$  We  
 $\Rightarrow$  We also did some of our own enquiries  
 $\Rightarrow$  Halley brought interrogations of Leonard's  
cell phone  
Don't know origins  
Most probably with tapes  
Expect separate from Secret Service

All of this will go in the permanent story  
Will then be in public domain

We listened to the tapes

Tapes  $\Rightarrow$  concerning  
 $\Rightarrow$  Leonard part of the gangsters  
to be elected in Botswana

# Charging of Tara before Polokwane / after

Engagement  $\Rightarrow$  with other  
leaking of info

Ongoing engagement with Bulletin

1st  
Tape  $\Rightarrow$  Sarkis & LHM.  
background  $\Rightarrow$  met BRT at airport (Sat 15/02)  
 $\Rightarrow$  largely about LHM  $\Rightarrow$  that he was a 'disloyal' or  
"sell-out"

$\Rightarrow$  For the time & work used clear active  
support for Mbeke

2nd  
Leah & BRT  $\Rightarrow$  not serious discussion  
 $\Rightarrow$  how things are going  
 $\Rightarrow$  described "amb  
politically

Leonard see the man  $\Rightarrow$  we are planning  
a comeback strategy



Kosta/s

0 1 3

3<sup>rd</sup> Leonard & Beryl. → most probably talks  
with international agencies

4<sup>th</sup> Conversation with Minister Kato  
Explaining about Hsieh & Hsieh going to  
This was Selebi rather  
Had to get Hsieh "to start up"

Phone then handed to President  
"You will always be my President"

5<sup>th</sup> Discussion with Hla Khin  
Signals to meet

Leonard → we were giving the officers  
that the scores

level of hatred against

Bulbani & Phrao

made it very hard.

Everyone expects Law will be charge

HM asking did you get points

Reference → made 3<sup>rd</sup> times

to be charged & convicted

then analysis of evidence gets convicted

<sup>6th</sup> Ministers = Leonard re standing for Sebleh

Also SM5's

More difficult to verify

The four more or less the same

Committee Bhaki, Jacobs, Powell

Frederic Fowler,

→ Richard Young, Bhaki

Thomas Howson.

Although LMP not directly implicated  
↓  
releasing info on death role  
Discuss when to release

12<sup>th</sup> December

Ngeuka asks LMP what fax are  
you doing

Ngeuka: He sends the fax  
fax LMP to BMD →  
↳ in East London  
↓  
big gap for 2 weeks.

15<sup>th</sup> / 12

SM15 → "LMP & BMD"  
→ "held on to it for a while"

16<sup>th</sup> / 12

Anderson → forward SM15  
→ "stop the shit"

DM & 'Luciano' → might be working for 'roll'  
→ might be one of

→ I have been advised to give "Out Bent"  
& "Out Jan" a break in the interest  
of nation "

Lat → "High power → can't discuss"

Luciano → 'Review' → O'Connell O'Sullivan  
& COMAT

CONV

Advise as "Review Comm"

Have to manage media → locally &  
internationally

19th

BRN to LM

↳ after results

"from now onwards you are  
on your own"

Balelei → Sorry - sad day  
for our country

Hakej → to LM

↳ Output will be omitted  
today.

Nilla → LM clearly intimate with  
the campaign  
"regroup", "strategy"

LM → met with President  
→ they LM don't want  
to sign must track down  
them in BRN

Other things noted

① Brave Mole  
↳ even work to stop

2 What would LMI defy VP. 21

Orders from Pres most probably led to this  
not being leaked.

Connectors with CICO & Kroll.

→ LMI, FID, BVI

→ Rahl: old men & younger

Kaspr's connectors

Intelligence → given directly to the President.

Kroll ← Andre Panar  
Rahls  
Luciano

Hills → we are in a messy stage  
→ people who previously worked for ex-Pres  
now talking to the other side

LMI → told Powell will be investigation  
→ let SU fail to investigate

Mpego → Kibbi & Sheraton to  
meet Mpego

→ 2 months before

"prima facie"

Already say  
Lima to  
leave office &  
President

statement by Sakke Mgonwe  
not President

Scorpio's involvement

Arabs

BR & LM → meets with Kibbi  
→ Sheraton  
→ be plea-bargained

Closeless Mei, BR, LM.

→ Khurlo to be prosecuted

→ LM & BR close down  
the investigation

Coalition Report meeting & agenda 11/11/2009

➔ Mr Mpshe: Received a written response from LMP.  
➔ Attacking legitimacy & authenticity

How do we handle this?

NH ➔ One option is to provide a set of questions to LMP. as we did with LMP

Regarding what we are going to place in the public domain

NH ➔ He is going to ask to listen to the facts.

NH ➔ We can say this is what we heard, & this is what we contemplate saying

SR ➔ I don't think we need to provide. We must be consistent in our approach - Provide with questions

➔ Questions should be similar as put to B77.



OR  $\Rightarrow$  Our approach based on the manipulation

Are we now suggesting that in the so-called manipulation is BRT & not  $\Sigma$  no others.

Do we only request responses from them  $\Sigma$  not the President.

He will need to provide very clear background

I have to adopt an understated approach.

MM  $\Rightarrow$  The first time we decided to approach the people we ~~must~~ did it because of the tapes

$\Rightarrow$  Nothing in the tapes we could say anything with regard to President

$\Rightarrow$  MM & BRT are the main players

SM  $\Rightarrow$  Dr J are raising a very important issue  
 $\Rightarrow$  The questions to be asked here will be are they - manipulation / political interference / are the people being manipulated

125  
If you say they are manipulators then  
you must

Mbeki & Mohanalla are there in our telescope.

WH → I wanted to raise this also, as a 155m  
We do not have enough to

→ Might be said will be said that  
Ngwenke is

→ Might

→ Balance we need to strike is  
improving relationships between BHA & LM.

→ We might say → must be further  
investigations

MM → I have no doubt that there might  
be a Mbeki working behind the  
curtains.

ETM → We need to confine ourselves  
to the reps.

OR → We are trying to get the full  
story  
→ at face value.

HM abused process

→ Is there a way in which way did  
he abuse the process

→ If HM & BRT acted on a frolic  
of their own.

WH → It is conceivable that BRT was  
supporting the President on a frolic  
of his own

~~and~~ → for

MM → forward the questions to  
HM with a timeline

TAPES

MM → We listened to the tapes

→ for me I don't find anything  
to say — a black dot on  
the Pros / the Minister of  
Justice

→ We tried to listen to relevant  
issues

7/11 : SC A judgment.

→ "Is this thing happening in Jan?"

9/11 →

26/11/07 → "Shocked"

"you are the only one who can show  
the country that it's not too late."

"will now have to compete  
for you" EC

SCA → "I did what you said I  
should do I did get

At Strong memo → from the fears  
take action & do it now"

~~Let~~

6/12 : "Kushner - who to  
go with"

12/12 : Filing of CC papers.

5/15 from Halley

" Boy - What time flying

girl → we are stretched  
bripped in size ...

Boy → The sooner the better  
"hot. takes"  
it will assist a  
great deal "

12/12

girl → "Will we in "

" If we could only be discussed  
yesterday

will be devastating one from  
there

without you being dramatic /  
make crust

people will think about it

--- people be packing bags

girl → "need to get out today"

Brl "You have made my day"

19

13/12

Brl: "To it out"

"positions has changed"

Brl de can you deliver a draft  
at my place

del → Don't want internet  
Luna might says we are  
conspiring

Brl → "Script not changed."

"I feel like going to Polokwane &  
charge her there"

Discuss "outlet" case

"The pres said I must talk  
to Foreal & ask her to  
calm down"

L "I think you guys must keep your  
heads open on the when with  
Wpshe or leave  
Will have the order

Brl: "As long as you don't want to do"

→ if this weekend

→ Not this weekend.  
Will not charge."

14/12 (20 to 12)

→ L: "are you in position to drop  
something off?"

one thing is a <sup>page</sup> 8 paper  
new 155ms

"too risky" my guy that  
to you & give to you

also fax it to you. <sup>you</sup>  
must wait for it

→ SMS's exchanged.

→ Fax confirmed from Hickey.

Still 14/12  
d: "Bees, filed can show to  
people <sup>now</sup>  
filed 3 min ago

16/12/07

B: "need to chat"  
Follow up call you after the  
Conference

17/12 (19:41)

→ Talk about the 65500  
He need to chat  
This one is going to call you  
before he leaves for Christmas

19/12  
A: "follow back."  
B: "hurry" mentions Ego

Head with - Steve: "on your own  
finalise future plans"

"What I want it is important to sort  
out where you are"

Let them sort the mess

If they want it

11 There will be nobody comes  
You'll be exposed  
completely



L " you are saying I should  
leave this decision &  
let other people deal  
with it.

B " Talking about you personally  
I am independent "

L " Okay we will see how things  
go

19/12

\* L : " We want to move on  
for "

" longer we want  
if it should just do

9/1 → Phone call to Min  
α I speak to  
Philips

LM & Ms 29/12

↳ Futuro

Met with P+S  
the heat is on

→ Technical Service

→ Talk about a plea-b.

→ Rapport issue.

refn  
3/4/08 → LM: Run everything past you  
for it to be listened  
to

Been approached by WB  
Zelick & me.  
Contract options.

"Things going around will  
hurt me"

BN: Will talk to T+M  
↳ trying to work P+S  
before Zelick does.

MM: "WB wants to talk to  
Min & Pres".

BR → "They are going to release  
you - in Dec they  
had known this."

MM → convinced tapes not from them

SR → We need to check from C.I.C  
→ Pres!

MM → We now listened to the tapes.  
I have come to a conclusion  
that whilst we were honestly  
working on this matter

I decided I can't go on  
with this matter.

We spoke about 2 scenarios.  
Seriously decided to drop the  
charges.

We need to work on the  
the motivators

~~We need to look at the  
release & substantiation~~

if

1000000130

You draw a lot of inferences.  
We have sufficient to say process  
was "influenced."

I want to exclude the Minister

I have no doubt he was moving behind  
the curtains.

Promise to phone  $\rightarrow$   $\pm$  talks to Pres  
 $\pm$  then met with Pres

But Things looking real

BIT says "you are now on your own"

With Minister  $\circ$  she was saying "non desirability  
to change."

SR  $\rightarrow$  We have raised all kind of issues.  
As I said the approach I took  
 $\rightarrow$  I am prepared to abide by the  
decision.  
 $\rightarrow$  Not saying right/wrong.  
Have no basis to say I don't  
agree.

SR → Will need work to work out  
Motivations

HH → I should say this is most  
probably the most difficult decision  
difficult to say what is right/w

→ this is the right decision for  
the organisation

→ can't stand up & defend  
→ will expose the NPA to attack

→ at least roughly way - not bearing before  
political pressure

→ now how to get country to appreciate  
the decision

→ big challenge

→ Need to be ultra careful re

HH → He said will need more detail/

deal with fear & how to deal with it

→ important to have a proper  
process

SM → The important thing is that it  
is over

⇒ The decision is yours & we all  
need to respect it

→ We must be seen to support you  
in your decision

→ Team: We should not have a discussion  
with this & you should call  
this in

→ Short meeting in your office  
shortly before you announce

→ The impact of the decision is  
critical - the weight on  
your shoulders

→ The packaging of the reasons  
will be critical.

⇒ Have to release all of the  
gory detail.

⇒ We should not be seen  
as part of cover up

⇒ Job opportunity

① Types →

SR → Don't know when you intend to work on

→ need a firm & sound legal basis

more worried about the legal aspects  
→ need sound & firm law

→ B) You will have to consider the situation & private process

legal scenarios

① Sec 7

② Civil litigation

variety of the conversations

IM → I also thought we were going to discuss the legality of the tapes

→ When we went to NSA I hoped that NSA was going to say it is our tapes

→ I feel betrayed by LM - like DeSavva. With LM → he only used me.

Tape 6: Halley tapes might be useful not in current possession

→ If we are in possession we can be sued.

→ We can get transcripts of specific excerpts.

✱ → We need to find what we want to rely on & obtain a proper transcript.

OM → Advise only utilise the Hulby tapes.

MM → We need to move forward.

→ Tapes: When Willie read the RFA tapes on Monday  
We discussed the proofs on Monday.  
He verified the informants

→ When I spoke to DC I indicated I will have to inform them of my source

→ DC had no problem. My impression last night I sensed that they were not comfortable.

→ RFA even indicated they need to tape the tapes & seal them

→ so feel uncomfortable to impose



We need to look at the legality etc

① Tapes → We are settled  
→ Holiday tapes listened  
Vacations done

diff 5

Topic - Comm

Check cost → letters  
8:55 AM

② Pass Conference  
Monday

Busline  
→ Train & Vehicle  
UGM 11:00

③ Motivators  
→ Couple of people to write  
→ do a draft  
→ SA

SM → WH & SR to draft.

in T as → in the morning  
8:00

Simulators → Wake

Questions to LM → MWD  
Tul

## Introduction

I stand before you today to announce the most difficult decision I ever made in my life. It was not an easy task at all. I had the privilege of having listened to inputs and comments of very eminent jurists of the NPA and I am thankful to them for their candid and frank arguments.

It was then and it still is difficult for me to comprehend that which is set out below could have happened. The painful facts that I am about to put before you have serious implications for the integrity and independence of the NPA especially regarding the prosecution of Mr Zuma.

We believe that it is vital that the NPA must expose this conduct and deal with the consequences as honestly and constructively as possible if it is to have any chance of rebuilding its credibility and integrity. Our democracy will have to find ways to learn from this bitter experience and to build a stronger and more independent NPA.

Over the last three weeks the NPA has been engaged in a difficult and painful process of dealing with allegations that the case of Mr Zuma has been affected by manipulation and abuse of process.

We have come across information about collusion between the former heads of the Directorate of Special Operations (DSO) and NPA to manipulate the prosecutorial process before and after Polokwane elections. We regarded these allegations as extremely serious and set out to investigate them as fully as possible within the limited time at our disposal.

I will return to the result of our investigation and its impact on the case in due course.

### Speculation in the media

As will become clear from the discussion below, this is a decision of great importance to the NPA and it was vital that the process be done thoroughly and properly, and that any decision be based on proper investigation of the allegations and proper discussion of the issues.

Although I can understand that the matter at hand is an issue which is of great public importance, I wish to say that the much of the speculation verged in the irresponsible and has had the effect of placing the NPA under a great deal of pressure. Much of the speculation was based on information that it is patently wrong, and it continued to be reported even when explicitly denied by the NPA. It is also worrying that the views of so-called "sources" are given great prominence even when it is clear that they do not have access to the correct information.

For the record, I wish to state that the NPA was not presented with any further evidence or information about the arms deal or the involvement of others in it.

Nor was the NPA deeply divided about this issue. As with any other serious issue, there was serious and considered debate and discussion, but I can say without hesitation that no-one was of the view that this is an easy and clear cut decision to make and all of us had respect for the views of others.

All members of the senior management and the prosecuting team participated in this discussion, and ultimately I take full responsibility for the decision I make. It is unfair, wrong, and downright mischievous to portray these discussions as acrimonious debates between particular individuals as has been done in a number of publications.

## **Background**

---

We received representations from the legal representatives in the matter of the State versus Zuma. The representations included written as well as oral representations and in addition we were given access to certain recordings.

In reaction to the said representations, we also received representations and petitions from a wide range of interested parties and individuals.

I have also consulted the Investigating Director of the Directorate of Special Operations.

All representations were all carefully considered.

The representations submitted by the legal representatives pertained to the following issues:

- The substantive merits
- The fair trial defences
- The practical implications and considerations of continued prosecution.
- The policy aspects militating against prosecution

I need to state upfront that we could not find anything with regard to the first three grounds that militate against a continuation of the prosecution, and I therefore I do not intend to deal in depth with those three grounds.

I will focus on the fourth ground which I consider to be the most pertinent for purposes of my decision. I will now deal with the policy aspects militating against the prosecution.

### **Possible abuse of process**

In the course of the representations, the defence made certain very serious allegations about alleged manipulation of the NPA and indicated that these were substantiated by recordings of certain telephone conversations which it intended handing into court during the intended application for a permanent stay of prosecution.

The NPA decided that it would listen to these recordings because it felt that the allegations were serious enough to impact on the NPA's decision if they were true. It felt it should do so despite the fact that it was not clear whether the recordings had been intercepted legally or were legally in the possession of the defence.

I appointed a senior team consisting of Messrs Mzinyathi and Hofmeyr to listen to, verify and investigate the contents of the recordings.

Although the recordings sounded authentic, the NPA decided to approach agencies that have a legal mandate to intercept telephone calls with a view to ascertaining whether they may have legally obtained recordings of the same conversations.

The National Intelligence Agency (NIA) confirmed to the NPA that it indeed had legally obtained recordings of many of the same conversations which were obtained during the course of its investigation into the circumstances surrounding the production and leaking of the Browse Mole report.

NIA indicated that it was able to share these legally with the NPA for the purposes of the investigation and for reaching a decision in this matter. Thus the NPA was able to make

transcripts of the relevant portions of the recordings for this purpose and NIA has declassified these transcripts as they are not directly relevant to its own investigation.

The NPA is thus confident that its decision is based on information that was intercepted legally and obtained legally by the NPA.

The transcripts contain material that was of vital importance in the NPA reaching its decision, and the NPA has decided to make its contents public as it believes it is in the public interest to do so. As the transcripts have been declassified, it believes that there is no legal impediment to its doing so.

In regard to the allegations of abuse, we have also been in contact with Messrs Bulelani Ngcuka and Leonard McCarthy. A meeting took place between Mr Ngcuka and members of the prosecuting team. Mr Ngcuka responded to a set of questions. We communicated with Mr McCarthy by e-mail but he preferred not to respond to the questions.

The NPA has decided to request the Inspector-General of Intelligence formally to investigate any possible illegality surrounding the recordings that were presented to it.

#### **Legal considerations**

The Constitution of the Republic of South Africa is the supreme law and any law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled. (Section 2)

Section 179(4) of the Constitution requires of the prosecuting authority to exercise its functions without fear, favour or prejudice.

The extent of this obligation was described as follows in the *State versus Yengeni* 2006 (1) SACR 405 in paragraphs 51- 53:

“Every member of the authority is obliged to undertake an oath or affirmation prior to the commencement of their service to uphold this provision. The Constitution guarantees the professional independence of the National Director of Public Prosecutions and every member of his staff, with the obvious aim of ensuring their freedom from any interference in their functions by the powerful, the well connected the rich and the peddlers of political influence. The untrammelled exercise of their powers in the spirit of professional independence is vital to the functioning of the legal system. The independence of the Judiciary is directly related to, and depends upon, the independence of the legal professions and of the National Director of Public Prosecutions. Undermining the freedom from outside influence would lead the entire legal process, including the functioning of the Judiciary, being held hostage to those interests that might be threatened by a fearless, committed and independent search for the truth.”

In applying the above principles the court in *S v Yengeni* (supra) found as follows with regard to the requirement of fearless and unfettered exercise of the powers of the office of the National Director of Public Prosecutions:

“The independence of the office of that he held, and the fearless and unfettered exercise of the extensive powers that this office confers, are incompatible with any hint or suggestion that he might have lent an ear to politicians who might wish to

advance the best interest of a crony rather than the search for the truth and the proper functioning of the criminal and penal process." (p428 g-h)

A submission made in Chaskalson et al, Constitutional Law of South Africa, of a broad and creative interpretation of "impartiality" as required from the judiciary to include a member of the prosecuting authority was endorsed in **Smyth v Ushewokunze and Another** 1998 (2) BCLR 170 (ZS):

"Section 18(2) embodies a constitutional value of supreme importance. It must be interpreted therefore in a broad and creative manner so as to include within its scope and ambit not only the impartiality of the decision making body but the absolute impartiality of the prosecutor himself whose function, as an officer of the court, forms an indispensable part of the judicial process. His conduct must of necessity reflect on the impartiality or otherwise of the court" (p178 par B)

The court furthermore in outlining what society expects of a prosecutor stated as follows:

"A prosecutor must dedicate himself to the achievement of justice .... He must pursue that aim impartially..... Since he represents the State, the community at large and the interest of justice in general , the task of the prosecutor is more comprehensive and demanding than that of the defending practitioner.....

..... Like Caesar's wife, the prosecutor must be above any trace of suspicion." (p174 G-H)

There are generally two categories of abuse of process:

- a) a manipulation or misuse of the criminal justice process so as to deprive the accused of a protection provided by law or to take an unfair advantage over the accused;
- b) where, on a balance of probability the accused has been, or will be prejudiced in the preparation or conduct of his defence or trial by either a delay or haste on the part of the prosecution which is unjustifiable. (*R v Derby Crown Court, ex Parte Brooks* [1985] 80 Cr. App. R 164, per Oimrod LJ)

The issue can be formulated as follows:

The question is whether a legal or judicial process which is aimed at dispensing justice with impartiality and fairness to both parties and to the community which it serves should permit its processes to be abused and employed in a manner which gives rise to unfairness and/or injustice. (See *Jago v District Court of New South Wales*, [1989] 168 CLR 23 at 30, per Mason CJ)

Prosecutors have an inescapable duty to secure fair and just treatment of those who come or are brought before them.

Fair trial is not the only test of abuse of trial. Abuse of process may occur on its own, either because:

- a) it will not be possible to give the accused a fair trial, or
- b) it will offend one's sense of justice, integrity and propriety to continue with the trial of the accused in the particular case. Discontinuation is not a disciplinary process undertaken

in order to express one's disapproval of abuse of process; it is an expression of one's sense of justice and propriety. (See *Connelly v DPP* 1964 AC 1254)

The framework within which abuse of process has to be considered was set out in *R v Latif* 1996 1 WLR 104. There will always be a tension between two extreme positions in that, if a trial is discontinued, the public perception would be that the criminal justice system condones improper conduct and malpractice by law enforcement agencies – and if a trial is discontinued the criminal justice system will incur the reproach that it is failing to protect the public from serious crime. } ? }

An assessment of abuse of process involves a balancing exercise. In *Latif* it was clear that a fair trial was possible. The overriding question, however, was whether the trial ought to be discontinued "on broader considerations of the integrity of the criminal justice system". According to Lord Steyn, criminal proceedings may be discontinued not only where there will be no fair trial but also where it would be contrary to the public interest in the integrity of the criminal justice system that a trial should take place. An infinite variety of cases could arise. General guidance as to how the discretion to discontinue should be exercised in particular circumstances will not be useful. But it is possible to balance the public interest in ensuring that those charged with serious crime should be tried against a compelling public interest which expresses a distaste and outrage for abuse of process by law enforcers who are expected to behave with absolute integrity, impartiality, fairness and justice. Such an approach conveys the view that a fair and just criminal system should not accept the attitude that the end justifies the means.

The approach in *Latif* has been followed consistently. Thus:

"No single formulation will readily cover all cases, but there must be something so gravely wrong as to make it unconscionable that a trial should go forward..." (*R v Martin*, [1998] 1 All ER 193, at 216, per Lord Clyde).

"Something so unfair and wrong that the court should not allow a prosecutor to proceed with what is in all respects a regular proceeding." (*R v Hui-Chi-Ming* [1992] 1 AC 34, at 57B, per Lord Hope)

"An abuse may occur through the actings of the prosecution, as by misusing or manipulating the process of the court. But it may also occur independently of any acts or omissions of the prosecution in the conduct of the trial itself". (*Martin* (supra), at 215, per Lord Clyde)

Recently Harms DP remarked as follows in *NDPP v Zuma* (573/08) (2009) ZASCA at paragraphs 37-38:

"The court dealt at length with the non-contentious principle that the NPA must not be led by political considerations and that ministerial responsibility over the NPA does not imply a right to interfere with a decision to prosecute.... This however, does need some contextualisation. A prosecution is not wrongful merely because it is brought for an improper purpose. It will only be wrongful if, in addition, reasonable and probable grounds for prosecuting are absent, something not alleged by Mr Zuma and which in any event can only be determined once criminal proceedings have been concluded. The motive behind the prosecution is irrelevant because, as Schreiner JA said in connection with arrests, the best motive does not cure an

otherwise illegal arrest and the worst motive does not render an otherwise legal arrest illegal. The same apply to prosecutions.

This does not, however, mean that the prosecution may use its powers for 'ulterior purpose'. To do so would breach the principle of legality. The facts in *Highstead Entertainment (Pty) Ltd t/a 'The Club' v Minister of Law and Order* illustrate and explain the point. The police had confiscated machines belonging to Highstead for the purpose of charging it with gambling offences. They were intent on confiscating further machines. The object was not to use them as exhibits –they had enough exhibits already- but to put Highstead out of business. In other words, the confiscation had nothing to do with the intended prosecution and the power to confiscate was accordingly used for a purpose not authorised by the statute. This is what 'ulterior purpose' in this context mean. That is not the case before us. In the absence of evidence that the prosecution of Mr Zuma was not intended to obtain a conviction the reliance on this line of authority is misplaced as was the focus on motive."

#### Allegations of abuse of process in recordings of telephone calls

I will now deal with the contents of some of the recordings as set out below. I believe that it is in public interest to make this available as this is matter of huge public interest, and I believe that it is important for members of the public to be able to draw their own conclusions about the nature conduct:

#### Calls about manipulating the timing of charges for other purposes

<p>2. Date 7.11.2007 10h25 BN</p> <p>c. LM: The second thing is, I, remembering what you said on Saturday, I read yesterday's Business Day editorial, you must just read it</p> <p>d. BN: Just remind me</p> <p>e. LM: yes, its in line with your thinking</p> <p>f. BN: Laughs</p> <p>g. LM: I am serious</p>	<p>Apparent reference to the enclosed Business Day editorial of 6.11.07. The editorial is of the view that it appears to benefit Mr Mbeki when Mr Zuma is not facing charges</p>
<p>h. LM: The third issue is, I met with the guy I mentioned, and you know his line is almost like that of Sam</p> <p>i. BN: Laughs</p> <p>j. LM: But he said he will. He says he will speak to the man but his he is back over the weekend, but he knew, he feels very strongly that should not see the guy directly</p> <p>k. LM: So that he has a shield, so that if this issue comes up then he can say "I don't know what the fuck you are talking about"</p>	<p>There is regular reference to the need to meet or discuss with "the man", "the other fellow" or "guy" or "he". In calls 17, 21, 25, 26, 28 it is clear that it is the President. In most other cases it is not clear who is meant.</p>
<p>y. BN: you know very interesting there is different points of view across the board</p> <p>z. LM: You don't want to join this dinner with Mzi?</p> <p>aa. BN: No, you will see, his view is completely opposite – he agrees</p>	<p>Discussion of timing of charge of Mr Zuma. Mzi Khumalo appears to be only</p>

<p>with you. He and Sam agree with you. We had dinner on Sunday, quite a number of people, mine was there, Dlamini? was there</p> <p>i. I put a hypothetical question to them, let's assume the judgement comes out in next few weeks and its in favour of those guys, what must happen by when?</p> <p>ii. Mzi was the only one on that table who said lets do it now, he was the only one</p> <p>iii. If he tells you the truth he and tells you that, everyone there disagreed with him</p>	<p>one who supports LM in view that it should happen before Polokwane</p>
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<p>6. Date 26.11.07 20h43 BN</p> <p>g. BN: So you the only one who can just save this country from its madness</p> <p>h. LM: hmm</p> <p>i. BN: You know</p> <p>j. BN: I just cant believe it, I really cant believe it, I don't know, so we also busy now</p> <p>k. Hmm</p> <p>l. And a</p> <p>m. LM: and what does the big man say, is he oraait,</p> <p>n. BN: I don't know,</p> <p>o. BN: I want to, I will try to call him later tonight, he is in a meeting the whole day, at Shell house of all places (laughs)</p> <p>q. LM: I did what you said I should do, I must say</p> <p>r. BN: you did right, right thing</p> <p>s. LM: up until Friday, I received a strong memorandum to say charge and charge now –</p> <p>t. BN: Friday</p> <p>u. LM: No this Friday, the team says we have been fucking around with this thing, we are allowing ulterior considerations to come in, it will become an impossibility later – we now must take action and deal with "finish and klaar" as Jackie Selebi says, but we will talk when I see you</p>	<p>Following a discussion about ANC provincial nomination conferences, LM is the only one who can save the country</p> <p>Appears as if BN requested that LM obtain the view of the team to bolster the argument that charges should brought before Polokwane (in case it was needed)</p>
<p>10. Date Wednesday 12.12.07 10h41 BN</p> <p>r. LM: But listen, I think you guys must just keep your heads open about the "when" factor because I mean we will file our docs tomorrow, we will, Mpshe is going on leave tomorrow and I am acting.</p> <p>s. We will have our section 2e order and our, our ... we will have finalized the processing of the decision</p>	<p>The when factor is an apparent reference to whether Mr Zuma should be charged before or after Polokwane.</p> <p>The s2(e) order is a reference to the authorisation for a racketeering prosecution that must be issued by the NDPP</p>
<p>t. BN: As long as you don't do it this weekend</p> <p>u. LM: If we hold it back, it will be because the clever people like you and others are saying to us that the country needs cool heads but I would hate to have be seen to be wrong later</p> <p>v. BN: just don't do it this weekend</p> <p>w. LM: it might change</p> <p>x. BN: I cant keep an open mind, you can't do it this weekend, our minds wont change</p>	<p>BN makes it clear that they do not want Mr Zuma to be charged before Polokwane despite the fact that everything is in place to do so</p>



y. <u>The exchange is repeated several times.</u>	
z. <b>BN:</b> Just don't do it this weekend	
aa. <b>LM:</b> I won't move this weekend, if this change, just let us know	
bb. <b>BN:</b> it won't change	

**Calls about manipulating the filing of papers in the Constitutional Court for other purposes**

<p><b>8. 12.12.07 Wednesday 10h15 SMS exchange BN &amp; LM</b></p> <p>a. <b>BN:</b> When are you filing</p> <p>b. <b>LM:</b> We're stretched. It has tripled in size now. Likely to file tomorrow afternoon or Friday afternoon only. What up!</p> <p>c. <b>BN:</b> The sooner the better. Not later than tomorrow. It will assist a great deal</p>	Refers to the NPA's reply to Mr Zuma's application for leave to appeal to the Con Court in the search warrant matter. It was due on 14 Dec.
<p><b>9. Date Wednesday 12.12.07 10h41 BN</b></p> <p>....</p> <p>a. <b>LM:</b> We must have one of those Yengeni nights – remember we said we will not leave this fucking hotel until its done</p>	The reference is to a meeting with Mr Yengeni's lawyers that lasted late into the night
<p>b. <b>BN:</b> If this thing comes out the way we discussed it yesterday,</p> <p>i. those key issues, right</p> <p>ii. it will be a devastating one for them,</p> <p>iii. and it will cause people to wake up to know what they are actually doing</p> <p>iv. without being dramatic, without you making arrests,</p> <p>v. it will say, this is what we have, this is what we have, and we are forced to state it now and people will wake up think what are we doing</p> <p>c. <b>LM:</b> Friday, by-Friday people are packing bags, they won't even read the fucking newspapers</p> <p>d. <b>BN:</b> That is the thing, that is the thing, that is why it will be good if it could come out today (ie Wednesday)</p> <p>e. <b>LM:</b> Today is difficult, I will call a Yengeni night, we are not leaving here until we finalise this tomorrow morning, we file by lunch time and give it to the media,</p> <p>f. <b>BN:</b> You made my day</p>	This is a discussion about the need to file it earlier so that it can be reported in the newspapers before the delegates leave for Polokwane.
<p><b>10. Date Thursday cell 13.12.07 12h20 BN</b></p> <p>a. <b>LM:</b> What is the mood like?</p> <p>b. <b>BN:</b> Is it out?</p> <p>c. <b>LM:</b> no no, I am just checking the pulse of securities</p> <p>d. <b>LM:</b> You know, I thought I will give call you once a day, twice a day to hear whether the position has not changed</p> <p>e. That thing will only be filed tomorrow</p> <p>iv. So we will probably only file tomorrow at about 12h50, we have a date for 10 to 1</p> <p>f. <b>BN:</b> how does it look</p> <p>g. <b>LM:</b> its ugly, you need someone who can nitpick and read through all that shit of 212 pages, and look at para 79 ...</p> <p>h. <b>BN:</b> Can you deliver a draft to my place?</p> <p>i. <b>BN:</b> I will be in Johannesburg</p> <p>j. <b>LM:</b> I will get, I will rather come myself, I don't want to take changes</p> <p>k. <b>BN:</b> No I will be late tonight,</p>	<p>Cont discussion about the need to file Con Court papers earlier</p> <p>The position or script are apparent references to whether Mr Zuma should be charged before or after Polokwane</p> <p>LM undertakes to deliver a draft of the Con Court papers to BN personally to</p>

<p>l. <b>LM:</b> I will wait for you, or see you first thing in morning. I don't want intermediaries here,</p> <p>m. <b>BN:</b> ok, your right,</p> <p>n. <b>LM:</b> Zuma will say we are conspiring against him</p> <p>o. <b>LM:</b> can I ask, the script has not changed yet,</p> <p>p. <b>BN:</b> Ya, no</p> <p>q. <b>LM:</b> because (do/don't) feel like going to Polokwane and charging him there</p>	<p>avoid it becoming known</p> <p>It is unclear whether he says he "do" or "don't" want to do this</p>
<p><b>12. Date Friday 14.12.07 10h53 BN</b></p> <p>a. <b>LM:</b> are you in position where I can drop something off or send someone to drop something off</p> <p>b. <b>BN:</b> drop it at home, not there yet</p> <p>c. <b>LM:</b> the one thing is a 8 pager, which you should read because it deals with whatever is new</p> <p>i. The rest is just same shit we have heard for the last 3 years</p> <p>d. ....</p> <p>e. <b>LM:</b> I want to get this to you, I can't leave it in envelope with drivers and things it is too risky. My guy can drive to where you are and give it to you</p> <p>f. <b>BN:</b> its not possible, in East London</p> <p>g. <b>LM:</b> Can also fax it to you,</p> <p>h. <b>BN:</b> I will give you a fax no</p> <p>i. <b>LM:</b> You must physically stand there and wait for it</p>	<p>LM prepares and sends a short summary of key issues that are newsworthy to BN for apparent distribution to the media</p>
<p><b>13. Date Friday 14.12.07 12h03 SMS BN</b></p> <p>a. <b>BN:</b> The fax number is 040 653 2223. Thanks</p>	
<p><b>14. Date Friday 14.12.07 12h32 SMS BN</b></p> <p>a. <b>BN:</b> I am standing next to the fax machine. Hope you won't forget me.</p>	
<p><b>15. Date Friday 14.12.07 12h43 SMS BN &amp; LM</b></p> <p>a. <b>BN at 12h43:</b> Got it. Thank you very much</p> <p>b. <b>LM at 12h56:</b> Hold onto it for a while, until ..</p>	
<p><b>16. Date Friday 14.12.07 BN 13h08</b></p> <p>a. <b>LM:</b> I just wanted to say its been filed, I am told you can chow it even to the guy on the beachfront</p> <p>b. <b>LM:</b> It is in court, anyone can access it – I just got an sms, it was filed 3 min ago</p>	<p>LM informs BN that papers have been filed and can be distributed</p>

#### Apparent political affiliation

<p><b>26. Date: about 24.12.07 11h49 Voicemail to F Davids</b></p> <p>a. <b>LM:</b> Davids, uh, McCarthy here, give me a ring please, you send me 'n gevaarlike sms here just before Christmas. I am Thabo man, I mean we are still wiping the blood from our faces, or egg, or egg and blood from our faces. Saw the man on Friday evening, we planning a comeback strategy And once we have achieved that, we will clean up all around us my friend. Bye</p>	<p>Allegiance to Mr Mbeki, confirm that they met, and "we" are planning a comeback strategy</p>
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Discussion with person in private intelligence industry about seemingly political solutions to NPA cases:

<b>18. Date 16.12.07 SMS exchange between Luciano to LM</b>	As far as can be
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<p>b. <b>LM:</b> I have been advised to give Ouboet &amp; Oujan a break in the interest of SA.... Tenous times. QV?</p> <p>i. <b>L:</b> What did Jesus say? Give to the emperor what is due to him and to the church what is due to her. You serve at the pleasure of the emperor. Any other choice wld mean not serving at the pleasure of the emperor</p> <p>j. <b>LM:</b> I hear you emperor sir. They're asking for a review. What</p> <p>k. <b>L:</b> Primus salus amicus et familia. That's the motto</p> <p>l. <b>LM:</b> Yea. Threatening to expose no. 1</p> <p>m. <b>L:</b> Approach hold even if Lume looses (sic)</p>	<p>established, Luciano is a private intelligence operative Ouboet is Mr Selebi Oujan is probably Mr Zuma</p> <p>Presumably a review of the cases "Lume" is nickname for Mr Mngwengwe, the Investigating Director of the DSO</p>
<p><b>19. Date 17.12.07 SMS exchange between Luciano to LM</b></p> <p><b>L:</b> Thought over night – 1. Recommend we help you find 2 sympathetic and credible international lawyers that can join each of the 2 reviews.</p> <p>2. International component important for SA's reputation and your own. If carefully selected will support objective.</p> <p>3. In ouboet's case need international component to deal decisively with o sullivan factor. Matter also high profile given K allegations, media interest and focus on crime in lead up to 2010.</p> <p>4. Iro Oujan recommend a comprehensive review is done of ALL MLA and prosecution cases are done flowing from arms deal not just his by review panel with international lawyers as you originally recommended. cont</p> <p>5. You can then deal with oujan in context of broader review.</p> <p>6. If you are going to do this in interest of SA recommended you request</p> <p>6.1 You submit review report to Special Committee of 4 ministers justice, intel, foreign affairs and safety and security. Do not take sole responsibility. Yr current line management structure will result in sole responsibility.</p> <p>6.2 Recommend you come to clear agreement about SAG support for the next phase of yr career including a date.</p> <p>6.3 You are going to need resources incl special budget because above all the media will have to be managed locally and globally. End.</p>	<p>Proposal for what appears to be a further review panel for the Selebi (and Zuma) matters The Selebi review panel had concluded its work at the end of November 2007.</p> <p>K is probably Kebble</p> <p>SAG = SA Government? The review panels appear to be linked to the future World Bank position</p>

## Conclusion

It is against this broad principle of abuse of process that the conduct of Mr McCarthy must be seen and tested. The question for close consideration is encapsulated in expressions such as "so gravely wrong", "gross neglect of the elementary principles of fairness", "so unfair and wrong", "misusing or manipulating the process of the court." If the conduct can be so categorized, it would be unconscionable for the trial to continue.

Using one's sense of justice and propriety as a yardstick by which McCarthy's abuse of the process is measured, an intolerable abuse has occurred which compels a discontinuation of the prosecution.

What actually triggers the abuse of process is a major determining factor, because it is that trigger which determines the purpose of the abuse and reveals whether the conduct in question is directed at a legitimate or illegitimate purpose.

In the present matter, the conduct consists of the timing of the charging of the accused. In general, there would be nothing wrong in timing the charging of an accused person, provided that there is a legitimate prosecutorial purpose for it and the accused is aware, should be aware or has been made aware of such purpose. For example, the timing may be related to the availability of witnesses, or the introduction or leading of specific evidence to fit in with the chain of evidence.

It follows therefore that, any timing of the charging of an accused person which is not aimed at serving a legitimate purpose is improper, irregular and an abuse of process. A prosecutor who uses a legal process against an accused person to accomplish a purpose for which it is not designed abuses the criminal justice system and subjects the accused person to that abuse of process.

Abuse of process through conduct which perverts the judicial or legal process in order to accomplish an improper purpose offends against one's sense of justice.

The above implies the following:

Mr McCarthy used the legal process for a purpose outside and extraneous to the prosecution itself. Even if the prosecution itself as conducted by the prosecution team is not tainted, the fact that Mr McCarthy, who was head of the DSO, and was in charge of the matter at all times and managed it almost on a daily basis, manipulated the legal process for purposes outside and extraneous to the prosecution itself. It is not so much the *prosecution* itself that is tainted, but the legal process itself.

Mr McCarthy used the legal process for a purpose other than which the process was designed to serve, i.e. for collateral and illicit purposes. It does not matter that the team acted properly, honestly, fairly and justly throughout. Mr McCarthy's conduct amounts to a serious abuse of process and offends one's sense of justice.

What Mr McCarthy did was not simply being over-diligent in his pursuit of a case, it was pure abuse of process.

If Mr McCarthy's conduct offends one's sense of justice, it would be unfair as well as unjust to continue with the prosecution.

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In the light of the above, I have come to the difficult conclusion that it is neither possible nor desirable for the NPA to continue with the prosecution of Mr Zuma.

It is a difficult decision because the NPA has expended considerable resources on this matter, and it has been conducted by a committed and dedicated team of prosecutors and investigators who have handled a difficult case with utmost professionalism and who have not been implicated in any misconduct.

Let me also state for the record that the prosecution team itself had recommended that the prosecution should continue even if the allegations are true, and that it should be left to a court of law to decide whether to stop the prosecution.

However, I believe that the NPA has a special duty, as one of the guardians of the constitution and the Bill of Rights, to ensure that its conduct is at all times beyond reproach.

As an officer of the court I feel personally wronged and betrayed that on a number of occasions I have given evidence under oath that there has not been any meddling or manipulation of the process in this matter.

It is with a great regret that I have to say today that in relation to this case I can not see my way clear to go to court in future and give the nation this assurance.

#### **The need for further investigation**

The NPA has taken the information that was uncovered very seriously and has done its utmost to get to the bottom of all the allegations that it has investigated. It has also taken the initiative to cooperate fully with the Browne Mole investigation into possible illegal intelligence gathering activities in the DSO, and has managed to uncover significant new information in the process.

The NPA has also tried to investigate and assess the impact of the revelations on other aspects of our work that happened in the past.

However, in the time available, it has simply not been able to deal fully with all these aspects and come to firm conclusions. While the NPA will continue with its investigations, it has also decided to prepare a full report and present it to the Minister of Justice and the President to decide on further action.

The NPA believes that it is vital that a full and proper investigation must be conducted by a judge or independent person to make recommendations about any further actions to be taken, whether of disciplinary or criminal nature, as well as the framework within which the NPA operates to ensure that such abuses never occur again.

*Initial*

Notes on Hulley tapes – Note that most of them were subsequently found at NIA and we did more comprehensive transcripts

Ones that were not listed to or found at NIA are highlighted

**Dates missing Dec 2007 LM FD ABOUT 15 Dec**

1. Soccer discussion
2. Zuma wins, leave country
3. After EL xmas
4. WH: EL discussion, why is Pres standing,
5. LM: WH: talks to wrong people, bet against TM winning
6. Talk to people criticize TM,
7. Talks about how JZ will do things, even if knocked out, will have people in place
8. WH painted as being disloyal to govt, walked over to other side
9. WH started out saying he hates JZ,
10. F: I wont ever by a Z man, WH talk about bringing someone into the SIU favourable to Z camp
11. F: W: says to staff, sorry about not spending time, implies will be back, a joke

**Dates missing Dec 2007 LM BN**

12. Are we going to vote, start tonite
13. B: Looking good
14. someone said to me that chaos will work in no.1's favour
15. Worse things is way reported on TV
16. Check with you re tomorrow nite

**FD after vote**

17. LM: gevaarlike sms here just before xmas
18. I am TM man, we are still wiping the blood from our faces, egg or egg and blood from faces
19. Saw the man on Fri evening, we are planning a comeback strategy
20. Once we have achieved that, we will clean up all around us my friend

**Kassrils**

21. Come by to visit, asap

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22. R: Are you ok, around for whole week, stay in close contact
23. I am in flat the whole week
24. Stay in close contact

53. K: worked flat out on this for 3 weeks, level of hatred against BN and whole Ngcuka estab, believe BN was a spy despite Hefer, and
54. K: I went and told PN – we are big friends. This T's camp has big luggage – PN and Terror – I was clear that will lose with them, with PN in top 6, clear that he wants her
55. L: Its unbelievable, I just thought that with all the clever people the supporters of trevor and them and resources available, that they could beat them
56. K
57. Mac back in full force, the whole cabal was back – coordinating the whole thing, they will pardon SShaik
58. We must now sit and talk seriously about what we are going to do. Hmm..
59. Interesting assessment
60. Kgalema knows and has always accepted Z will be charged by Apr next year and convicted by end of the year , position self
61. Will he go on middle line, or stay on Z ticket – I think he will dump Z but stay with group
62. Amongst senior people in Z camp, it is about resourcing, they do not expect him to be next president
63. Everyone expects that Z will be charged again
64. L: I saw that internat media all expect this, struck off etc, but will happen ....
65. L: Did you get wine and book I sent you
66. L: Lets be merry, regroup and live to regroup another day, wipe the blood off our faces. I don't feel good about it
67. L: Maybe we can meet for breakfast
68. I may go down to KZN for business, can prob see you there

**LM: MOJ before P**

69. Looking for CM – is he on leave, r u acting, need a simple thing
70. Can you give us a process for JS, he needs to talk to SAPS, put someone on standby, told that is very N B for security of country
71. That is problem with VP, get back to you
72. Is there a time to see Min, about other things and Zuma case
73. M: so much in the papers, just confirming that it is pol, why you are announcing this via CM