

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. MK: Ja, we can go to, there is a place called ... a) auberge in Pretorius? street or Pigalles or there is the meat place 24. LM no, you pick a place, just let me know, my guys can check out where it is 25. MK I will do that 26. Bye</p>	
<p>2. 7.11.2007 10h25 Bulelani Ngcuka to LM 083 441 0030</p> <p>1. LM Hello sir 2. BN How are you 3. LM You got a few minutes 4. LM I need a job for <u>Anthea</u> - if it is the last favour you do for me 5. LM 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. BN not Monday 7. LM 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. LM that's the one thing a) The second thing is, I, remembering what you said on Saturday, b) I read yesterday's <u>Business Day</u> editorial, you must just read it, just read it 9. BN Just remind me what did it say 10. LM just get it, yes, its in line with your thinking 11. BN Laughs 12. LM 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</p> <p>13. BN Laughs 14. LM But he said he will, <u>he says he will speak to the man</u> a) Uhh, when he's, he is back over the weekend, b) but he knew, he feels very strongly that <u>I should not see the guy directly</u> 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. BN I agree 16. BN Have you read the <u>Business day</u> today 17. LM No I haven't, I just 18. BN Precisely that line, its says, I said, a) it says he knew about my statement beforehand, 19. LM Is it? 20. BN ja, I don't know where he got it from but certainly that <u>fellow</u> 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. BN So, so what is it about <u>Anthea</u> 22. LM No its just if I go, I need to look after her and <u>David</u> 23. BN But it is still long way man 24. LM The thing is happening in <u>January</u> boss, we even discussed it</p>	<p>LM personal assistants</p> <p>post at World</p>

25. BN Ja, ok, ok, I mean, but why do you wake me up in the morning for that:	Bank in Jan 08
26. LM 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. BN yes	Mpshe stated in media that DSO will make decision, not he
28. LM – your acting .. your acting ..	
29. BN I know I know ja ja	
30. BN you know it is very interesting, there is different points of view across the board	Khumalo
31. LM where are you tonight, you don't want to join this dinner with Mzi?	
32. BN 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. BN So when you finish	Khumalo
34. LM I will come around your house	
3. Wed 7.11.2007 13h23 BN to LM 083 441 0030 1. LM Hello 2. BN Yes sir 3. LM 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. BN Thanks 5. LM I am not sure, I said I will call you when I am finished 6. BN I said when you are done with Mzi, where are you eating 7. LM I don't know 8. BN He did not tell you where you are eating, 9. LM You know I just said I myself must book and I will rather pay 10. BN why, are you coming to Johannesburg 11. BN I see, ok, ok, ok 12. BN 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. LM 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

[illegible]

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 I,
 - 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. BN Ja, ja a) in any event, the CC must, must indicate if they want to hear it then ne</p> <p>64. LM Ja, ja, ja</p> <p>65. BN Orrait, boet, enjoy the weekend</p> <p>66. Bye</p>	
<p>6. 26.11.07 20h43 BN to LM 083 441 0030</p> <p>1. LM Hello</p> <p>2. BN Yes sir</p> <p>3. LM Howzit, howzit, howzit</p> <p>4. BN No, ok broer, how are you</p> <p>5. LM Ok, ok, I just thought I would check see how you are doing</p> <p>6. BN Ja, not doing very well man,</p> <p>7. LM Is it</p> <p>8. BN not very well at all, you know.</p> <p>9. LM hmm</p> <p>10. BN I am still telling .. I am so shocked man</p> <p>11. LM Ja sjoe</p> <p>12. BN And uhh, its still uhh a, its the, the shock you know</p> <p>13. LM Hmm, hmm</p> <p>14. BN Uhh, so that is something, that you need to, I need time to work on it,</p> <p>15. LM Ja</p> <p>16. BN But we have just been shocked, a. Our 15? you know b. I have just been, you know, just been shocked, shocked, shocked, shocked ...</p> <p>17. LM hmm</p> <p>18. BN all the other stuff went the way we had sort of talked about it, 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</p> <p>19. LM Ja</p> <p>20. BN 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</p> <p>21. LM 26</p> <p>22. BN it does not make sense at all</p> <p>23. LM ... Gauteng?</p> <p>24. BN 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>

<p>by</p> <p>25. LM hmm</p> <p>26. BN So that 1 is not a big deal, it is a small province</p> <ol style="list-style-type: none"> And so we, that 1 we will turn around Northern Cape and Gauteng we will turn around – That one we are not bothered about it <p>27. LM Hmm</p> <p>28. BN Its, its the, its Mpumalanga and Free State and Natal man</p> <ol style="list-style-type: none"> that is giving us a real problems, I am, it shocked the system <p>29. LM Ja it is</p> <p>30. BN hmm, we knew we were going to lose, but we did not think that ...</p> <ol style="list-style-type: none"> And it is obviously, it is not natural Leonard you have, when you have your president being rejected by such a huge majority in a province like that You would find, I mean, if you find for example that .. If you look at all the other provinces, you can see that people have a difference of opinion, difference of views right <p>31. LM Yea</p> <p>32. BN And it is normal, but that one is not normal</p> <ol style="list-style-type: none"> It is clear that uh it is like somebody wanted to seal in?? all the ballot papers and then returned them in ?? <p>33. LM There is something wrong there – and also , that is my first reaction, there is something wrong</p> <ol style="list-style-type: none"> My reaction was two fold. it is either that the one side deliberately is obfuscating the issue, by saying, no go and vote in droves against this guy - the real picture will emerge at the conference or these guys cooked the books ... and I agree with you xx absolutely .. something very, very ugly <p>34. BN In Natal, I mean, the comrades did say to them that look guys</p> <ol style="list-style-type: none"> vote for this guy know on the first round, don't show your hand don't show your hand because these guys might disqualify you from attending the conference 	<p>Mbeki?</p> <p>Zuma</p>
<ol style="list-style-type: none"> So one can understand it, but really, not to this extent But you can't explain 15 in Mpumalanga, it is just not .. there is something there is something that we just don't understand so we are trying <p>35. LM Who's auditing and verifying the results</p> <p>36. BN You don't need anything like that it is here the people</p> <ol style="list-style-type: none"> Was just can be able to know who must be get into the ballot paper <p>37. LM Hmm</p> <p>38. BN so that voting is not that critical except that it shows you the trend</p> <p>39. LM Its shows what</p> <p>40. BN It shows the trend</p> <p>41. LM Ja</p> <p>42. BN I mean take the bloody Women's League,</p> <ol style="list-style-type: none"> There is a decision that there must be 50 50, right 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
- a. the **NEC** has taken that decision
- b. **Zuma's** slate, they only have 2 women in the top 6
- c. you understand, only 2
45. **LM** hmm
46. **BN** The women go and vote against women, they have just voted now
- a. They put in, Zuma got 29 Mbeki got 25
- b. Kgalema got 26, Nkosazana got 24
- c. The women's league voted against the women as deputy president
- d. Can you believe that
47. **LM** SJoe
48. **BN** and voted to put in more men that the **books** more women
- a. And that's the Women's League for you
- b. 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,
- a. 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?
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,
66. **LM** Hmm
67. **BN** he's been in meetings the whole day,
68. **LM** Is it
69. **BN** At Shell house of all places (laughs)
- a. Ja, ja **tha**? 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
- a. I am not doing well, too,
- b. I am not doing well my brother,
- c. I am not doing well
- d. 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
- Mbeki?
- Mbeki?
- Mbeki?

<p>77. BN I am going to compete with the views, you know</p> <p>78. BN 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. LM Yes</p> <p>80. BN She, she wants to leave the NPA</p> <p>81. LM hmmm</p> <p>82. BN what happened, do you know?</p> <p>83. LM 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 (indistinct)</p> <p>84. BN ja, that's terrible man</p> <p>85. LM Ja</p> <p>86. BN hmm, ja that's really not good ?</p> <p>87. LM where you this week, up in Gauteng?</p> <p>88. BN 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. LM 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. BN Ja</p> <p>91. LM Do you know Lillian ??</p> <p>92. BN Oh ok</p> <p>93. LM Quality ??? nice songs. some excellent quality. sounds great (indistinct)</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. BN you did right, right thing</p> <p>95. LM up until Friday, the, the,</p> <p>a. then I received a strong memorandum to say charge and charge now</p> <p>96. BN Friday</p> <p>97. LM 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>7. 6.12.07 11h07 LM BN 083 441 0030</p> <p>1. BN Congratulations</p> <p>2. LM with what</p> <p>3. BN on the landlord</p> <p>4. LM Laughs, no</p> <p>a) No the landlord, he says he is not</p> <p>5. BN but congratulations, nevertheless</p> <p>6. LM No thank you</p> <p>7. BN At least you got him, you know</p> <p>8. LM I should not be credited for any of this by the way, I did not</p> <p>9. BN is this the beginning of things now, are things beginning to roll</p>	<p>Agliotti</p>