TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

THE HONOURABLE MR JUSTICE FARLAM (RETIRED) - CHAIRPERSON
MR TOKOTA SC
MS HEMRAJ SC

HELD ON

DAY 21  27 NOVEMBER 2012  PAGES 2239 TO 2287

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE

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[PROCEEDINGS ON 27 NOVEMBER 2012]

[09:35] CHAIRPERSON: The Commission resumes. Mr Bruinders, are you in a position to lead your witness this morning?

MR BRUINDERS SC: Ja.

CHAIRPERSON: Good. Have you got copies of the statement for us?

MR BRUINDERS SC: We do.

CHAIRPERSON: Ms Pillay will tell us the exhibit number, I hope.

MS PILLAY: Chair, I think it's Exhibit NN.

CHAIRPERSON: Thank you, NN. Mr Bruinders, do you want to make some introductory remarks before you call your witness or do you just want to put him, send him to the witness stand?

MR BRUINDERS SC: No, Chair, we call Mr Mathunjwa.

CHAIRPERSON: Mr Mathunjwa, are you prepared to take the oath or do you wish to affirm?

MR MATHUNJWA: Yes, I'm prepared to take an oath.

CHAIRPERSON: Would you stand, please? Do you swear that the evidence you will give before this Commission will be the truth, the whole truth and nothing but the truth. Please raise your right hand and say, I swear, so help me God.

MR MATHUNJWA: Help me God.

CHAIRPERSON: I swear, so help me God.

JOSEPH VUSI MATHUNJWA: I swear, so help me God.

CHAIRPERSON: Thank you, you may be seated.

MR BRUINDERS SC: We've all heard that the demand was a demand for an increase to R12 000,00, R12 500,00 a month, not so?

MR MATHUNJWA: Yes, we heard about it.

MR BRUINDERS SC: Whose demand was that?

MR MATHUNJWA: That was workers' demand.

MR BRUINDERS SC: Which workers?

MR MATHUNJWA: Those were referred to as rock drill operators.

MR BRUINDERS SC: The rock drill operators who are employed at Lonmin, are they members of trade unions?

MR MATHUNJWA: Yes, I believe that some they belong to trade unions.

MR BRUINDERS SC: And what category of workers were they?

MR MATHUNJWA: Those were referred to as rock drill operators.

MR BRUINDERS SC: The Rock drill operators who are employed at Lonmin, are they members of trade unions?

MR MATHUNJWA: Yes, I believe that some they belong to trade unions.

MR BRUINDERS SC: And when you say some belong to trade unions, which trade unions are those?

MR MATHUNJWA: I'll refer to our trade union, AMCU, Association of Mineworkers and Construction Union, and I also believe some they belong to National Union of Mineworkers.

MR BRUINDERS SC: When did you first hear – I beg your pardon, before I ask that – you say that the demand was the demand of the rock drill operators.

MR MATHUNJWA: That's correct.
MR MATHUNJWA: That's correct.

MR BRUINDERS SC: Who formulated the demand?

MR MATHUNJWA: I believe the workers themselves.

MR BRUINDERS SC: What role did AMCU play in the formulation of that demand?

MR MATHUNJWA: No role whatsoever AMCU played into those demands.

MR BRUINDERS SC: When was the first time that you got to hear about the demand for an increase to 12 500 a month by rock drill operators at Lonmin?

MR MATHUNJWA: I first heard on the 13th of August 2012.

MR BRUINDERS SC: Before we deal with what you heard on the 13th, can I ask you to go back just a little bit please?

MR MATHUNJWA: Okay.

MR BRUINDERS SC: Before the 13th, were there exchanges between you and Lonmin management about rock drill operators?

MR MATHUNJWA: Yes. Towards the end of July I received a call coming from one of the senior managers by the name of Barnard Mokwena, alerting me that he heard the rumour that there will be workers who will be marching, bringing the memorandum.

MR BRUINDERS SC: Did you say –

CHAIRPERSON: I'm sorry to interrupt you, Mr Bruinders. What the witness is now testifying about appears to be covered by paragraphs 5 and – sorry, 12 and following –

MR BRUINDERS SC: Correct.

CHAIRPERSON: On page 5.

MR BRUINDERS SC: That's correct. You do have your statement in front of you?

MR MATHUNJWA: Yes, I do.

CHAIRPERSON: Could I interpose for a moment and just ask him a question about something that happened before that, before you then carry on with the narrative? Were you aware of the fact that there had been an earlier increase granted by another platinum mine in the area, Implats, in respect of which I think was – we'll have evidence on it, presumably but I think it was in respect of rock drill operators. Do you know anything about that?

MR MATHUNJWA: Yes, I heard about that.

CHAIRPERSON: Mr Interpreter, it's not Amplats, it's Implats - Impala Platinum, not Anglo American Platinum. Am I correct in thinking it was an increase granted to rock drill operators?

MR MATHUNJWA: That is what I heard, yes.
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25 meeting, which that meeting never took place. And I
24 me and subsequent to that I made a proposal for an urgent
23 said you phoned
22 MR MATHUNJWA: Yes, and then I reminded
21 Mr Mokwena?
20 MR BRUINDERS SC: Did you say anything to
19 to know those people who are at the march.
18 MR MATHUNJWA: No, he said he doesn't
17 MR BRUINDERS SC: Did you say anything to
16 Mr Mokwena?
15 MR MATHUNJWA: Yes, and then I reminded
14 him of my earlier discussion around July, saying you phoned
13 and subsequent to that I made a proposal for an urgent
12 meeting, which that meeting never took place. And I
11 therefore again requested him that upon receipt of such
10 memorandum, would you please arrange an urgent meeting
9 again with all the stakeholders, namely, our union AMCU,
8 NUM, Solidarity and UESA and I also advised him that we
7 needed to meet and this must not set any precedents that
6 the memorandum will be received by police. He must tell
5 the police that he will be receiving that memorandum, must
4 tell those workers that this does not set any precedents
3 whatsoever. It should have to be dealt with in the
2 structures within the company and I therefore –
1 CHAIRPERSON: In your career as a trade

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unionist, have you ever come across a situation before
2 where an employer has refused to receive a memorandum from
1 workers and said it must be received by the police instead?
2 MR MATHUNJWA: That was my first
1 experience. After that I then wrote him a letter.
2 MR BRUINDERS SC: Can we stop there and
1 ask the interpreter to interpret and make sure that the
2 Commission gets copies of your letter.
3 CHAIRPERSON: This will be Exhibit OO,
2 unless you want to make it – are there more letters? In
1 which case we could make it OO1 and then run through. No,
2 we've already got NN, so the next exhibit number is OO but
1 what I'm saying to you is, if you're going to hand in a
2 number of letters or documents that all relate to the same
3 topic, it might be – otherwise we'll run out of letters –
2 we might make it OO1 through to OO7 and beyond.
3 MR BRUINDERS SC: There won't be a lot
2 but there will be some more letters, not on the same topic
1 but I suppose it is a very reasonable suggestion you made,
2 Chair, so we –
3 CHAIRPERSON: I always try to make
4 reasonable suggestions, I don't always succeed.
5 [09:55] MR BRUINDERS SC: Can we hand up three
4 copies for the Commission and then one for Mr Mathunjwa, he
3 doesn't have a copy. Commissioner, do you have a copy? Mr
2 Mathunjwa, is that the letter that you sent off on 10
1 August 2012?
6 MR MATHUNJWA: That's correct.
5 MR BRUINDERS SC: Please read it into the
4 record?
3 MR MATHUNJWA: Thank you. The letter
2 dated the 10th of August 2012, attention Mr Barnard Mokwena,
1 EVP Human Capital and External Affairs, Lonmin Platinum,
2 Karee Mine and the e-mail, "Dear Sir, Re employees marching
3 at Lonmin. The above matter refers. Our telephonic
2 conversation today, the 10th of August 2012 refers. As AMCU
1 we are not aware of any march directed to the employer. We
2 only knew about this when you made this telephonic
1 conversation. However, as AMCU we propose that whoever

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23 we are not aware of any march directed to the employer. We
24 only knew about this when you made this telephonic
25 conversation. However, as AMCU we propose that whoever

106 on the top right hand corner.

MR BRUINDERS SC: You might, but I don't think that the rest of my colleagues have a copy of it in front of them, so it's for their benefit that I mention -

CHAIRPERSON: Do they have copies of the bundle?

MR BRUINDERS SC: They do.

CHAIRPERSON: I see.

MR BRUINDERS SC: Yes. Mr Mathunjwa, you sent this letter off to Mr Mokwena?

MR MATHUNJWA: That's correct.

MR BRUINDERS SC: Did Mr Mokwena, in response to this letter, organise a meeting as you proposed?

MR MATHUNJWA: No, there was no response from this letter.

MR BRUINDERS SC: Can I now ask you to – whether, I beg your pardon, I can ask you some questions about a strike by the rock drill operators that started, it appears, on the 10th of August 2012. Lonmin brought an application to interdict what it called an unlawful strike on 10 August 2012, not so?

MR MATHUNJWA: That's correct.

MR BRUINDERS SC: When did you hear that Lonmin had brought that application?

MR MATHUNJWA: The office phoned me on the very same day, maybe during lunch time if I'm not mistaken.

MR BRUINDERS SC: Where were you when you were telephoned?

MR MATHUNJWA: I was not at the office.

MR BRUINDERS SC: What were you told by your office?

MR MATHUNJWA: They informed me that they have received a document from Lonmin with – an application.

MR BRUINDERS SC: Did you get to see those documents on the 10th?

MR MATHUNJWA: No, I didn’t see the documents on the 10th.

MR BRUINDERS SC: Did you get to see them on that weekend?

MR MATHUNJWA: No, I never returned back to the office.

MR BRUINDERS SC: I asked whether you saw them on the weekend because if I’m not mistaken the 10th would’ve been a Friday, not so?

MR MATHUNJWA: That is correct.

MR BRUINDERS SC: What, if anything, did AMCU do about this application that had been brought by Lonmin?

MR MATHUNJWA: Can you repeat your question again?

MR BRUINDERS SC: What, if anything, did AMCU do about this application brought by Lonmin?

MR MATHUNJWA: From our – among ourselves we phoned the respective structures referring to the NEC members, that we have received such document and as AMCU we will never oppose it.

MR BRUINDERS SC: Why not?

MR MATHUNJWA: The reason was to prevent the ongoing unlawful strike.

MR BRUINDERS SC: When you say the reason was to prevent the unlawful strike, what do you mean?

MR MATHUNJWA: Yes, we couldn’t stand in the way where the company wants to prevent something that is not lawful.

CHAIRPERSON: You are saying that you didn’t- that you decided not to oppose the application because you were not aware that there was any defence that could be raised to it because the strike was unprotected?

MR MATHUNJWA: Yes and also as AMCU we never called any strike, as far as the union is concerned.

MR BRUINDERS SC: Do you know who called a strike at Lonmin on the 10th?

MR MATHUNJWA: Can you repeat your question again?

MR BRUINDERS SC: What role did AMCU play in the calling of that strike started on that Friday by the workers?

MR MATHUNJWA: We never played any role in calling of the strike.

MR BRUINDERS SC: When did you get to know more about the strike?

MR MATHUNJWA: I think I happened to know more in detail on the 13th of August 2012.

MR BRUINDERS SC: That was the Monday?

MR MATHUNJWA: That’s correct.

MR BRUINDERS SC: And what – well, did you hear from Lonmin on that Monday?

MR MATHUNJWA: No, on Monday we received a call again from Lonmin, yes.

MR BRUINDERS SC: I see. Who received the call?

MR MATHUNJWA: I received the call.

MR BRUINDERS SC: And from whom did you receive the call?

MR MATHUNJWA: The call I received from Mr Jomo Kwadi.

MR BRUINDERS SC: And what did he tell you?
MR MATHUNJWA: He asked for the intervention and said that there’s violence at the mine, so we –

MR BRUINDERS SC: Commissioners, for your benefit, we’re now at paragraph 23 of the statement.

CHAIRPERSON: Thank you.

MR BRUINDERS SC: So he phoned and asked for your intervention because there was violence. So what did you say?

MR MATHUNJWA: Then I asked him about other leaders, where were other leaders of other organisations and then he said to me they had those leaders on the previous day, which was on Sunday the 12th of August 2012, and therefore I asked him why we were not invited because we requested the meeting, we even sent the letter to yourselves on the 10th. Then there was no answer, but subsequent to that, since there were other few comrades in the office, I called an urgent meeting quickly. Then I explained the call that I’ve received from Lonmin by Mr Kwadi, Jomo Kwadi.

MR BRUINDERS SC: Can I, before we deal with the rest of the events of the 13th, ask you this – did Lonmin make an attempt to try and get hold of you on the weekend?

MR MATHUNJWA: I would say, but I realised that there was an SMS that was forwarded to myself, I think that was on Sunday but I only realised that SMS in the course of the week. It happened not for me to see it. That was from Mr Barnard Mokwena.

MR BRUINDERS SC: Did you not see the SMS on Sunday, you say?

MR MATHUNJWA: Yes, that’s correct.

MR BRUINDERS SC: And you say you saw it later in the week. Do you recall when that was?

MR MATHUNJWA: I cannot specifically recall.

MR BRUINDERS SC: And do you remember what the SMS said?

MR MATHUNJWA: Yes, I think I could remember.

MR BRUINDERS SC: Will you tell the Commission what it said?

MR MATHUNJWA: The SMS, if I could recall, was saying, “Hey broer, there are four people shot at Wonderkop, so therefore call an urgent meeting with your members,” something to that effect. I might not be 100% but it was to that effect.

MR BRUINDERS SC: Can we go forward to the 13th again? You say that you spoke to your, some of the members of your trade union at the head office about the call from Mr Kwadi.

MR MATHUNJWA: That’s correct.

MR BRUINDERS SC: And what did you decide as a result of those discussions?

MR MATHUNJWA: Then I recommended that comrades general secretary and the national organiser should leave for Lonmin.

MR BRUINDERS SC: And who are these two people?

MR MATHUNJWA: The general secretary is Jeffery Mphahlele.

CHAIRPERSON: Could you spell that, please?

MR BRUINDERS SC: Could you spell Mphahlele, please?


The second one was Dumisane Nkalitshani, national organiser.

MR BRUINDERS SC: You’ll have to spell that as well, I’m afraid. You’re going to have to spell that as well.

MR MATHUNJWA: Dumisane or Nkalitshani, which?

MR BRUINDERS SC: Which?

MR MATHUNJWA: Nkalitshani.


MR MADLANGA SC: They are mentioned in paragraph 20(a) of his statement, Mr Chairman.


MR MATHUNJWA: Yes, on page 7, thank you.

MR BRUINDERS SC: You asked them to go to Lonmin?

MR MATHUNJWA: That’s correct.

MR BRUINDERS SC: For what purpose?

MR MATHUNJWA: To go and find out about the call we received from management and then I also mentioned that they must, they need to meet the branch committee and also meet the management as per their request.

MR BRUINDERS SC: Did you go with them to Lonmin?

MR MATHUNJWA: No, didn’t go with them.

MR BRUINDERS SC: Did they report back to you on their visit to Lonmin on the 13th?

MR MATHUNJWA: Yes, they did report on the following day which was on the 14th, the morning of the 14th of August 2012.

MR BRUINDERS SC: We’re now moving on to paragraph 27 of the statement. On that day, Mr Mathunjwa, what did they report to you?
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Mr. Burger, are you able to respond to it now?

Chair: It seems a fair request, Mr. Bruinders. Are you able to respond to it now?

Mr. Bruinders: We haven't file statements for those two witnesses.

Chair: We wish to know – we know that – the question is, are you going to because Mr. Burger says he needs to know that so he can arrange his affairs accordingly, as I understand it.

Mr. Bruinders: I'd have to take an instruction on whether we're going to file because the purpose of filing a statement would be because we're going to call them –

Chair: No, no, but there's a further point that arises. What Mr. Burger is also saying is, if you're not going to file such statements and presumably call the witnesses if necessary, if there's a dispute, then the evidence that the witness is now going to give will be hearsay and you will object to it on that basis, as I take it. He nods his head, so I'm correct. So it's important to know whether, what you're going to do in this regard otherwise I will have to deal with an objection based on the fact that the evidence he's now going to give is hearsay. Obviously he can give hearsay if the people whose statements he's reporting are going to be called, or if statements are presented, filed from them with which Mr. Burger's side agree, in which case obviously there won't be a problem. That's the point Mr. Burger raises and I don't know how we can deal with it. One way to deal with it might be, I suppose, to go on to something else for the moment until you receive those instructions during the tea adjournment, but also it may not be possible for you, in presenting the narrative, to do it that way. I don't know.

Mr. Bruinders: Well, the other way to deal with it, Mr. Chair, is that he gives evidence about not the report, not because he wants to prove the truth of its contents but because he wants to give evidence as to what happened as a result of that report being given which is, at this stage, the point of the narrative.

Chair: Mr. Burger?

Mr. Burger: We'll object to that.

We're in the public eye and we've had unfortunate experiences of statements being published here and we haven't seen any supporting evidence. So if my learned friend wants to lead evidence –

Chair: I'll tell you what, I'll take a short adjournment, Mr. Bruinders and you can then discuss the matter, he will tell you what the report is that is going to be given by his client – it won't obviously be part of the formal proceedings of the Commission. You may well find that it's not of a nature to cause you concern, in which case he can carry on, alternatively we can deal with it further in the light of the discussion that you have.

Mr. Burger: Chair, that's not going to be of assistance. I know what the report is, it's in the statement. I would object to that, if that evidence was to be tendered without a supporting statement. That's why – we realised last night that we haven't seen these statements and that's why I raise it before the evidence is given into the open. Paragraph 28 –

Chair: Mr. Bruinders, I think as a matter of fairness, Mr. Burger is correct and I must uphold his objection. Do you wish to take the instructions that you were talking about now, in which case I'll give you a short adjournment to do that?

Mr. Madlanga: Mr. Chairman, may I ask to make a submission on this subject, please?

Chair: Yes.

Mr. Madlanga: Thank you, Mr. Chairman.

I take a different view to the submission made by Mr. Burger. My understanding is that in Commission hearings hearsay evidence is admissible. The only issue would just be the question of the weight to be attached to the evidence. May I refer to a decided case on the matter, the case of –

Chair: You are correct –

Mr. Madlanga: Yes.

Chair: But it's a question of weight. Also in terms of the regulations, I have a discretion to disallow evidence and so I would be able to rule, even though it's hearsay - even though it technically could be admissible in the Commission, it wouldn't be appropriate to do so, depending upon the prejudicial nature of the statement. But I don't want to interrupt you but that's just my –

Mr. Bruinders: Can I make –

Chair: Response to what you said.

Mr. Bruinders: Can I relieve all of you of your pain? I'll move on and we'll deal with that later on. I don't want to – I'm not going to lead that.
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CHAIRPERSON: Well, that’s what I suggested. You carry on with something else and you can come back to this after tea if you’ve sorted out the problem that’s been referred to.

MR BRUINDERS SC: Yes.

CHAIRPERSON: Mr Madlanga, I don’t know if there’s anything further you want to say. I didn’t want to be discourteous to you.

MR MADLANGA SC: Yes. No, I just wanted to say I hear you, Mr Chairman, when you say you have a discretion. That’s a totally different matter and Mr Burger’s approach was not addressing itself to the discretion that you have, it was proceeding on the basis that hearsay evidence can be objected to in the same way as – at least as I understood the submission – the same way that one can do that in a court of law. All that I wanted to place before the Commission is that that is the wrong way of going about it, hearsay evidence is admissible.

Then the issue of a colleague then saying, but because this will be prejudicial for A, B, C, D reasons and I ask the Commission to then exercise a discretion, totally different matter and I was at the point where I wanted to refer to the decided case. I don’t know whether that’s worth

MR MADLANGA SC: It’s the matter of Bongoza, that’s B-O-N-G-A-Z-A, v Minister of Correctional Services & Others 2002 (6) SALR 330 (Tk), it’s a judgment of Mr Justice Jafta in which he relies on an oldish judgment by Innes, I’m not sure whether Innes JA or Innes CJ, I’m not sure what he was at the time but basically –

CHAIRPERSON: Any judgment of Innes JA or Innes CJ is always of the highest authority.

MR MADLANGA SC: Yes, yes but – yes, what the principle really in those two cases is, that virtually anything goes – you can admit newspaper cuttings, hearsay evidence and so on and so it will just be a question of weight. Thank you, thank you commissioners.

CHAIRPERSON: The point doesn’t need further discussion at the moment but I’m glad that you raised the point as you did. It may require consideration after the tea adjournment. Yes, Mr Bruinders, continue then on the basis that you’ve suggested, avoiding this
believe that any form of violence can bring about changes at the workplace, nor it can benefit anyone. May their souls rest in peace. Now let me deal with the issue of Lonmin workers’ demands. During mid-July we received a telephone call from the middle management of Lonmin Platinum who stated that they got rumours that RDOs were planning to make salary adjustment demands on their own. We immediately advised the management not to set a precedent by trying to entertain these individual demands but urged management to be proactive and co-ordinate an urgent meeting for all recognised unions so that this issue will be dealt with speedily to avoid similar situations as it happened at Impala Platinum.

Subsequent to that call, Mr Barnard Mokwena, who is a senior group HR director, also phoned saying the same thing. We again urged him to arrange a meeting but unfortunately mid-management kept quiet afterwards. All of a sudden, we were informed by our branch executive members at Lonmin that management is urging RDOs on the matter and that some offers have been made, which was rejected by RDOs. This happened despite our appeal to Lonmin management to deal with the trade unions on the matter.

Last week Friday we received information that all RDOs had decided to submit a memorandum to Lonmin management in the form of a march. They all gathered together at Karee and proceeded to Wonderkop Mine to meet with the RDOs there so that they will all proceed to the stadium where the memorandum will be handed over. While passing at Wonderkop Mine, we were told that people who came out of NUM office wearing NUM T-shirts opened fire to marchers and one worker was killed on the spot, while others were wounded and taken to hospital. Workers have seen the culprits and can identify them by names. That incident led to the eruption of the violence and more deaths at the mine.

AMCU has got nothing to do with neither the killings nor behind the demands by the RDOs. We have got nothing to do with the demands. However, since the demands are there, it is our belief that the parties should constructively engage on them and find a common ground in order for the mine to resume its operation.

As stated on the numerous occasions in the past, we as AMCU believe in peaceful engagement in whatever labour related matters. Where parties do not agree, they should follow a legitimate dispute resolution mechanism involving CCMA or other agreed private processes. We always make use of these processes. We cannot all of a sudden resort to violent tactics to pursue our demands in the platinum mines. Without laying any blame to anyone, but it is important to state that we also suspect some sinister forces behind this situation. Before the report about RDOs’ demands, we learn that NUM started an intensive campaign where they said, claiming Lonmin back. This campaign is ongoing and it is even involving top officials from the ruling party. These top officials have been conducting mass meetings with workers, saying all bad things about AMCU and urging workers to go back to NUM. Who knows, maybe it is part of the strategy and later blame AMCU for all the bad things in order for AMCU to be portrayed as a bad union. For your information, Lonmin management has served NUM with notice to terminate their recognition agreement in October 2012 should they be unable to obtain majority status.”

Chairperson: Mr Bruinders, is it necessary for him to read the following section dealing with Aquarius Platinum? I would have thought that that’s not directly relevant, unless you want to persuade me that it is, in which case he can pick up the letter on the following page –

Mr Bruinders SC: Yes.

Chairperson: - the paragraph beginning “In conclusion.”

[10:35] Mr Bruinders SC: Yes, Chair. Could you please go to the second last paragraph of your statement and then resume reading from that paragraph onwards, Mr Mokwena – Mr Mathunjwa?

Chairperson: The paragraph beginning “In conclusion,” which is the fourth line on page 4.

Mr Mathunjwa: “In conclusion, we want to call upon all stakeholders in the platinum industry to accept the reality that AMCU is one of the major stakeholders that need to be respected, accommodated and learnt to work with. Trying to sideline AMCU and using dirty tricks in labelling AMCU as a hard line union which uses violence will not assist the situation. We have been into the mining industry for about 12 years. If we were destructive and violent, how come that other companies where we operate still exist and are doing extremely well? Employers in the platinum industry need to accept the fact that there are real changes of salary discrepancies which require honest attention. The majority of the employees in the industry are paid very little, while owners are making
MR BRUINDERS SC: Chair, could we at this point allow the interpreter to interpret?

CHAIRPERSON: Well, I'm glad you raised that. I wanted to raise the following point with you, whether it wouldn't be appropriate perhaps for the interpretation to be done during the tea adjournment. In other words, we listen up to the tea adjournment and then the interpreter can be brought a cup of tea if necessary, and then he interprets. There are two of them, aren't there, so they can take turns and interpret it during the tea adjournment so we don't waste time that way. That's just – I'm putting that to you for your response.

MR BRUINDERS SC: I think that the – I suppose some of the family members here are family members of members of AMCU and they probably do want to hear, they want to hear the –

CHAIRPERSON: I'm not suggesting it shouldn't be interpreted. I just made a suggestion as to when it should be interpreted, in a way which wouldn't use up too much of our time. This programme normally runs from about 10 past eight till 9 o'clock. Admittedly there are – there's a news bulletin and the adverts and traffic reports and so on, but even so, it will take quite some time for the whole debate to be played to us, but I'm in your hands to some extent.

MR BRUINDERS SC: Now, did you participate in an SAmf programme on that day?

MR MATHUNJWA: Indeed I did.

MR BRUINDERS SC: And who else participated in the programme?

MR MATHUNJWA: It was the President of National Union of Mineworkers, Mr Zokwana.

MR BRUINDERS SC: And who was the SAmf interviewer?

MR MATHUNJWA: That was Mr Xolani Gwala.

MR BRUINDERS SC: Chair, can we ask that the interview be played so that we can listen to it?

CHAIRPERSON: We've been given a transcript, of course, which is Exhibit LL but I suppose it might be helpful if we listen to The Forum@Eight. We'll listen to the first quarter of an hour of it and perhaps the adverts can be left out and we'll just hear the main part of the debate – and the news and the insert about the traffic and the programmes later in the morning, just the material parts.

MR BRUINDERS SC: Yes, we will ask the IT man to do that. The evidence leaders have kindly, I think, set this up for us so it's ready to be played, as I understand it.
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1 when.
2 [12:41] [INTERVIEW PLAYED]
3 MR BRUINDERS SC: Yes Chair, the point we
4 were at is that the interpreter needed some time to
5 acclimatise himself with the document and I suppose that he
6 will now read the first part that has already played and
7 we'll continue from there.
8 [INTERVIEW PLAYED]
9 MR MAHLANGU: Thank you, Mr Chairperson.
10 [INTERVIEW PLAYED]
11 MR BRUINDERS SC: Can we continue with
12 the recording, Mr Interpreter?
13 [INTERVIEW PLAYED]
14 MR MAHLANGU: Yes.
15 [INTERVIEW PLAYED]
16 MR BRUINDERS SC: I'm just asking the
17 operator –
18 [INTERVIEW PLAYED]
19 MR MAHLANGU: Mr Bruinders, I don't know
20 if you're in charge of the volume but I think it might help
21 if it was a little bit louder when we hear The Forum@Eight
22 itself.
23 [INTERVIEW PLAYED]
24 [11:41] [INTERVIEW PLAYED]
25 [INTERVIEW PLAYED]

1 [12:41] [INTERVIEW PLAYED]
2 MR BRUINDERS SC: I think, Chair, we're
3 skipping the calls to get to the end of the interview.
4 [INTERVIEW PLAYED]
5 CHAIRPERSON: Page 43.
6 MR BRUINDERS SC: Correct.
7 [INTERVIEW PLAYED]
8 [13:01] [INTERVIEW PLAYED]
9 CHAIRPERSON: As Mr Gwala says, I think
10 we can wrap it up at that point.
11 MR BRUINDERS SC: Yes, sir.
12 CHAIRPERSON: We'll take the lunch
13 adjournment now. We'll restart at seven minutes past two.
14 [COMMISSION ADJOURNS COMMISSION RESUMES]
15 [14:09] CHAIRPERSON: The Commission resumes. Mr
16 Bruinders?
17 MR BRUINDERS SC: I hope he's not gone to
18 the mountain.
19 CHAIRPERSON: I see. We haven't got
20 another quick witness we can interpose – oh, Ms Pillay,
21 while we're waiting for Mr Mathunjwa to come back from the
22 mountain or wherever he's gone, have you got that letter
23 for us? I think it's Exhibit R, the letter about the
24 rubber.
25 MS PILLAY: Chairperson, I do have the
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1 meeting that we were to engage on with the management of
2 Lonmin as per the interview by Xolani Gwala.
3 MR BRUINDERS SC:  So was an arrangement
4 made that you meet at Lonmin?
5 MR MATHUNJWA:  That's correct.
6 MR BRUINDERS SC:  And who was at – I beg
7 your pardon, did a meeting then take place?
8 MR MATHUNJWA:  Indeed it took place.
9 MR BRUINDERS SC:  And who was at that
10 meeting?
11 MR MATHUNJWA:  It was myself and the
12 general secretary and the branch committees of AMCU at the
13 mine. And then there was the SAPS general who was present,
14 who was introduced as General Mpembe and also two officers,
15 ladies, whom I can't recall what was their names and also
16 the President of National Union of Mineworkers and the
17 other comrades from NUM who were present.
18 MR BRUINDERS SC:  And was there anybody
19 from Lonmin present?
20 MR MATHUNJWA:  Yes and also there was the
21 management representative, Mr Barnard Mokwena, a
22 representative – that means one of the senior managers,
23 Barnard Mokwena – and Mr Kwadi and Mr Patrick and others
24 whom I couldn't, I can't recall their names.
25 MR BRUINDERS SC:  Is there a recording of

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1 that meeting?
2 MR MATHUNJWA:  Yes, I've seen the script
3 of the meeting that was recorded.
4 MR BRUINDERS SC:  Chair, we now ask
5 permission to play the recording, we think it's important
6 that we listen to it. It's also – it's not a video
7 recording, it's obviously some kind of digital voice
8 recording. There is a transcript of the recording as well.
9 CHAIRPERSON:  We'll be given the
10 transcript before we listen to the recording?
11 MR BRUINDERS SC:  I beg your pardon, sir?
12 CHAIRPERSON:  Will we be given the
13 transcript before we listen to the recording?
14 MR BRUINDERS SC:  Yes, we'll hand it up
15 now.
16 CHAIRPERSON:  Right, thank you. Will
17 this be OO3?
18 MR BRUINDERS SC:  Yes.
19 MS PILLAY:  Mr Chairperson, if I may just
20 interrupt? According to my notes, OO3 is the audio clip of
21 the SAFm interview, so this should be –
22 CHAIRPERSON:  OO4?
23 MS PILLAY:  Yes, that's right.
24 CHAIRPERSON:  Thank you.
25 MR BRUINDERS SC:  Mr Mathunjwa, you and

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1 the interpreter have a copy of the transcript, do you?
2 MR MATHUNJWA:  I've given mine to the
3 interpreter. Apparently there's one that is being
4 arranged.
5 MR BRUINDERS SC:  Good. Can we have the
6 recording played?
7 CHAIRPERSON:  Here you are, I see we've
8 just been handed copies of Exhibit T, the letter sent by
9 the Provincial Commissioner operational response on the 20th
10 of December 2011, which has been outstanding for some time.
11 Thank you very much.
12 [RECORDING PLAYED]
13 CHAIRPERSON:  - volume, I think it should
14 be turned –
15 [RECORDING PLAYED]
16 CHAIRPERSON:  Can the volume not be
17 turned up? The sound's about as clear as the water cannon
18 video camera that's covered in mud.
19 MR BRUINDERS SC:  We'll ask for the
20 volume to be turned up.
21 [RECORDING PLAYED]
22 [14:29]  [RECORDING PLAYED]
23 [14:49]  [RECORDING PLAYED]
24 [15:09]  [RECORDING PLAYED]
25 CHAIRPERSON:  Stop the recording. There

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1 seems to be something wrong with our microphones here and
2 loudspeakers, they're making funny noises and lights are
3 flashing. I was going to take the tea adjournment in five
4 minutes. It may help those who are having, finding it
5 difficult to keep awake, if I take it now and the
6 microphones can be attended to in the meanwhile.
7 MR MADLANGA SC:  - direction we are
8 losing here, Mr Chairman.
9 [COMMISSION ADJOURNS  COMMISSION RESUMES]
11 I've been asked to ask all concerned to be careful when
12 they walk around that they don't tread on the microphone
13 cords. That apparently was the cause of the trouble. The
14 microphones have now been fixed and if everybody will keep
15 their feet off the cords then hopefully we won't have a
16 problem again. I think we can now return – I don't have
17 to, I suppose I must remind you, you're under oath although
18 you're probably not going to have to say anything. We
19 carry on with the recording.
20 MR BRUINDERS SC:  He says a lot, just not
21 here.
22 CHAIRPERSON:  - we've been hearing hasn't
23 been in open court.
24 [RECORDING PLAYED]
25 [15:48]  [RECORDING PLAYED]

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**Marikana Commission of Inquiry**

**Rustenbury**

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<td><strong>MR BRUINDERS SC:</strong></td>
<td><strong>MR BRUINDERS SC:</strong></td>
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<tr>
<td>Thank you. Mr Mathunjwa, we’ve just listened to a recording, have we not?</td>
<td>When you got to the JOC</td>
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<tr>
<td><strong>MR MATHUNJWA:</strong></td>
<td><strong>MR MATHUNJWA:</strong></td>
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<tr>
<td>Yes, we did.</td>
<td>When you met up with the SAPS and NUM?</td>
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<tr>
<td><strong>MR BRUINDERS SC:</strong></td>
<td><strong>MR MATHUNJWA:</strong></td>
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<tr>
<td>And was that a recording of the meeting of the 13th?</td>
<td>Yes, when we got there,</td>
</tr>
<tr>
<td><strong>MR MATHUNJWA:</strong></td>
<td><strong>MR MATHUNJWA:</strong></td>
</tr>
<tr>
<td>The 15th.</td>
<td>there was NUM, SAPS and management.</td>
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<td><strong>MR BRUINDERS SC:</strong></td>
<td><strong>MR BRUINDERS SC:</strong></td>
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<td>I beg your pardon, of the 14th August 2012.</td>
<td>There’s video footage</td>
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<tr>
<td><strong>MR MATHUNJWA:</strong></td>
<td><strong>MR MATHUNJWA:</strong></td>
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<tr>
<td>Yes, indeed it is.</td>
<td>that has been shown in this Commission of your interaction</td>
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<tr>
<td><strong>MR BRUINDERS SC:</strong></td>
<td><strong>MR BRUINDERS SC:</strong></td>
</tr>
<tr>
<td>And do you confirm under oath that that recording is an accurate recording of what took place in the meeting?</td>
<td>there, that’s AMCU’s interaction with the SAPS. Have you seen that?</td>
</tr>
<tr>
<td><strong>MR MATHUNJWA:</strong></td>
<td><strong>MR MATHUNJWA:</strong></td>
</tr>
<tr>
<td>Yes, it is.</td>
<td><strong>MR MATHUNJWA:</strong></td>
</tr>
<tr>
<td><strong>MR BRUINDERS SC:</strong></td>
<td>I think I haven’t seen it.</td>
</tr>
<tr>
<td>At about what time did this meeting finish?</td>
<td><strong>MR BRUINDERS SC:</strong></td>
</tr>
<tr>
<td><strong>MR MATHUNJWA:</strong></td>
<td>Well, let me then set your mind at rest. There was some video footage shown here last week which showed you interacting with the SAPS and I think a Colonel Macintosh, about how you were going to go to the koppie. You don’t know this?</td>
</tr>
<tr>
<td>It was quite late, even though I couldn’t remember quite clearly.</td>
<td><strong>MR MATHUNJWA:</strong></td>
</tr>
<tr>
<td><strong>MR BRUINDERS SC:</strong></td>
<td>I’m not suggesting that there was no interaction or whatsoever, but maybe when it was played here in the Commission I was not present on that day.</td>
</tr>
<tr>
<td>And we know from the recording that the NUM had requested time to caucus, not so?</td>
<td><strong>MR BRUINDERS SC:</strong></td>
</tr>
<tr>
<td><strong>MR MATHUNJWA:</strong></td>
<td>You say you don’t dispute there was interaction. Did you talk to the SAPS at the JOC about how to get to the koppie?</td>
</tr>
<tr>
<td>That’s correct.</td>
<td><strong>MR MATHUNJWA:</strong></td>
</tr>
<tr>
<td><strong>MR BRUINDERS SC:</strong></td>
<td>Correct, we did.</td>
</tr>
<tr>
<td>Did people leave the meeting?</td>
<td><strong>MR BRUINDERS SC:</strong></td>
</tr>
<tr>
<td><strong>MR MATHUNJWA:</strong></td>
<td>Did you later on go to the koppie?</td>
</tr>
<tr>
<td>Yes, the NUM delegation left the boardroom and the SAPS left the boardroom. We</td>
<td><strong>Page 2284</strong></td>
</tr>
<tr>
<td>were the only union left behind.</td>
<td><strong>Page 2286</strong></td>
</tr>
<tr>
<td><strong>MR BRUINDERS SC:</strong></td>
<td><strong>MR BRUINDERS SC:</strong></td>
</tr>
<tr>
<td>And for how long did you wait in the boardroom?</td>
<td>Yes, after that process was explained then we left to the koppie.</td>
</tr>
<tr>
<td><strong>MR MATHUNJWA:</strong></td>
<td><strong>MR BRUINDERS SC:</strong></td>
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<tr>
<td>We waited more than 30 minutes, if I could remember, it’s quite long but we waited quite some time.</td>
<td>And who did you go with?</td>
</tr>
<tr>
<td><strong>MR BRUINDERS SC:</strong></td>
<td><strong>MR MATHUNJWA:</strong></td>
</tr>
<tr>
<td>Did anybody return to the boardroom where you were waiting?</td>
<td>In my delegation it was myself, Joseph Vusi Mathunjwa, and national organiser Dumisane Nkalitshani and our Karee chairperson, Mr Jombo.</td>
</tr>
<tr>
<td><strong>MR MATHUNJWA:</strong></td>
<td><strong>MR BRUINDERS SC:</strong></td>
</tr>
<tr>
<td>No-one returned to the boardroom where we were.</td>
<td>Did members of the SAPS go with you?</td>
</tr>
<tr>
<td><strong>MR BRUINDERS SC:</strong></td>
<td><strong>MR MATHUNJWA:</strong></td>
</tr>
<tr>
<td>What did you then do?</td>
<td>Yes, we were taken firstly by one of the Vito, small buses, Mercedes Benz minibus.</td>
</tr>
<tr>
<td><strong>MR MATHUNJWA:</strong></td>
<td><strong>MR BRUINDERS SC:</strong></td>
</tr>
<tr>
<td>Then I phoned Mr Jomo Kwadi, asking about their whereabouts.</td>
<td>And after you were taken in this minibus, were you taken in another vehicle?</td>
</tr>
<tr>
<td><strong>MR BRUINDERS SC:</strong></td>
<td><strong>MR MATHUNJWA:</strong></td>
</tr>
<tr>
<td>What did he say?</td>
<td>Yes, we were taken to another vehicle which they called – what, Nyla or – which is commonly known as Hippos during the days of the struggle.</td>
</tr>
<tr>
<td><strong>MR MATHUNJWA:</strong></td>
<td><strong>MR BRUINDERS SC:</strong></td>
</tr>
<tr>
<td>He responded by saying I must come to the place which I called the police camp, which it happened to be known as a JOC in this Commission.</td>
<td>And did you then at the koppie address the strikers who were gathered there?</td>
</tr>
<tr>
<td><strong>MR BRUINDERS SC:</strong></td>
<td><strong>MR MATHUNJWA:</strong></td>
</tr>
<tr>
<td>Is that where you went?</td>
<td>Yes, indeed.</td>
</tr>
<tr>
<td><strong>CHAIRPERSON:</strong></td>
<td><strong>MR BRUINDERS SC:</strong></td>
</tr>
<tr>
<td>Mr Bruinders, when you reach an appropriate point, indicate it and we can take the adjournment. You can decide when we must adjourn.</td>
<td>And when we saw the video last week when you were not here, we saw that you addressed them from inside the Nyla.</td>
</tr>
<tr>
<td><strong>MR BRUINDERS SC:</strong></td>
<td><strong>MR MATHUNJWA:</strong></td>
</tr>
<tr>
<td>Will do. Is that where you went?</td>
<td>It is correct. We were not allowed to be outside the Nyla, by the police.</td>
</tr>
<tr>
<td><strong>MR MATHUNJWA:</strong></td>
<td><strong>MR MATHUNJWA:</strong></td>
</tr>
<tr>
<td>Yes, after I’ve been advised, it’s where we went because I asked him. we were</td>
<td><strong>MR BRUINDERS SC:</strong></td>
</tr>
<tr>
<td></td>
<td><strong>MR MATHUNJWA:</strong></td>
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<tr>
<td></td>
<td>I am not allowed to be outside the Nyala, by the police.</td>
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</tbody>
</table>

**Tel:** 011 021 6457  **Fax:** 011 440 9119  **RealTime Transcriptions**  **Email:** realtime@mweb.co.za
MR BRUINDERS SC: Is this an appropriate time?

CHAIRPERSON: The Commission will adjourn until 9:30 tomorrow morning.

[COMMISSION ADJOURNED]
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