

RealTime Transcriptions

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 24 30 NOVEMBER 2012 PAGES 2493 TO 2576

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE



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1 [PROCEEDINGS ON 30 NOVEMBER 2012]
 2 [09:33] CHAIRPERSON: Good morning. The
 3 Commission resumes. Mr Mathunjwa, you're still under oath.
 4 Mr Burger, I understand you have further cross-examination
 5 for the witness.
 6 CROSS-EXAMINATION BY MR BURGER SC (cont.):
 7 Thank you, Chair. Morning, Mr Mathunjwa.
 8 MR MATHUNJWA: Good morning, Mr Burger.
 9 MR BURGER SC: We've concluded yesterday
 10 on the discussion about the relationship between AMCU and
 11 NUM and may I just wrap that up with a final point. May I
 12 ask you to have a look at Exhibit 009. Chair, may I ask my
 13 attorney to sit behind the witness. It's just going to
 14 facilitate the evidence.
 15 CHAIRPERSON: If the witness doesn't
 16 object, I will allow you to do so. You don't mind, do you?
 17 MR MATHUNJWA: Any assistance that will
 18 make –
 19 CHAIRPERSON: I knew you'd be
 20 cooperative. Yes.
 21 MR BURGER SC: Mr Mathunjwa, 009 is the
 22 transcript of your interaction with the workers on the
 23 morning of the 16th of August. And I want your attention,
 24 please, for page 9. That's the page which at the top of
 25 the second column starts with the word, employees. Do you

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1 have that?
 2 MR MATHUNJWA: Yes, employees, viva, on
 3 that note.
 4 MR BURGER SC: Now can I take you to the
 5 middle of that page, you're speaking and you start off by
 6 saying, "Comrades, we talked about the situation of Lonmin,
 7 where it started, because it is shown to the world that it
 8 had started on Saturday. We as AMCU said that was a lie."
 9 I really want your attention for the next section, because
 10 we're debating now the relationship between AMCU and NUM.
 11 So what I want to read with you now is the next sentence.
 12 "The killing of people started on Friday where employees
 13 were marching to the stadium to talk about their views and
 14 rights, where we told yesterday here members from the NUM
 15 office came out holding guns and shot at you and two
 16 employees were killed." Now in fairness to you, I suspect
 17 you don't have knowledge of those two killings on the
 18 Friday?
 19 MR MATHUNJWA: Yes, in actual fact later
 20 it was rectified. That was not on Friday. It was on
 21 Saturday, thank you.
 22 CHAIRPERSON: The question was really
 23 about something else, and that was that you yourself didn't
 24 have personal knowledge of these killings?
 25 MR MATHUNJWA: That's correct.

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1 CHAIRPERSON: Whether they were on Friday
 2 or Saturday?
 3 MR MATHUNJWA: Yes.
 4 CHAIRPERSON: It was something that
 5 you've been told?
 6 MR MATHUNJWA: Yes, thank you.
 7 MR BURGER SC: What troubles me more is
 8 the statement in this context that you made during the
 9 media briefing on that Tuesday, two days before, that's
 10 002, Exhibit. Now on page 2 of 002 in the second half of
 11 the second unnumbered paragraph, you say, "We were told
 12 that people who came out of NUM offices, wearing NUM t-
 13 shirts, opened fire to marchers and one worker was killed
 14 on the spot while others were wounded and taken to
 15 hospital. Workers have seen the culprits and can identify
 16 them by names. That incident lead to the eruption of
 17 violence and more deaths at the mine." Now you've told us
 18 yesterday that when you issue this type of statement, you
 19 are very careful to get your facts right. Can you comment
 20 on this statement?
 21 MR MATHUNJWA: That is what I was told.
 22 MR BURGER SC: We fortunately know today
 23 it's false, but who told you this at the time when you went
 24 public to the nation and told the nation that NUM had
 25 killed a person?

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1 MR MATHUNJWA: I was told by the – by our
 2 comrades who were from the management on the 13th in our
 3 debriefing on the 14th, on the morning of the 14th before we
 4 went to the media. That's what they gathered from the
 5 mountain.
 6 MR BURGER SC: Now as a response to the
 7 leader of a trade union, you realised this was most
 8 inflammatory, an accusation that NUM had killed a worker at
 9 Lonmin. How did you ensure that that was correct before
 10 you went to the media with that statement?
 11 MR MATHUNJWA: I don't believe that the
 12 senior leadership of NEC, if they're debriefing on such an
 13 issue, they will mislead me on that.
 14 MR BURGER SC: Does the comrade who told
 15 you this have a name?
 16 MR MATHUNJWA: Yes.
 17 MR BURGER SC: Who is it?
 18 MR MATHUNJWA: Jeff Mphahlele.
 19 MR BURGER SC: And did you ask this
 20 gentleman where he got this information from?
 21 MR MATHUNJWA: I did, as I have answered
 22 that, he got it from the mountain.
 23 MR BURGER SC: When did you discover that
 24 that was wrong and that that killing had not taken place?
 25 MR MATHUNJWA: Inasmuch I couldn't recall

<p style="text-align: right;">Page 2497</p> <p>1 when was that, but I did find out and I even made notes 2 that it was not on the Friday. It took place on the – I 3 mean on the Saturday. 4 MR BURGER SC: No, but we know today that 5 on the Saturday NUM did not kill anybody, on the evidence 6 available to the Commission, Mr Mathunjwa. 7 MR MATHUNJWA: Yes, indeed, I think one 8 of the counsel from the Justice Department, they lead the 9 very same question. Then I said, because I was not there, 10 it happened that the shooting took place, but I don't 11 confirm that any person was killed. 12 CHAIRPERSON: The counsel who asked you 13 the question, was Mr Madlanga. He is not a counsel from 14 Justice Department. He is the leader of the evidence 15 leading team of or by the Commission itself. 16 MR MATHUNJWA: My apology to the 17 Commissioner. 18 MR BURGER SC: Mr Mathunjwa, so you knew 19 then that the statement you had sent out into the world 20 about NUM was wrong. Did you apologise to NUM and retract 21 that statement in public? 22 MR MATHUNJWA: I didn't, but if the 23 opportunity will present itself, I will do that. 24 MR BURGER SC: Would you take this 25 opportunity and apologise now to NUM for that false</p>	<p style="text-align: right;">Page 2499</p> <p>1 was incorrect. So you can apologise and you're invited to 2 apologise. Why don't you apologise? 3 MR MATHUNJWA: Yes, I said, yes, I can 4 apologise. I was just saying for the sake of that people 5 who were killed, but the shootings, it was confirmed that 6 there was a shooting. 7 CHAIRPERSON: Yes, no, no, I understand 8 that, but you know, if you say, I can apologise, it doesn't 9 mean you are apologising. Do you apologise or don't you? 10 MR MATHUNJWA: I do apologise. 11 MR BURGER SC: Mr Mathunjwa, on Exhibit 12 009, your speech on the mountain on the 16th, on page 11 13 there is another indication of how you felt about NUM at 14 the time and you're speaking as the President of AMCU. 15 There you say, about five lines from the top, "These men 16 discussed and agreed in the Boardroom that they should 17 come, because NUM saw that it had no control because you 18 told Zokwane that you were no longer his members because of 19 what he has done, by shooting you on Friday." Is that you 20 speaking? 21 MR MATHUNJWA: That's correct. 22 MR BURGER SC: I want to ask you a 23 question, but I'd like to read the whole passage before I 24 pose the question. "Something like this, comrades, needs 25 strategy that is more than the knowledge of a person. We</p>
<p style="text-align: right;">Page 2498</p> <p>1 statement? 2 MR MATHUNJWA: I can convey that that 3 there was a shooting, but the killing was not - 4 MR BURGER SC: I didn't follow that 5 answer. 6 MR MATHUNJWA: I said I can apologise to 7 say there was no death or killing, but there was a 8 shooting. That was further confirmed on the 15th by the 9 same comrade at the mountain. 10 MR BURGER SC: I'm still probing AMCU's 11 relationship with NUM. In the same exhibit - 12 CHAIRPERSON: Just a moment, Mr Burger. 13 What sort of apology is that? You made a serious 14 allegation that people from NUM had killed someone from 15 AMCU. 16 MR MATHUNJWA: Not from AMCU, 17 Commissioner. 18 CHAIRPERSON: I'm sorry. You made an 19 allegation, yes, you're correct, I'm wrong, I apologise. 20 You made an allegation that someone from NUM had killed one 21 of the people who were marching, I think it was, on that 22 date. And you in fact went further. You said that 23 incident lead to the eruption of the violence and more 24 deaths at the mine. Now you now concede that the statement 25 that someone was killed by a person wearing a NUM t-shirt,</p>	<p style="text-align: right;">Page 2500</p> <p>1 want a strategy from heaven and from the ancestors to reach 2 us and talk and see how far we can go, because the employer 3 wants to run away from your demands and hide with the fact 4 that employees were violent. That is why they were killed. 5 NUM would get an opportunity to go back to the platform to 6 continue oppressing the black nation." Why did you say 7 that, Mr Mathunjwa, in a volatile situation hours before 34 8 people lost their lives? 9 MR MATHUNJWA: I was confirming what Mr 10 Zokwane has said, I mean the workers have said to me, that 11 they don't want Mr Zokwane any more, because they shoot at 12 them. 13 MR BURGER SC: No, but remember your 14 mandate at that stage, it's a three point mandate. You 15 must convey to the workers that they must put down their 16 weapons, they must leave and they must go back to work. 17 What I'm asking you is, why this inflammatory statement on 18 the morning of the 16th to the workers? 19 MR MATHUNJWA: If you read further with 20 the statement, you will find that indeed I did say that 21 this – I mean they have to leave the mountain and secondly, 22 your client has reneged from its commitment. Your client 23 was no longer with the commitment. 24 MR BURGER SC: You know that's not an 25 answer to the question and you know you're ducking the</p>

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1 question, but I'll go on to the next question. I want to
 2 know why you accused NUM here of oppressing the black
 3 nation? What did you mean by that in the context of what I
 4 term an acidic relationship between AMCU and NUM?
 5 [09:53] MR MATHUNJWA: That was because of what
 6 has happened, they've shot at the people.
 7 MR BURGER SC: Mr Mathunjwa, you don't
 8 know about that shooting. The first version that you had
 9 of the shooting, got it wrong and you spread a false rumour
 10 into the country. Stay with what you know and let me pose
 11 my question again. Why did you on this occasion accuse NUM
 12 of oppressing the black nation?
 13 MR MATHUNJWA: That is what I've said.
 14 MR BURGER SC: And you have no
 15 explanation for it?
 16 MR MATHUNJWA: This is what I've said.
 17 MR BURGER SC: I will –
 18 CHAIRPERSON: I'm not sure it's fair to
 19 say you've got no explanation. Perhaps you should give him
 20 an opportunity to explain it. And if he can't explain it,
 21 then you can put the point to him, but if he does explain
 22 it, then the point will fall away.
 23 MR BURGER SC: Sorry, Chair, I thought I
 24 were there, but let me put it again to him. Do you have an
 25 explanation for this accusation, Mr Mathunjwa? I know you

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1 said it, but do you have an explanation for having said it?
 2 MR MATHUNJWA: It's because of the
 3 people, what they were saying, that they've been to NUM
 4 with so many times they've been paying the subscription to
 5 them and at the end of the day they are shooting at them.
 6 MR BURGER SC: I want to go to a new
 7 subject and I want to put to you what I will argue at the
 8 end of the inquiry and it is this, that Lonmin's attitude
 9 to the unprotected strike was throughout consistent and
 10 clear. They wouldn't negotiate with those workers. Do you
 11 accept that?
 12 MR MATHUNJWA: I will dispute that.
 13 MR BURGER SC: So let's go the long way
 14 round. On Friday, the 10th of August, they sought an
 15 interdict from the Labour Court to stop the unprotected
 16 strike. You know about that.
 17 MR MATHUNJWA: That's correct.
 18 MR BURGER SC: In fact, those papers were
 19 served on AMCU and the order was granted unopposed?
 20 MR MATHUNJWA: That's correct.
 21 MR BURGER SC: On the Wednesday, the 15th
 22 of August, you and Mr Barnard Mokwena inter alia speak on
 23 SAFM. We have a transcript of that interview as LL. And
 24 on page 8, lines 9 to 11, Mr Mokwena said, "We will not
 25 engage people who engage in criminal activity outside the

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1 union structures." You heard that?
 2 MR MATHUNJWA: Yes, I heard that.
 3 MR BURGER SC: On page 23, it starts at
 4 page 23 at the top, line 13, Mr Mokwena says, "Zolane,
 5 that's why there are rules in this country that determine
 6 any public gathering. There are rules established by
 7 organisations that are agreed by unions. At Lonmin we have
 8 rules that govern union activity mass meetings. Now Friday
 9 none of the rules were observed, not one and the question
 10 is, this is for the first time in the history of our
 11 organisation that workers who are, who know these rules,
 12 disregard all these rules. So why did the workers
 13 disregard the rules?" Did you hear that?
 14 MR MATHUNJWA: Yes.
 15 MR BURGER SC: And on page 24, "Lest
 16 there be any misunderstanding." He explains it again. On
 17 line 9 he says the following on page 24, Exhibit LL, line
 18 9. "As we speak now we have four unions at Lonmin with
 19 full organisational rights. NUM is the majority union at
 20 Lonmin. They have full organisational rights, bargaining
 21 rights. We have UASA, we have Solidarity, we have CEPPAWU
 22 and then we have AMCU which came to Lonmin about a year
 23 ago. They have members at one section of our operation
 24 where they are the majority, but on the bigger scale of
 25 things at Lonmin they don't have the numbers to give them

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1 the rights, the full rights. We are agreed with AMCU, with
 2 Joseph, that because you have the majority members at
 3 Karee, we will allow you to represent your workers when
 4 there are grievances. It's a constitutional right. We
 5 made that very clear." Did you hear that statement?
 6 MR MATHUNJWA: Yes.
 7 MR BURGER SC: Mr Mathunjwa, these
 8 statements are factually correct. Can we – can the
 9 Commission accept this is correct? This was the provision
 10 on the 15th of August this year at Lonmin?
 11 MR MATHUNJWA: Yes.
 12 MR BURGER SC: You don't agree with me
 13 that Lonmin's position was consistent throughout, so let me
 14 take you to the briefing which takes place on the 15th. You
 15 go from the radio studio and you go to Lonmin and there's a
 16 briefing now, because the two parties, the two unions are
 17 going to speak to the workers at the Koppie. And we have a
 18 recording of that briefing at 004. At page 27 and 28, 004,
 19 you can also call it 665. Mr Mokwena, I have three numbers
 20 to work from. I'm told I should work from 565. They all
 21 say the same – 665. I'm better on facts than pagination
 22 hopefully. The page starts, Mr Mokwena, Management, our
 23 position is as follows. That's the page I'd like to refer
 24 you to. My page is typed 19 and it also bears a 665 and a
 25 565.

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1 CHAIRPERSON: Give us the minute to find
 2 the right page. Our 19 doesn't begin with Management.
 3 MR BURGER SC: Mr -
 4 CHAIRPERSON: Let's just see if we can
 5 find it and then we can follow it.
 6 MR BURGER SC: Yes.
 7 CHAIRPERSON: 20 says, begin with the
 8 words, "that, Management made an offer R700 to us." Is
 9 that the page you're referring to?
 10 MR BURGER SC: No Chair, I thought 004
 11 was page 27 and 28. I don't know why we changed that now.
 12 CHAIRPERSON: 27 begins, "Mr Mokwena, no,
 13 because Jomo, Joseph you had all the time to speak."
 14 MR BURGER SC: Yes, that's the top of the
 15 page. I'm lower down on that very same page. Can we stay
 16 with 004 -
 17 CHAIRPERSON: Okay, line 17? "Mr
 18 Mokwena, our position generally is"
 19 MR BURGER SC: Correct, thank you, Chair.
 20 CHAIRPERSON: Okay, thank you.
 21 MR BURGER SC: That's page 27, over to
 22 pager 28. Let me stay with that exhibit. Mr Mathunjwa,
 23 it's difficult enough to be in the witness, not to have too
 24 many papers. Let me just remind you where we are. I'm
 25 debating with you that the position of Lonmin was

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1 consistent throughout and we've now dealt with it and we're
 2 now at the stage where we have the briefing session, before
 3 you go to the Koppie on the 15th and Mr Mokwena is there and
 4 I suspect you were there and Mr Mokwena says the following.
 5 "We are willing to engage our employees within the
 6 structures that are known in a very safe environment where
 7 there are no weapons, not on a mountain. So we are willing
 8 to meet our employees through their structures, through
 9 their leaders, to discuss any issue, not when they are
 10 armed, not when they are actually outside the Lonmin
 11 property. So when the workers are back, disarmed tomorrow,
 12 tonight, through their leaders we will meet them. That is
 13 our position. So we're not against meeting, discussing
 14 issues with employees through the right structures, we are
 15 prepared to do that." Did you hear that?
 16 MR MATHUNJWA: That is correct.
 17 MR BURGER SC: And we agree this, Mr
 18 Mathunjwa, it's a responsible statement by an employer to
 19 adopt.
 20 MR MATHUNJWA: Indeed.
 21 MR BURGER SC: In fact, that's the way
 22 you understood it throughout. If we have a look at your
 23 statement NN, in paragraph 40, where you say in paragraph
 24 40 and I pick it up at the third sentence. "Mr Mokwena
 25 stated that the workers must pronounce violence and return

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1 to work peacefully and then Lonmin would engage with their
 2 grievances." You understood that?
 3 MR MATHUNJWA: Yes.
 4 CHAIRPERSON: You actually go further,
 5 you say, "I welcomed what management was saying."
 6 MR BURGER SC: In fact, Mr Mathunjwa,
 7 this is the statement of AMCU to the outside world. Can I
 8 ask you to go back to your media release, 002, 002 page 2,
 9 the second last unnumbered paragraph. I pick it up four
 10 lines from the top. You're speaking. "As stated in
 11 numerous occasions in the past, we as AMCU believe in
 12 peaceful engagement in whatever labour related matters.
 13 Where parties do not agree, they should follow legitimate
 14 dispute resolution mechanisms involving CCMA or other
 15 agreed private processes. We always make use of these
 16 processes. We cannot all of a sudden resort to violent
 17 tactics to pursue our demands in the platinum mine."
 18 That's your official stance as AMCU.
 19 MR MATHUNJWA: I stand by it.
 20 MR BURGER SC: Yes. And that dovetails
 21 perfectly with what we have agreed is the responsible
 22 stance adopted by Lonmin throughout of this traumatic
 23 period? You're agreed?
 24 MR MATHUNJWA: Yes, it is correct, but
 25 you need to remember that this was said after the Lonmin

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1 has engaged the workers outside the structures, without
 2 even outside the structures referring to the very same
 3 majority union which has got bargaining right. It engaged
 4 individual workers on this demands.
 5 MR BURGER SC: Yes, I have that as a
 6 subject to discuss with you. Your facts are wrong again
 7 and I'll show that to you. But that's not what we're
 8 debating now. I'm now debating the stance adopted by
 9 Lonmin during the period under discussion, 9 to 16 August
 10 2012. You understood that?
 11 MR MATHUNJWA: As I've said, yes.
 12 MR BURGER SC: I want to go over to
 13 another subject now, and this is a statement which you made
 14 right at the beginning of your evidence before this
 15 Commission, where you had said to the Commission that there
 16 was no precedent for SAPS to receive a memorandum from
 17 workers. You remember that evidence?
 18 MR MATHUNJWA: That is not correct.
 19 ADV BRUINDERS SC: Objection here, he
 20 didn't say that in general. He said, a memorandum to
 21 management presented to the police.
 22 MR BURGER SC: Yes, I'm willing to, as I
 23 understood it, Mr Mathunjwa, what you indicated to the
 24 Chair was that it's the first time that you had heard a
 25 complaint, a memorandum from disgruntled workers addressed

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1 to management, would be received by SAPS. Do I understand
2 that correctly? Do I understand it correctly?
3 MR MATHUNJWA: Yes, I said he mustn't set
4 any precedent.
5 MR BURGER SC: Now I'll try to show you
6 that what you in fact meant was, that Lonmin shouldn't set
7 a precedent by accepting a memorandum from workers who are
8 in an unprotected strike. That was your concern.
9 MR MATHUNJWA: After I was told by Mr
10 Barnard that the management it won't receive – they won't
11 avail themselves to receive the memorandum, it's only the
12 SAPS, that's where I'm coming from, that's the angle I'm
13 coming from.
14 [10:13] MR BURGER SC: Mr Barnard Mokwena will
15 deny that he ever said that to you.
16 MR MATHUNJWA: Maybe we can request from
17 Vodacom any engagement that I dealt with him on that
18 particular day. Maybe they will assist us with those
19 tapes.
20 MR BURGER SC: Mr Mathunjwa, you're not
21 adverse to recording discussions with third parties, but I
22 will assume for purposes of cross-examination that those
23 transcriptions which support you, have been made available
24 to us? You understand that?
25 MR MATHUNJWA: I was referring when you

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1 say Mr Barnard will deny that.
2 MR BURGER SC: I understood that.
3 MR MATHUNJWA: Thank you.
4 MR BURGER SC: There was no memorandum
5 handed over on that Friday. You know that.
6 MR MATHUNJWA: Yes.
7 MR BURGER SC: Management refused to
8 receive any memorandum from the striking workers. You know
9 that?
10 MR MATHUNJWA: As Barnard have already
11 said that you won't receive it.
12 MR BURGER SC: Mr Sinclair, the head of
13 security at Lonmin, was then asked to get a memorandum from
14 the workers and they told them that they were illiterate,
15 they couldn't write and there was no memorandum. Those
16 were the facts.
17 MR MATHUNJWA: Which day are you
18 referring to?
19 MR BURGER SC: Friday, the 10th of August.
20 MR MATHUNJWA: I don't know.
21 MR BURGER SC: And I've said to you that
22 your concern was that Lonmin should not receive a
23 memorandum from striking workers. Will you have a look at
24 Exhibit 001. That was the letter you wrote on that very
25 day to Mr Barnard Mokwena. Do you have that?

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1 MR MATHUNJWA: Yes.
2 MR BURGER SC: The first bullet here say,
3 "However as AMCU we propose that whoever will be receiving
4 the memorandum, must inform the marchers that by receiving
5 such a memorandum, does not set any precedent," you meant.
6 That was your concern, you shouldn't receive, you Barnard,
7 shouldn't receive a memorandum from these striking workers
8 and if you do tell them, this is not a precedent?
9 MR MATHUNJWA: I was referring to the
10 police.
11 MR BURGER SC: In fact you confirm this
12 version in your statement NN, in paragraph 18. You said,
13 "I advised Mr Mokwena that if the police received the
14 memorandum from the workers, then they should tell the
15 workers that they were not setting a precedent by doing
16 so." That's the first time that the police gets introduced
17 into the debate?
18 MR MATHUNJWA: That's what I was saying,
19 that when they receive from the police, it mustn't set any
20 precedent, that the memorandum will be received by police.
21 MR BURGER SC: Can I deal next with the
22 important address to the striking workers on the 16th of
23 August, and that would be recording we have as Exhibit 009.
24 Now Mr Mokwena, am I correct to understand that on that –
25 Mr Mathunjwa, that on that Thursday morning it was very

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1 important to calm down emotions at the Koppie. Do you
2 agree with that?
3 MR MATHUNJWA: I don't understand your
4 question.
5 MR BURGER SC: You arrive on the 15th and
6 the police physically pleads with you and with NUM to go to
7 the Koppie, convince the people to lay down their arms to
8 disperse and to go back to work.
9 MR MATHUNJWA: That's correct.
10 MR BURGER SC: And perhaps we should
11 start there in order to understand why it's a volatile
12 situation. You then go to the Koppie and you speak
13 separately from NUM. Correct?
14 MR MATHUNJWA: That was a protocol that
15 has to be followed.
16 MR BURGER SC: NUM gets a bad reception.
17 The workers won't listen to them.
18 MR MATHUNJWA: I was not there. I
19 couldn't even hear.
20 MR BURGER SC: You got a warm reception,
21 as my impression from looking at the loud hailer debate,
22 you in the Nyala and the workers at the Koppie, there is a
23 lot of cooperation between the two, correct?
24 MR MATHUNJWA: What I recall is that the
25 proposal from the management was welcomed by the workers.

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1 MR BURGER SC: Your brief was there to go
2 to the workers and tell them these three things which we've
3 debated. Lay down your arms, disperse and go back to work.
4 MR MATHUNJWA: For the workers to return
5 back to work truthfully and their grievances will be
6 engaged by the employer.
7 MR BURGER SC: We have a transcript, or
8 not a transcript, we have a translation of what you said.
9 That's in the running record from page 1810 to 1823 and
10 I'll ask my attorney to just place it before you. We have
11 the record available. So we don't have to give this an
12 exhibit number, but it may be easier for you. What I want
13 to put to you is that nowhere do you carry out your
14 mandate. Nowhere do you say to the workers, put down your
15 arms, disperse and go back to work. Do you accept that?
16 MR MATHUNJWA: In my recollection I did
17 mention –
18 MR BURGER SC: We have a transcript.
19 Show us please where you mentioned that. We don't have to
20 guess on this one. You start talking on page 1813. You
21 can read through it. I can't - you may be able to point
22 out. Where do you say to them, you must put down your arms
23 and disperse?
24 MR MATHUNJWA: I did say, I remember, I
25 even mentioned that the police are saying there is a rifle

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1 that has been lost. If anyone has such, he must leave
2 there. They said they must leave there, I mean in that
3 mountain. I mentioned that. And I cannot fabricate any
4 lies here and they – the videos, the person who was taking
5 the video, inside the Nyala, should come up with those
6 occurrences or that communication that I communicated to
7 the workers.
8 MR BURGER SC: So can we agree on this
9 transcript, this translation, we do not find that?
10 MR MATHUNJWA: Yes, if it is not here,
11 that means it was never captured, for whatever reason that
12 is not known to me.
13 MR BURGER SC: What you say to them at
14 page 1818 is the following. I say, you, that may not be
15 correct. Who is Mr Mahlangu, is that the interpreter?
16 MR MAHLANGU: Yes.
17 MR BURGER SC: Thank you. I'm so sorry,
18 Mr Mahlangu, my apologies. I'm so afraid that I ascribe a
19 version to the witness that I get it wrong. No, I think it
20 is you talking. The interpreter is just telling us what
21 you said at the Koppie, Mr Mathunjwa. 1818 you say that,
22 "The employer should give the guarantee that he will talk
23 to us as your union and he said the people that you chose."
24 Does that mean that you tell the workers at the Koppie that
25 Lonmin should give a guarantee that they would talk to

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1 AMCU?
2 MR MATHUNJWA: If I remember, I said the
3 union of your choice. I was not referring to AMCU. AMCU
4 is known that it doesn't have any bargaining rights at
5 Lonmin.
6 MR BURGER SC: Mr Mathunjwa, you knew at
7 the Koppie that the majority of the people chose AMCU.
8 They didn't want NUM. Is that correct?
9 MR MATHUNJWA: Even that can be the case,
10 but they were not all members of AMCU. In other words,
11 they were not members in good standing for that matter.
12 MR BURGER SC: At line 8 there you say,
13 "The employer said he binds himself to agreeing that if
14 things go back to normal, that the employees would go back
15 to work, the union that they select, he would prepared to
16 talk to them."
17 MR MATHUNJWA: That's correct, that's
18 what I said earlier on.
19 MR BURGER SC: Where did you get that
20 mandate from?
21 MR MATHUNJWA: When they're saying with
22 their leaders in the right structures, that referring the
23 right structures in terms of labour relation in bargaining,
24 you're referring to a union.
25 MR BURGER SC: But AMCU is not one of

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1 those with bargaining rights?
2 MR MATHUNJWA: That's correct.
3 MR BURGER SC: Then I don't follow what
4 you say opposite line 1 to 3. Let's read it jointly
5 together again, "That the employer should give the
6 guarantee that he will talk to us as your union." Who is
7 us? Isn't it AMCU?
8 MR MATHUNJWA: It depends how you
9 interpret it, but for – and the union, NUM is a union, but
10 as a union, we are the union, we are not the company when
11 we're presenting those people.
12 MR BURGER SC: So we know on that
13 occasion you go to the Koppie and in this transcript we do
14 not find you carrying out the mandate you have. But I'm
15 still on that morning of the 16th of August. Can we now
16 agree that it is a morning where one should try as a
17 responsible union leader to calm emotions at the site?
18 MR MATHUNJWA: The morning of the 16th was
19 informed about the processes of the 15th, of the debriefing
20 of the 15th of August.
21 MR BURGER SC: No, I'm asking something
22 else. This is not the time to sweep up emotions at the
23 Koppie, the morning of the 16th, do you accept that?
24 MR MATHUNJWA: The morning of the 16th was
25 supposed to be the day when we explain to the employees

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1 with regard to the commitment of the employer towards their
 2 strike as they have requested on the evening of the 15th,
 3 the workers.
 4 MR BURGER SC: I'm going to pose the
 5 question again, because at the end I want to argue with
 6 reference to this part of the record, that you on purpose
 7 do not answer a question. The question is a simple one. A
 8 responsible trade union leader should not have swept up
 9 emotions on the morning of the 16th of August at the Koppie.
 10 MR MATHUNJWA: It is true, but I think
 11 one should also understand that the environment where a
 12 person was, was not like this hall, where it's air-
 13 conditioned, sitting like this. It was not. It was a
 14 different environment at all. I wish if it was an
 15 environment cold like this, I will say, whatever that I was
 16 doing, was my utmost best to stop the strike and to make
 17 people to realise that they have to return back to work and
 18 if I may be allowed by the Commissioner, that if I can be
 19 shown any clip whereby there was any person except myself
 20 who dedicated his life to go and talk to those workers, I
 21 will be happy that yes, I failed on what I was saying was
 22 wrong. All I what I was doing, that was utmost best.
 23 [10:33] MR BURGER SC: So we agree that it was no
 24 occasion to sweep up emotions.
 25 MR MATHUNJWA: That was an occasion

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1 whereby we have to engage those workers.
 2 CHAIRPERSON: Answer the question
 3 directly. I think you may have answered it indirectly, but
 4 you haven't answered it directly. What Mr Burger says, do
 5 you agree that the morning of the 16th of August, was not an
 6 occasion to sweep up emotions. That's the question.
 7 What's your answer to that?
 8 MR MATHUNJWA: Yes.
 9 CHAIRPERSON: Thank you.
 10 MR BURGER SC: Thank you, Chair. Neither
 11 was it an occasion to do electioneering for AMCU
 12 membership, you agree?
 13 MR MATHUNJWA: It is correct.
 14 MR BURGER SC: Neither was it an occasion
 15 to pick a fight with NUM, you agree?
 16 MR MATHUNJWA: Yes.
 17 MR BURGER SC: Now before we see what you
 18 did say to the workers, let me remind you that when you
 19 explained to the Commission what the gist of your message
 20 was, you said, your address to the workers was, "workers,
 21 disperse, return to work." Do you remember that evidence?
 22 MR MATHUNJWA: Yes.
 23 MR BURGER SC: Now, we had read this
 24 transcript very carefully, and I can find no reference to
 25 that in the transcript. Your counsel referred you to a

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1 passage of 009 exhibit on page 10, in that lower quarter of
 2 the second column, but after the Chair had agreed with you
 3 the punctuation, we know that that's not you speaking, that
 4 is what you ascribed to a third party, to NUM, "what we are
 5 saying is that workers should go back to work. If they do
 6 not go back to work, police must take control." Lonmin, I
 7 am sorry, that's ascribed to Lonmin, I am sorry. That's
 8 not your statement. Now don't you want to help both my
 9 learned friend and I, and show us where in this transcript,
 10 you perform your mandate to ask the workers to put down
 11 their arms, to disperse and to go back to work?
 12 MR MATHUNJWA: I might not be able to
 13 point it there. Let me assist you, and your learned
 14 colleague. I myself, Joseph Mathunjwa, I was on that
 15 mountain. I've done everything that I could. I even
 16 referred that this matter can be taken within the labour
 17 framework dispute resolutions in this area in order, if
 18 there is a dispute, it can be declared accordingly, and be
 19 referred to CCMA if you embark on protested strike. I even
 20 made many example, as you were present two days ago, and
 21 even yesterday, of them. Therefore it will be difficult if
 22 you pinpoint only one section of what I've said and not
 23 look at the bigger picture of what were my endeavours. So
 24 I did tell the people that they must leave koppie, and I
 25 even mentioned that there are script that are not shown

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1 here, as I reminded the Commission that I've been to the
 2 koppie twice.
 3 MR BURGER SC: Mr Mathunjwa, I am probing
 4 your credibility. Your problem is a much more stark one
 5 than trying to refer to a second visit or possible
 6 recordings which we haven't seen. I accept that when you
 7 go to the koppie on the first occasion, on the 16th, you
 8 record, and what you record is what you said, that I
 9 accept, and I put to you that when you told the Commission
 10 that you told the workers on that occasion that they must
 11 disperse and return to work, that's false. You didn't say
 12 that to them.
 13 MR MATHUNJWA: That's not correct, what
 14 you are saying.
 15 MR BURGER SC: In fact, when Lonmin is
 16 quoted as having said that, you are critical of that
 17 statement, let's read together again exhibit 009, page 10.
 18 You quote my client there, and my client you say had said,
 19 "what we are saying is that workers should go back to work.
 20 If they do not go back to work, police must take control,"
 21 and your comment is, "do not rush to answer. Do not rush
 22 to answer." What did you mean by that?
 23 MR MATHUNJWA: It's because the workers
 24 were showing displeasure on that message.
 25 MR BURGER SC: And then you accused

<p style="text-align: right;">Page 2521</p> <p>1 Lonmin of playing politics in asking the workers to go back 2 to work. What did you mean by that? 3 MR MATHUNJWA: Please refer me to your 4 statement. 5 MR BURGER SC: Let me read it to you, six 6 lines from the foot on that page, page 10. "Comrade, this 7 is politics. This is the politics that are used by the 8 employer to have a bloodshed." 9 MR MATHUNJWA: Yes, I meant that your 10 client has reneged from its commitment of the previous 11 matter. 12 MR BURGER SC: No, we will come to that, 13 that's not what you mean at all. 14 MR MATHUNJWA: Let me – 15 MR BURGER SC: Let me just finish, what 16 you referred to here as politics, is a request by Lonmin to 17 the workers to go back to work, and you make this peculiar 18 statement, to say "do not rush to answer. Comrade, this is 19 politics. This is the politics that are used by the 20 employer to have a bloodshed." Now it's nonsense, but I 21 want to know why you say it. 22 MR MATHUNJWA: Is because the employer 23 has reneged from its commitment. 24 MR BURGER SC: You were asked yesterday 25 in closing, whether this tragedy could have been avoided,</p>	<p style="text-align: right;">Page 2523</p> <p>1 MR BURGER SC: And on page 1, at the foot 2 of the page, "Who is that speaker who sang the song about 3 killing NUM?" Is that Mr Dumisane? 4 MR MATHUNJWA: That's true. 5 MR BURGER SC: Now you tell us that you 6 spoke to him afterwards, but I want to ask you something 7 else, why didn't you stop him there, and say to him, we 8 can't inflame the masses here, we must subdue the emotions, 9 you can't sing this on the morning of the 18th at the koppie 10 – the 16th, at the koppie. 11 MR MATHUNJWA: The point is, I did 12 reprimand him. 13 MR BURGER SC: No, that's not the point 14 at all, the point is you reprimanded him too late. I want 15 to know why you didn't stop him there and then? It's no 16 good to reprimand him afterwards, the damage has been done. 17 MR MATHUNJWA: It happened, it happened, 18 but what I know I did reprimand him. 19 CHAIRPERSON: When did you reprimand him? 20 MR MATHUNJWA: After we left that place. 21 CHAIRPERSON: Thank you. 22 MR BURGER SC: And then we know you made 23 the statement on page 9, that the killing of people started 24 on Friday. Now, Mr Mathunjwa, that's highly inflammatory. 25 We had agreed earlier this morning that you shouldn't have</p>
<p style="text-align: right;">Page 2522</p> <p>1 "I put to you that this tragedy could have been avoided by 2 Mr Mathunjwa on the noon of the 16th of August at the 3 koppie, if he hadn't been so inflammatory and so derogatory 4 of NUM in talking to the workers." 5 MR MATHUNJWA: I am disputing that. I am 6 still maintaining that this massacre could have been 7 avoided, if your client never engaged the workers outside 8 the bargaining structure and if your client hasn't reneged 9 into its commitment of the night of the 15 of August 2010. 10 MR BURGER SC: Mr Mathunjwa, let us look 11 at what you did say to the workers, in order to form a view 12 of whether the submission I want to make as substance. 009 13 is the exhibit, the very first page of that, the cover 14 page. "Did I understand your evidence yesterday in answer 15 to my learned friend, Mr Semenya, that you heard this 16 reference to, 'we will finish them,' referring to the 17 police, and that they must leave immediately a police 18 officer from the homelands, that you heard that but you did 19 not correct the workers and told them that they shouldn't 20 speak like that after you heard those statements." Is that 21 correct? 22 MR MATHUNJWA: I've said yesterday, 23 specifically to the person who was talking, and I further 24 said the police were around, because those workers were 25 using the hailer.</p>	<p style="text-align: right;">Page 2524</p> <p>1 been inflammatory on that occasion. So what I want to ask 2 you is, why did you say these things on the morning of the 3 16th? 4 MR MATHUNJWA: As you will recall, I 5 apologised before the Commission, that is per your request. 6 That's NUM have killed the people. 7 MR BURGER SC: You apologised to NUM of 8 having made false statement, that I understand. My 9 question is a different one. You and I had agreed earlier 10 today, that this was not an occasion to inflame emotions, 11 and I ask you, why do you accuse a fellow trade union of 12 having killed people, I interpose, falsely, and inflame 13 them in that way? Why do you do it? 14 MR MATHUNJWA: You will recall that I was 15 confirming what the strikers has told me in the Nyala on 16 the 15th, on the night of the 15th, they were killed by NUM 17 and in the very same morning, they did mention again, that 18 MR BURGER SC: I am still looking at what 19 you are saying at this meeting in order to argue at the end 20 of the day, that what you say is not only highly 21 inflammatory, but your tone of voice is highly 22 inflammatory, but that we've heard. Can I ask you to look 23 at page 11 again? 24 MR MATHUNJWA: Which one? This one of 25 009?</p>

<p style="text-align: right;">Page 2525</p> <p>1 MR BURGER SC: Of 009, yes, 11. 2 CHAIRPERSON: Are you moving away from 3 the inflammatory point? 4 MR BURGER SC: No, I am still on the – 5 CHAIRPERSON: Because you put to him that 6 what he said was inflammatory. 7 MR BURGER SC: Yes. 8 CHAIRPERSON: I don't know if he had an 9 opportunity to answer the – 10 MR BURGER SC: I am sorry. 11 CHAIRPERSON: - the suggestion. So I 12 think in fairness, you should give him a chance to – 13 MR BURGER SC: Absolutely. Mr Mathunjwa, 14 I put to you that your speech was inflammatory on this 15 occasion, exhibit 009, what do you say to that? 16 MR MATHUNJWA: No, it was not 17 inflammatory. 18 MR BURGER SC: Really, just before we 19 take the tea – and here, because I am still going to deal 20 with the inflammatory on a lighter note, as I understand 21 you, you are late on the morning of Thursday, the 16th of 22 August because you have to drive in from Witbank. 23 MR MATHUNJWA: Not only that, and also 24 that I left the mine in that particular evening. 25 [10:53] MR BURGER SC: Do you live at Witbank?</p>	<p style="text-align: right;">Page 2527</p> <p>1 would be prepared to talk to." Can you just assist me, 2 what does that mean? Exactly what does that mean? 3 MR MATHUNJWA: It means their issues will 4 be dealt within the structures of the collective agreement, 5 one could say. 6 COMMISSIONER HEMRAJ: What does it mean 7 about things going back to normal? 8 MR MATHUNJWA: It means returning back to 9 work peacefully as the management has said. 10 COMMISSIONER HEMRAJ: Because if you look 11 over the page at page 1820, page 1820 at line 16, where it 12 reads "to have allowed me to come and speak to you so that 13 we come to an agreement as to how we can go back to work 14 without the employer having to fire anyone." Can you 15 assist and explain to me exactly what that means? 16 MR MATHUNJWA: Could you please repeat 17 that one, Ma'am? 18 COMMISSIONER HEMRAJ: Yes. If you look 19 at line 16 on page 1820, are you there? 20 MR MATHUNJWA: Which one? The one that 21 says the same word in Sesotho? 22 COMMISSIONER HEMRAJ: No, no page 1820 of 23 the transcript at line 16. 24 MR MATHUNJWA: Okay. 25 COMMISSIONER HEMRAJ: What were you</p>
<p style="text-align: right;">Page 2526</p> <p>1 MR MATHUNJWA: That's correct. 2 MR BURGER SC: And you slept at home that 3 night, I take it? 4 MR MATHUNJWA: That's correct. 5 MR BURGER SC: Will you just read to us 6 the middle of page 11 please, that's what I don't follow, 7 you are speaking and you say, "my brothers and sisters my 8 heart, page 11 my brothers and sisters my heart, I did not 9 sleep Comrades, we slept in the cars somewhere. It is 10 because we always carry clothes since we do not know where 11 is the home of a man." 12 MR MATHUNJWA: No, I slept at home. This 13 is more referring that we always carry clothes, because we 14 sleep anywhere as a trade union not referring that point 15 that I slept in the car. 16 MR BURGER SC: Is this perhaps a 17 convenient time for the tea, Chair? 18 CHAIRPERSON: - tea adjournment, my 19 colleague Adv Hemraj wants to ask a question. 20 COMMISSIONER HEMRAJ: Mr Mathunjwa, you 21 were referred to the transcript at page 1818. Would you 22 look at that please? Do you have that? Do you see at line 23 8 it reads, "the employer says he binds himself to agreeing 24 that if things would go back to normal, that the employees 25 would go back to work. The union that they select, he</p>	<p style="text-align: right;">Page 2528</p> <p>1 intending to convey there? 2 MR MATHUNJWA: Remember the workers they 3 have already said that they want us to come the following 4 day. 5 COMMISSIONER HEMRAJ: Yes. 6 MR MATHUNJWA: Yes, so that is what I was 7 meaning, that we were coming back tomorrow as you request. 8 COMMISSIONER HEMRAJ: Yes, thank you. 9 CHAIRPERSON: I have got a point I would 10 like to ask you about as well, you talked about this 11 earlier but I'm afraid I didn't understand your answer. On 12 page 1817 you talk about, line 10 you say that you wanted 13 the employer to give a guarantee and the guarantee you said 14 at 13, 14 the guarantee what worries our members he would 15 address together with their union and you are talking about 16 our members, it means AMCU members and then he says, well 17 then you say according to Mr Mahlangu at page 1818, you say 18 the employer should give a guarantee that he will talk to 19 us as your union and he said the people that you chose, so 20 that you get those things that you are demanding. Now what 21 exactly does that mean? Does that not mean that you wanted 22 a guarantee from the employer that he would be prepared to 23 talk to AMCU as the union of the members to whom you had 24 referred on page 1817? 25 MR MATHUNJWA: No, that's not correct,</p>

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1 no.

2 CHAIRPERSON: I must tell you I get the

3 impression and it may be the wrong impression and I have

4 got to be, as my colleagues say, we have got to be fair, we

5 will listen to all sides and try to understand what people

6 are saying. And if we have impressions, we must put them

7 to the people so that they can deal with them. I must tell

8 you I get the impression that you were trying to use the

9 situation to create a position where you would be given the

10 least, on this specific issue, the opportunity or the right

11 to negotiate on behalf of the AMCU members at least, who

12 were on the koppie, in regard to a matter in respect of

13 which you didn't have negotiating rights, namely wages.

14 Now that the impression I get. It's only a prima facie

15 impression, first impression, it may be wrong but I'm

16 putting it to you so that if that impression is incorrect

17 you can put me right. But perhaps, there was mention of

18 tea, perhaps it's an idea if we take the tea adjournment

19 now, think about the point I put to you and it will give

20 you, because it's an important point or may well be an

21 important point. I want to give you an opportunity to do

22 yourself justice in giving me as full and comprehensive and

23 persuasive an answer as you can.

24 [COMMISSION ADJOURNS COMMISSION RESUMES]

25 [11:20] CHAIRPERSON: The commission resumes. Mr

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1 Mathunjwa, you're still under oath. Are you now in a

2 position to answer the question I asked you before the

3 short adjournment was taken?

4 MR MATHUNJWA: Yes. I was not saying

5 that AMCU wanted to be a bargaining agent at Lonmin. Hence

6 we knew that we are not recognised for bargaining and I was

7 not using the situation for that reason as I have said.

8 CHAIRPERSON: Anything else you want to

9 say on that point?

10 MR MATHUNJWA: Nothing.

11 CHAIRPERSON: Mr Burger, I take it you

12 want to continue with your cross-examination.

13 MR BURGER SC: Thank you, Chair. Mr

14 Mathunjwa, I'm dealing with the tone and content of your

15 address on the 16th and I'm putting it to you that it was

16 inflammatory. If you go to Exhibit 009, that is the

17 transcript at page 3, it is not you speaking. It is one of

18 the triad of people in your union, but just over half of

19 page 3, the following is reported to be said, "but Comrade

20 what we get is oppression from the employer, together with

21 this union that is claimed to be big, that celebrates 30

22 years of oppression you and you get nothing at the end".

23 Now do we understand it correctly the speaker refers to NUM

24 as this union that is claimed to be big?

25 MR MATHUNJWA: I don't think that was me

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1 who was speaking there.

2 MR BURGER SC: No, I have said it's not

3 you. It's one of your officials. You listened to it, you

4 stand next to him.

5 MR MATHUNJWA: Repeat your question.

6 MR BURGER SC: My question is, is the

7 reference to NUM as the big union who is oppressing the

8 people for 30 years?

9 MR MATHUNJWA: I don't see here saying

10 NUM but he is saying the union with 30 years.

11 MR BURGER SC: Who was referred to? Who

12 was being referred to, which union? Do you think? Three

13 guesses.

14 MR MATHUNJWA: I won't guess. I think

15 the person who was speaking would be in a better position

16 to say whose union was he referring to.

17 CHAIRPERSON: How did you understand this

18 statement, to what union did you think he was referring?

19 MR MATHUNJWA: Would you please,

20 honourable Commissioner, to repeat that question?

21 CHAIRPERSON: What Mr Burger put to you

22 was a passage in the transcript at page 3 where one of your

23 colleagues, Dumisani was speaking, I think. And he said

24 what we get is oppression from the employer together with

25 this union, that's claimed to be big, that celebrates 30

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1 years of oppressing you and you get nothing at the end.

2 Now you were asked what union he was referring to and you

3 say Mr Burger must ask him. If he goes in the witness box

4 presumably he will. But what I want to know is how did you

5 understand what he said? You were there, what union did

6 you think he was referring to?

7 MR MATHUNJWA: I'm guessing when you look

8 at -

9 CHAIRPERSON: I'm not asking you to

10 guess. I'm asking you what you understood at the time,

11 rightly or wrongly in that particular context, what union

12 did you think he was referring to?

13 MR MATHUNJWA: That he was referring to

14 NUM.

15 MR BURGER SC: And you heard it when he

16 said it?

17 MR MATHUNJWA: As I was present there.

18 MR BURGER SC: It was inflammatory, do

19 you agree?

20 MR MATHUNJWA: No.

21 MR BURGER SC: You don't agree?

22 MR MATHUNJWA: Those words were not

23 coming from me.

24 MR BURGER SC: That's not what I'm

25 asking, we know it didn't come from you. I'm putting to

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1 you that this is inflammatory speech. Now I want your
 2 comment on that please.
 3 MR MATHUNJWA: If you talk of oppression
 4 it's not inflammatory.
 5 MR BURGER SC: Must the commission
 6 understand that you associated yourself with this
 7 sentiment?
 8 MR MATHUNJWA: I don't understand -
 9 MR BURGER SC: I beg your pardon?
 10 MR MATHUNJWA: I don't understand what
 11 you are saying.
 12 MR BURGER SC: Let me put it differently.
 13 MR MATHUNJWA: Yes.
 14 MR BURGER SC: Must the commission then
 15 understand that you agreed with what the speaker had said?
 16 MR MATHUNJWA: I heard what the speaker
 17 had said.
 18 MR BURGER SC: I'm not asking whether you
 19 heard it, we have established that you heard it. I want to
 20 know whether you agreed with it?
 21 MR MATHUNJWA: On which context? I don't
 22 understand really that question, maybe it can be put in a
 23 different way. I really don't understand your question.
 24 CHAIRPERSON: What don't you understand
 25 about it?

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1 MR MATHUNJWA: You said I'm agreeing with
 2 the statement, then what I have said he is the person who
 3 was saying.
 4 MR BURGER SC: Mr Mathunjwa, -
 5 CHAIRPERSON: I will put it you
 6 differently, I just want to understand your answer. Let's
 7 turn it round, let's assume two people from NUM come and
 8 speak to the people. Two of them and one of them, they are
 9 standing next to each other. They are both from NUM and
 10 the first NUM speaker says AMCU they are a bad union and
 11 the man next to him, the other NUM member doesn't say he
 12 doesn't agree, he doesn't say anything. Would the ordinary
 13 people who hear what's being said by the first man think
 14 that the second man because he remained silent and he is
 15 also from NUM agrees with what the first man has said?
 16 MR MATHUNJWA: I think they might think
 17 that he concurs with what he is saying.
 18 MR BURGER SC: So you agreed, standing
 19 next to the speaker, when the speaker said but Comrade what
 20 we get is oppression from the employer together with this
 21 union that he is claimed to be big, that celebrates 30
 22 years of oppression, you and you get nothing at the end.
 23 You associated yourself as President of AMCU with that
 24 statement, Mr Mathunjwa.
 25 CHAIRPERSON: Is there a question, Mr

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1 Burger?
 2 MR BURGER SC: Whether he associated
 3 himself with that statement, Chair.
 4 MR MATHUNJWA: No.
 5 MR BURGER SC: What was wrong with that
 6 statement? What did you disagree with?
 7 MR MATHUNJWA: I don't associate with the
 8 statement what he was saying, that is what I'm saying. I'm
 9 not associating myself with what he was saying.
 10 MR BURGER SC: What do you disassociate
 11 yourself with in that statement? It's a short one, five
 12 lines. Read it, take your time and then you tell us where
 13 you differ because my next question is why didn't you say
 14 so at the koppie. But let's do them one by one.
 15 MR MATHUNJWA: Okay.
 16 MR BURGER SC: Do you differ from the
 17 speaker there and do you say there is no oppression by the
 18 employer, by Lonmin is that your stance?
 19 MR MATHUNJWA: There is no?
 20 MR BURGER SC: No oppression by Lonmin of
 21 workers, is that your stance? It's not a difficult
 22 question, you take a long time to answer that. You
 23 disassociate yourself from that statement that Lonmin
 24 oppresses its workers?
 25 MR MATHUNJWA: Yes.

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1 MR BURGER SC: Good. And do you as
 2 President of AMCU also disassociate yourself with the
 3 statement that NUM has for 30 years oppressed the workers.
 4 Do you disassociate yourself with that statement?
 5 MR MATHUNJWA: Yes.
 6 MR BURGER SC: Good. Then on page 11 we
 7 have that portion where you are talking and I'm still
 8 putting to you that this in inflammatory and that you are
 9 inflaming the workers on that occasion. On page 11 may I
 10 read to you again four lines from the top for your comment
 11 on what I put to you, I read it to you earlier today but
 12 let me read it again "these men discussed and agreed in the
 13 boardroom that they should come because NUM saw that it has
 14 no control because you told Zokwana that you were no longer
 15 his members because of what he has done by shooting you on
 16 Friday, something like this, comrade needs strategy that is
 17 more than the knowledge of the person. We want a strategy
 18 from heaven and from the ancestors to reach us and talk and
 19 see how far we can go because the employer wants to run
 20 away from your demands and hide with the fact that
 21 employees were violent, that is why they were killed. NUM
 22 would get an opportunity to go back to the platform to
 23 continue oppressing the black nation, power on that note."
 24 Now, Mr Mathunjwa, this is highly inflammatory speech, do
 25 you accept that?

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1 MR MATHUNJWA: Not.

2 MR BURGER SC: Why do you say to the

3 workers that NUM is oppressing the black nation, we have

4 just heard you don't believe that? Why do you give this

5 falsehood to the workers on that morning?

6 MR MATHUNJWA: But you have to start from

7 the top from here.

8 MR BURGER SC: I did start from the top.

9 MR MATHUNJWA: So I'm saying here it's

10 not inflammatory. My statement on the day, if you are

11 referring on the 16th on the very same 16th, my statement

12 never led to any person to be killed on the 16th.

13 MR BURGER SC: You will make submissions

14 on that, Mr Mathunjwa, at the end of the inquiry. But let

15 me go back to my question. My question is a simple one.

16 You have just told us that you do not subscribe to the view

17 the NUM oppresses the people. Why do you tell the workers

18 at the koppie on the 16th that NUM would get an opportunity

19 to go back to the platform to continue oppressing the black

20 nation? You don't believe that, why do you say that to the

21 workers?

22 MR MATHUNJWA: That was in that point in

23 time.

24 MR BURGER SC: Now I want to go a next

25 subject and it was anticipated by the Chair before tea, but

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1 I have unfortunately got a lot of questions on that and it

2 is this, I want to put to you that you saw the unrest

3 between the 9th and the 16th of August of this year as an

4 opportunity to lever AMCU into a bargaining position at

5 Lonmin and as I understand your answer after tea you deny

6 that. Is that correct?

7 MR MATHUNJWA: No, you're not correct.

8 Remember I was invited by your client on the 13th to be in

9 those premises. Your client phoned me and said he needs my

10 intervention. So when I intervene now I'm blamed as if I

11 was seeking, I was using the circumstances, the opportunity

12 for AMCU to gain recognition for bargaining.

13 MR BURGER SC: Yes.

14 MR MATHUNJWA: All what I was doing, was

15 to assist.

16 MR BURGER SC: Let's look at the facts.

17 If you have a look at your statement, NN paragraph 8. Does

18 paragraph 8 and 9, I'm not going to read it, but that

19 explains the position of AMCU as a trade union at Lonmin in

20 August of that year. You tell us what the position is, the

21 contractual position.

22 MR MATHUNJWA: Yes, paragraph?

23 MR BURGER SC: Eight and 9, you have

24 confirmed it. I'm just really trying to explore the

25 chronology. In fact can I hand up as the next exhibit the

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1 addendum to the limited organisational rights agreement

2 that was concluded between AMCU and Lonmin in May of this

3 year, if I may just get the next exhibit number please?

4 CHAIRPERSON: I think it's already handed

5 in as 0010.

6 MR BURGER SC: I'm indebted to -

7 CHAIRPERSON: Addendum to category 3m, to

8 category 9 substantive wage agreement between, etcetera

9 between Lonmin and NUM, UWASA, Solidarity and AMCU.

10 MR BURGER SC: No, no. I'm referring to

11 an agreement between Lonmin and AMCU. It's an addendum to

12 an existing agreement. The existing agreement is somewhere

13 in the paper but for my purposes the addendum is more

14 important because that expands the rights of AMCU.

15 CHAIRPERSON: Yes, thank you, I'm sorry I

16 was wrong.

17 MS HEMRAJ: It's 0012.

18 MR BURGER SC: Thank you. Mr Mathunjwa,

19 0012 is this agreement of May 2012. You know the

20 agreement?

21 MR MATHUNJWA: Yes.

22 [11:40] MR BURGER SC: And if we read clause 2.2

23 we see the agreement records that the facilities granted to

24 the union, that's AMCU by this agreement will apply in

25 respect of the bargaining unit in which the union is

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1 organising at Karee Mine, correct? Clause 2.2, do you have

2 that? As I understand it, Lonmin has three major mines,

3 it's Western Platinum, Eastern Platinum and Karee.

4 MR MATHUNJWA: Yes.

5 MR BURGER SC: Your union's strength is

6 at Karee. On page 5 we see under "grievance procedures",

7 clause 9.1, "the parties agree to follow the company's

8 grievance procedure in order to resolve grievances at the

9 earliest possible stage." AMCU is a party to this, correct?

10 MR MATHUNJWA: Yes.

11 MR BURGER SC: Spells out the

12 disciplinary procedure, correct?

13 MR MATHUNJWA: That's correct.

14 MR BURGER SC: And in clause 10, we have

15 a dispute procedure, starting off with 10.1, "The dispute

16 shall firstly be referred in writing by the unions to the

17 company or vice versa", correct?

18 MR MATHUNJWA: Yes, that's correct.

19 MR BURGER SC: And we know from clause 8

20 that AMCU becomes part of a consultative forum, and you can

21 negotiate on certain issues such as 831, production

22 matters, operational matters, working in arrangements,

23 correct?

24 MR MATHUNJWA: That's correct.

25 MR BURGER SC: AMCU doesn't have the

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1 standing to negotiate wages.

2 MR MATHUNJWA: That's correct.

3 MR BURGER SC: Now in your statement, NN,

4 in paragraph 12, you deal with the events leading up to the

5 10th August 2012. And in paragraph 12 you tell us that in

6 about the 20th July 2012, you received a phone call from Mr

7 Barnard Mokoena and he advised you that he had heard a

8 rumour that workers at Lonmin had certain grievances,

9 correct?

10 MR MATHUNJWA: Yes.

11 MR BURGER SC: Now if those grievances

12 related to wages, if the workers wanted more money, AMCU

13 couldn't assist because you didn't have the power to

14 negotiate wages.

15 MR MATHUNJWA: That's correct.

16 MR BURGER SC: Paragraph 13 you say, "I

17 said to Mr Mokoena that when he receives these demands, he

18 should call a meeting of all the stakeholders, being NUM,

19 AMCU solidarity and UASA so that the matter could be

20 discussed." But AMCU wouldn't have a right to sit in on

21 that negotiation.

22 MR MATHUNJWA: That is correct.

23 MR BURGER SC: In fact, what do you think

24 would have happened if there was a wage negotiation with

25 these unions with accreditation and AMCU was invited into

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1 the meeting, what would the other unions have done?

2 MR MATHUNJWA: They will raise a concern.

3 MR BURGER SC: And we are also told in

4 your statement that you had the telephone call on the 10th

5 August, that you deal with in your statement, NN, from page

6 15 and following. And in paragraph 19 of your statement,

7 you said, "I also said to Mr Mokoena that once the

8 memorandum had been received, management should call a

9 meeting with all the unions to discuss the matter." Did

10 you, by referring to all the unions, include AMCU or

11 exclude AMCU?

12 MR MATHUNJWA: Including AMCU.

13 MR BURGER SC: I see. And may we assume

14 that if the other unions attended a meeting on wages and

15 AMCU tried to attend, that they would have raised a concern

16 and contended that that was not part of the collective

17 bargaining process?

18 MR MATHUNJWA: That is correct.

19 MR BURGER SC: When the SAFM interview

20 was held on the morning of the 15th August, you raised these

21 two requests on the air. And if you have a look at exhibit

22 LL, which is the transcript of that, you raise that on

23 pages 5 and 6. You see on page 5 from line 15, you can

24 read it for yourself, we've read it before, you raise these

25 two incidents. And over the page at page 6, opposite line

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1 8, you carry on saying, "I then advised him" – referring to

2 Mr Mokoena – "I then advised him that upon receipt of the

3 very same memorandum, make sure that you convene an urgent

4 meeting with the stakeholders as I proposed two weeks ago,

5 which that meeting it never took place. Make sure that you

6 call the meeting in order to deal with that memorandum with

7 whatever is in the memorandum." Now he just couldn't call a

8 meeting to which AMCU was a party, we've agreed that?

9 MR MATHUNJWA: Yes, but you have to

10 remember that the memorandum hasn't been served. We don't

11 know what is the content of the memorandum.

12 MR BURGER SC: No, I make a different

13 point. I say it is unrealistic to expect of Lonmin to call

14 a meeting of stakeholders on these two occasions, if one of

15 the stakeholders is AMCU. The other stakeholders will not

16 agree to that, and I thought we'd agreed that.

17 MR MATHUNJWA: Yes, if you remember, you

18 read a collective agreement, which states the issues where

19 AMCU can be involved. I agree, if it was an issue only in

20 the agreement, I mean, on the memorandum that was talking

21 about the bargaining issue, AMCU will be said no. But

22 since even himself, he didn't know what were the issues, as

23 demand.

24 MR BURGER SC: Mr Mathunjwa, everybody

25 but you knew what the issue was. The issue was the workers

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1 wanted R12 500 a month. Even I knew that, I read the

2 newspapers at the time. And AMCU do not have standing to

3 debate that. We don't have to speculate about a non-

4 existent memorandum.

5 MR MATHUNJWA: I'm not, the fact is the

6 memorandum was never served, we don't know what would be

7 the content of the memorandum.

8 MR BURGER SC: But Mr Mathunjwa, you're

9 persistent, you raise this again at the briefing session on

10 the 15th when the police plead with the unions to diffuse

11 the situation. May I ask you to have a look at 004, that's

12 the transcript of that meeting. Page 21 of 004. It may

13 also be page 661 or 561 but I think 21 is the better

14 number.

15 COMMISSIONER HEMRAJ: Mr Burger, what

16 exhibit are you referring to? I'm sorry, I missed that.

17 MR BURGER SC: 004, Commissioner.

18 COMMISSIONER HEMRAJ: Thank you. The

19 document is a general request for the parties to come

20 together. What page?

21 MR BURGER SC: Page, it should be 21,

22 it's typed 15 with me, but I think we work off different

23 transcripts, but I'm told it should be page 21 of the

24 official 004.

25 COMMISSIONER: Page 21 begins, "That was

<p style="text-align: right;">Page 2545</p> <p>1 our bottom line." So what are the opening words on your, on 2 the page you're referring to? 3 MR BURGER SC: My page opening line, Mr 4 Mathunjwa pointing fingers saying, no is this union. But 5 it may also be at 21, "That was our intention, that was our 6 bottom line", Mr Mathunjwa speaking. 7 CHAIRPERSON: Start at page 13, there's a 8 reference to AMCU Joseph, which is presumably a reference 9 to Mr Mathunjwa. The transcribers for some strange reason 10 referred NUM President, but when they referred to Mr 11 Mathunjwa, they refer to him simply as AMCU Joseph, it's an 12 inconsistency which I find rather strange, but never mind. 13 But that's where Mr Mathunjwa's speech, as it were, begins, 14 and it goes all the way through and on page 21, he's still 15 speaking. 16 MR BURGER SC: No, this is not a speech. 17 It's a briefing session, Chair. 18 CHAIRPERSON: Yes I know, he's speaking 19 at the briefing session. 20 MR BURGER SC: Oh, I see. 21 CHAIRPERSON: Sorry, is his remarks or 22 statement at the briefing session. 23 MR BURGER SC: Yes. 24 CHAIRPERSON: But anyway we've now found 25 the page, is that the page that you refer to?</p>	<p style="text-align: right;">Page 2547</p> <p>1 ago, if you did respond to my letter a week ago, if you did 2 not entertain those delegation of RDOs, I do not think we 3 will be sitting here talking the loss of life." You 4 remember that? 5 MR MATHUNJWA: Yes, I do remember it. 6 MR BURGER SC: You'll remember, it's also 7 on this occasion that Mr Barnard Mokoena said, "We can only 8 work in this structures. We will not talk to an 9 unprotected strike filled with workers." You remember that? 10 MR MATHUNJWA: That's correct. 11 MS BARNES: Chair, those words don't 12 appear in this transcript. 13 MR BURGER SC: No, my learned friend 14 should understand that I'm paraphrasing. 15 MS BARNES: I don't think that's the 16 correct paraphrasing either. 17 CHAIRPERSON: Are you giving us your 18 thoughts, Ms Barnes, or are you objecting? 19 MR BARNES: Yes, it is an objection, 20 Chair, Mr Mokoena did not say in the transcript, "we will 21 not negotiate other than outside these" – 22 CHAIRPERSON: Mr Burger, I think it would 23 be better if you use the ibsimu verba of the witness in the 24 document – 25 MR BURGER SC: Let me go the wrong way</p>
<p style="text-align: right;">Page 2546</p> <p>1 MR BURGER SC: I'd like to refer to the 2 passage opposite my, "I think this thing has gone into your 3 face, you management, as I was still emphasising on air 4 that you need to blame yourself 110%." It's a short 5 passage, perhaps I can read it to the witness. He has it 6 in front of him. 7 CHAIRPERSON: No, I found it. I think 8 this thing has gone to page, line 9. 9 MR BURGER SC: I must really apologise 10 for the pagination, sorry. 11 CHAIRPERSON: Line 9 begins, "I think 12 this thing has gone into your face, you management, as I 13 was still emphasising on air." 14 MR BURGER SC: What official page is 15 that, Chair? 16 CHAIRPERSON: Official page 21, and the 17 words "I think this thing has gone", are line 9. 18 MR BURGER SC: Thank you, I'm indebted to 19 you. Mr Mathunjwa, I'm still exploring your wish to get a 20 chair at the bargaining table. We're now at the briefing 21 session with the generals and you say the following, "I 22 think this thing has gone into your face, you management, 23 as I was still emphasising on air that you need to be blame 24 yourself 110% with the situation at Lonmin. I'm not 25 mincing my word. If you did take my proposal two weeks</p>	<p style="text-align: right;">Page 2548</p> <p>1 round. Page 28, we've read it before, 28 of this same 2 exhibit, exhibit 004, this is what Mr Mokoena says, "We are 3 willing to engage our employees within the structures that 4 are known in a very safe environment where there are no 5 weapons, not a mountain, so we are willing to meet our 6 employees through their structures, through their leaders, 7 to discuss any issue, not when they're armed, not when 8 they're actually outside the Lonmin property." I don't have 9 to read further, you remember he had said that? 10 MR MATHUNJWA: That's correct. 11 MR BURGER SC: Then you go to the koppie 12 on the afternoon of the 15th and you speak to the workers 13 and we've read this morning what you told the workers. And 14 you've also told us what the workers told you, and why I 15 want to remind you of that is I want to put to you that you 16 were negotiating a position where the workers want to talk 17 to AMCU, they don't want to talk wages to NUM, and that's 18 what you're facilitating. 19 MR MATHUNJWA: Come again, I didn't hear 20 you well? 21 MR BURGER SC: The workers, on the 22 occasion of you speaking to them at the koppie on the 15th, 23 when it gets dark and they say come back the next morning. 24 What I'm putting to you is you were trying to position AMCU 25 in a position to negotiate the R12 500.</p>

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1 MR MATHUNJWA: That's wrong.
 2 MR BURGER SC: Well let me put to you
 3 what they say. The workers said to you words to the
 4 effect, and I'm reading from my notes, "We do not want to
 5 see Zokwana here together with his police." You remember
 6 that?
 7 MR MATHUNJWA: Yes.
 8 MR BURGER SC: They say to you, we want
 9 people who come from AMCU. Come back tomorrow and we talk
 10 to them. Do you remember that?
 11 MR MATHUNJWA: Yes, I do remember that.
 12 MR BURGER SC: They say to you, Zokwana
 13 is only filling up his stomach. Come back tomorrow, we
 14 will listen to what you can say. You remember that?
 15 MR MATHUNJWA: Yes. And I should think
 16 it continues somewhere where it says to communicate what
 17 the employer has said.
 18 MR BURGER SC: Yes, indeed. That's the
 19 very point I make. AMCU is now becoming the spokesperson
 20 for the workers at the koppie to negotiate with Lonmin.
 21 MR MATHUNJWA: You are wrong. We were
 22 there, sent by the management to go to the koppie,
 23 including the SAPS to talk to the workers. For us we were
 24 just the messengers. If they give us the message to take
 25 it back, I was no point to say, no, you are wrong what you

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1 are saying, because we were not saying negotiate. They
 2 were saying this is what you need to take it back.
 3 [12:00] Which I reported in the presence of management,
 4 in the presence of the generals, and there was no objection
 5 to that feedback. And again, coming to the structures of
 6 bargaining, if you read through my letter of the 10th, I
 7 think it's paragraph 2, bullet 2, it says clearly, if I may
 8 read for the Commission, it says, "Any employee who forms
 9 part of this gathering, we believe belongs to a union,"
 10 means it does have a union where it belongs that particular
 11 employees. It requires a management and its branch
 12 structures. For non-unionised employee, there are
 13 management structures [inaudible] in the transcript Mr
 14 Bernard emphasising what I told him, I mean, on the 10th
 15 through this letter.
 16 MR BURGER SC: Now I am negotiating – or
 17 discussing a different subject with you, I am discussing
 18 the positioning of AMCU during that period in the debate
 19 between the koppie people and management, what did you have
 20 to report back to the koppie on the morning of the 16th? On
 21 what did you have to report back to them?
 22 MR MATHUNJWA: The morning of the 16th?
 23 MR BURGER SC: Yes.
 24 MR MATHUNJWA: What I was supposed to
 25 report from the koppie.

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1 MR BURGER SC: Correct.
 2 MR MATHUNJWA: 1, We agreed on the 15th
 3 that I will report to the management to give me a feedback
 4 how the – where the worker will report when they return
 5 back to work. 2, To explain the commitment of management,
 6 that' what I was supposed to go and report, the 16th.
 7 MR BURGER SC: You had to report on the
 8 induction process, if they returned to work.
 9 MR MATHUNJWA: Among of the things that I
 10 wanted, and the management never objected to it.
 11 MR BURGER SC: That's not correct, Mr
 12 Mathunjwa, what you wanted to get from management is an
 13 undertaking that if the workers go back to work, and
 14 there's going to be a discussion on wages, you want to be
 15 part of the discussion.
 16 MR MATHUNJWA: That is your opinion.
 17 MR BURGER SC: I beg your pardon?
 18 MR MATHUNJWA: That is your opinion.
 19 MR BURGER SC: No, I am putting it to you
 20 as a fact.
 21 MR MATHUNJWA: That is not correct.
 22 MR BURGER SC: And you said to management
 23 on the morning of the 16th, "don't be technical with me,"
 24 meaning "don't refer to me to bargaining structures, if
 25 these people get off the koppie, I want to a seat at the

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1 table."
 2 MR MATHUNJWA: Where is that, Sir? Can
 3 you give it to me?
 4 MR BURGER SC: Can I show you the
 5 exhibit? It's a new exhibit, it's a transcript of the
 6 discussion you had on the morning of the 16th. Would that
 7 be 00?
 8 CHAIRPERSON: It will be 0013.
 9 MR BURGER SC: 13? Thank you.
 10 CHAIRPERSON: If we get permission from
 11 Ms Pillay, is that correct?
 12 MS BARNES: Sorry, what page would that
 13 be in Lonmin's bundle?
 14 CHAIRPERSON: About 692.
 15 MR BURGER SC: It starts at 692, Chair, I
 16 really start at 693.
 17 CHAIRPERSON: Have you got copies for
 18 your learned friends?
 19 MR BURGER SC: Unfortunately not.
 20 MS BARNES: We are looking for it in the
 21 bundle, Chair, thank you.
 22 CHAIRPERSON: When you found it, let us
 23 know, so that he can carry on with his cross-examination.
 24 Have you found it now? Mr Burger, Ms Barnes has caught up,
 25 you can proceed with your cross-examination.

<p style="text-align: right;">Page 2553</p> <p>1 MR BURGER SC: Mr Mathunjwa, you have 2 that document in front of you, it starts my page 693, Mr 3 Mathunjwa, that is my plea to you, do you have that page? 4 MR MATHUNJWA: Document of the 15th? 5 MR BURGER SC: Of the 16th of August. It 6 says, "Meeting conducted on morning of 16 August 2012 7 attended by Messrs Mathunjwa, Kwadi, Pega and Dumisane. 8 MR MATHUNJWA: Yes, I've got a copy, then 9 I don't know where you are reading. 10 MR BURGER SC: Good. Mine is typed, can 11 I go to your typed page 1. Do you have that? 12 MR MATHUNJWA: Yes. 13 MR BURGER SC: Let me read it with you, 14 about line 11. You speak, "I want to be up with you and 15 tell you straight the facts, that what is happening because 16 we do not want to make each other fools here, just to 17 achieve your own selfish interest in using AMCU, or Guthi 18 to go and call the strike off which was never called by us. 19 Then at the end of the day, when we have to entertain the 20 interests of those workers then you turn around and say no, 21 no, no, we have got a recognition agreement and you must be 22 reminded, Guthi, the NUM is not the majority at Lonmin." 23 And you speak in the vernacular. And I pick it up at line 24 – 25 MS BARNES: I am sorry to interrupt here,</p>	<p style="text-align: right;">Page 2555</p> <p>1 not run ahead of ourselves, but do I understand it 2 correctly at this point, on the morning of the 16th, you say 3 to Lonmin, I want to be part of the negotiation with the 4 workers, if the strike comes to an end. Is that correct? 5 MR MATHUNJWA: To be part, to solve the 6 problem, yes. 7 MR BURGER SC: I would like to have an 8 answer to my question. I, AMCU, the president of AMCU, 9 want to be party to the discussions with the workers if the 10 strike comes to an end. The discussion clearly in the 11 context of a claim for 12-and-a-half thousand per month. 12 MR MATHUNJWA: Remember this issue was, 13 the strike was outside the bargaining forum, it was 14 something that was illegal or unprotected so AMCU has 15 members there. So we wanted to be part of that solution, 16 yes, you are correct. 17 MR BURGER SC: Then you go on, and you 18 say, "I am a straightforward person. When I do things, I 19 do it. If I do not do it, I do not do it. Then you 20 discharge your police and go and kill those people but the 21 blood will be on Lonmin's hands." What did you mean by 22 that? 23 MR MATHUNJWA: Because the management has 24 reneged from its commitment. 25 MR BURGER SC: What commitment?</p>
<p style="text-align: right;">Page 2554</p> <p>1 we do not find page 692. 2 CHAIRPERSON: 692 doesn't matter, 692 is 3 just a heading. The meeting conducted on morning of 16th 4 August. 693 is the passage from which Mr Burger is 5 quoting. It begins, "Mr Mathunjwa, that is my plea to you, 6 and therefore." Have you found that? 7 MS BARNES: Yes. 8 CHAIRPERSON: You are now up with the 9 game. So can Mr Burger proceed? Right. 10 MR BURGER SC: Line 22, Mr Mathunjwa, you 11 say "technicality of which we are not a bargaining agent," 12 and then line 29, "Prove now, uGuthi," sorry, help me, what 13 does a Guthi mean? That? "Prove me," I am told it means 14 "that," "Prove now uGuthi, yes you commit that you will not 15 come with your technicalities. Once that strike is off, 16 when we want to entertain you with those issues of those 17 workers, then you come with the issues of saying AMCU, you 18 are not a bargaining agent." Now, what do you mean by that, 19 Mr Mathunjwa? What did you mean by that? 20 MR MATHUNJWA: Yes, to be what's name, a 21 part of the resolving of the issues of the problem at the 22 mine, which indeed the management at the end of day, if you 23 look at the agreement that was signed, AMCU was part of it, 24 and he signed that agreement. 25 MR BURGER SC: I will come to that, let's</p>	<p style="text-align: right;">Page 2556</p> <p>1 MR MATHUNJWA: That they will engage with 2 the workers once they – with their grievances of the 3 workers once they return back to work peacefully. And 4 remember, yesterday your client mentioned that he will tell 5 the police to go on the mountain and do their job. 6 MR BURGER SC: Mr Mathunjwa, it's 7 preposterous to suggest that my client, Lonmin, will 8 negotiate with the strikers, they lay down their arms, they 9 come back from the koppie, they go to work, and then Lonmin 10 says, I don't want to work with you in the structures. 11 That's nonsense. 12 MR MATHUNJWA: You remember, if you 13 continue, management committed that they will address their 14 grievances and subsequent to that the management of Lonmin 15 further made mention that they are no longer committed 16 because they've got two year agreement. 17 CHAIRPERSON: Mr Burger, before you carry 18 on with Mr Mathunjwa, I have a difficulty with cross- 19 examination on this document. It may be that it's not a 20 real difficulty, maybe you can solve it for me but you are 21 cross-examining him on what he said, and I can see now 22 ahead, there's some passages you are going to put to him in 23 due course, which will be very important, but every now and 24 again, it says, "speech in vernacular." 25 MR BURGER SC: Yes.</p>

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1 CHAIRPERSON: So we haven't got the
2 vernacular, nor do we have a translation of the vernacular,
3 so he's at a bit of a disadvantage, because you are cross-
4 examining him in effect on extracts in English of what he
5 said. Now it may be that the bits in the vernacular take
6 the matter no further and don't render the cross-
7 examination unfair with him, but Mr Bruinders isn't
8 objecting, so perhaps I am being oversensitive. But there
9 is a problem that I must put to you, because it's my duty
10 to protect this witness, as I have to protect every witness
11 against cross-examination which may not be fair. So I put
12 the problem to you. If there's an answer to it, please
13 give it to me and we can carry on.

14 MR BURGER SC: Yes, Chair, I haven't seen
15 the vernacular, I haven't seen a transcription of that. I
16 intend to pose questions to this witness on the English,
17 the English which he understands and which Mr Mokoena
18 understood and that tells a story by itself. If in re-
19 examination there is a different version put, so be it, but
20 at this stage, I'd like to have permission to proceed on
21 this line. There's some very important passages here in
22 English.

23 CHAIRPERSON: Very important passages, at
24 the top of page 3, which don't appear to be interrupted by
25 passages in the vernacular.

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1 MR BURGER SC: There's no vernacular
2 there, Chair.

3 CHAIRPERSON: No, vernacular. My
4 difficulty relates to the cross-examination dealing with
5 the first half of page 2, where the vernacular is
6 interspersed.

7 MR BURGER SC: Let me leave that.

8 CHAIRPERSON: Yes, perhaps leave that.

9 MR BURGER SC: I am happy to leave that,
10 and go where there is no vernacular.

11 CHAIRPERSON: Mr Bruinders, you've turn
12 on your microphone, but I think in lieu of Mr Burger's
13 statement, he won't cross-examine him anymore on page 2, or
14 the first half of page 2, the point you were intending to
15 raise may have fallen way.

16 MR BRUINDERS SC: The difficulty that we
17 actually have is we've never heard the transcription. I
18 mean obviously we can sort that out by asking my learned
19 friend over the course of the weekend whether we can listen
20 to it, but we've never actually –

21 CHAIRPERSON: But it was in the bundle,
22 if you though it might be important, you had the right to
23 go back to Lonmin and say to them, look here, this is in
24 your bundle, we would like to hear the recording, to
25 satisfy ourselves the transcription is correct.

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1 MR BRUINDERS SC: We got this on Monday,
2 and in fact –

3 CHAIRPERSON: Well, today is Friday.

4 MR BRUINDERS SC: No, that's true, but we
5 put him into the witness-box on Tuesday, and we actually
6 hadn't – I haven't actually seen it. I know that my
7 learned friend talked bout a – before this, he talked about
8 a recording, and I was expecting that we would be given a
9 recording, and I've never seen the recording. So I don't
10 know whether it's been – whether it's part of the -

11 MR BURGER SC: No, these are the
12 transcriptions of the recording.

13 MR BRUINDERS SC: I understand that, what
14 I am saying is, I thought there was a recording, a cell
15 phone recording, something similar. I have never seen
16 that, so my difficulty at the moment is obviously we would
17 like to –

18 CHAIRPERSON: Yes, I understand you, but
19 there's another difficulty, and that is, you were going to
20 call him on a certain day, you then asked if you could hold
21 him back for a couple of days because you still wanted some
22 information from Lonmin, and you wanted to precognise your
23 witness on the material that you were going to get from
24 Lonmin. That facility was granted to you, and as I
25 understand it the material was given to you, and when you

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1 indicated you were ready, you then called him as a witness.
2 So it's in the light of that that I have difficulty in
3 understanding what you are putting to me now.

4 MR BRUINDERS SC: There are two, we are
5 speaking of two Mondays here, the material that we got from
6 Lonmin came the previous Monday, and so we had a few days,
7 in fact we then had a week to prepare him. This material
8 came this Monday now, the 26th.

9 CHAIRPERSON: The point is you were then
10 prepared to call him. That indicated to me, that you were
11 satisfied, you were ready to call him, because the
12 information that you had been given was the information
13 that you wanted. We now know you did get this information
14 before you called him, but if you would like to reconsider
15 your position, you can obviously deal with it, as you
16 consider appropriate but it may be, look, it's now nearly
17 20 past 12, I don't think Mr Burger is going to – I am
18 pretty certain, Mr Burger is not going to finish his cross-
19 examination before we take the adjournment around about one
20 o'clock, and as you know, we are not sitting this
21 afternoon, because there's a meeting of the parties. So if
22 Mr Burger cross-examines, not on page 2, but on the
23 subsequent page 3 and possibly further before we take the
24 adjournment, then you can raise the questions you want to
25 raise with him after that and we can carry on, on Monday.

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1 MR BRUINDERS SC: As put to you, we – as
 2 I say, we expected a recording because we were told that
 3 there was a recording. We didn't get one, I am not
 4 necessarily pointing a finger at my learned friend, I am
 5 simply saying we didn't, that's what we were looking out
 6 for, we didn't get it. There was a transcription, we
 7 haven't put this to him, we haven't consulted with him over
 8 this. That doesn't mean he can't be cross-examined.
 9 Obviously, I am not going to stop Mr Burger. What I am
 10 pointing out to you, Commissioner, is what the particular
 11 difficulty that we had, we hadn't seen a recording because
 12 that's the basis on which we dealt with all the information
 13 that came through to us. We got it on 4 30 on Monday
 14 afternoon. I mean I am not, again, that's, we haven't seen
 15 his precisely because, as I say our focus was on this
 16 recording that we were expecting. We didn't get that, so I
 17 accept -

18 CHAIRPERSON: Let's ask Mr Burger if he's
 19 got the recording, if he can make it available to you, when
 20 he can make it available to you, when he can make it
 21 available to you, then you said you are not objecting to
 22 the cross-examination as I understand it, on the subsequent
 23 passages in this. You can sort it out later. Let's ask Mr
 24 Burger the simple question. Is there a recording which can
 25 be made available?

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1 MR BURGER SC: No, we've provided, and I
 2 don't know when, I think on Monday, three transcriptions.
 3 It was in view of the case, difficult to get it from our
 4 client, and that we've handed in and that's available.

5 CHAIRPERSON: I understand that but your
 6 client must have had a recording from which the
 7 transcription was made.

8 MR BURGER SC: I don't know, the only
 9 recording and I don't want to have a debate with my learned
 10 friend, who I call a friend, about recordings. The
 11 recording I have in mind is that we were expecting a video
 12 recording from ETV which was arriving on Friday and then 10
 13 o'clock Monday, and then – and it turned out that there was
 14 no such a thing. But that was from my learned friend, so I
 15 think we may be at cross purposes.

16 MR BRUINDERS SC: Let me just explain
 17 something, Commissioners –

18 CHAIRPERSON: I think you are at cross
 19 purposes.

20 MR BRUINDERS SC: No we are not, he
 21 thinks –

22 CHAIRPERSON: You are talking about one
 23 recording, you are talking about another.

24 MR BRUINDERS SC: No, we are not.

25 CHAIRPERSON: The simply point is you've

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1 got a transcription, there must have been a recording from
 2 which the transcription was made, and the question I asked
 3 Mr Burger, is that recording, I take it it's available
 4 somewhere, can it be made available to you? Perhaps, if
 5 that problem is sorted out, we can then carry on.

6 MR BRUINDERS SC: Can I just for the
 7 record, establish this? It's correct, Mr Burger is quite
 8 correct, we talked about the video recording of the second
 9 address on the koppie, but before we spoke about that, Mr
 10 Burger actually alerted to me to the fact that there's a
 11 recording of a conversation between Mr Mathunjwa and
 12 somebody from Lonmin on the 16th. I was aware that
 13 something like this was coming. I was expecting it, we
 14 looked out for it, we didn't see it and so we didn't –
 15 because we didn't see it, because that's the way all these
 16 things came in, in the form of a recording, and then you
 17 get transcripts, so we could listen to it and ask him to
 18 confirm it was that. Because we didn't see it –

19 CHAIRPERSON: But you did get a
 20 transcription of the meeting on the morning of the 16th, the
 21 meeting between Mr Mathunjwa and Lonmin. Maybe if you had
 22 been alerted to some possible problem, you would have asked
 23 for the recording, you didn't but I take it he's going to
 24 give you the recording.

25 [12:20] MR BURGER SC: Yes.

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1 CHAIRPERSON: And you will then be able
 2 to listen to it at your leisure and check the transcription
 3 and get the passages of an vernacular translator and then
 4 you can see what's appropriate, but let Mr Burger use up
 5 the time available to us today to carry his cross-
 6 examination on a little bit further, which may even help
 7 you to direct your investigations about the recording when
 8 you get it. Mr Burger –

9 MR BURGER SC: Mr Mathunjwa, it is then
 10 raised under the impression that this [inaudible] is main
 11 for that, for the return to work procedure, which I will
 12 gladly take you through. It's not complicated, so
 13 essentially people must just report at the shafts, and then
 14 the shafts will arrange on the shaft induction. So the
 15 induction is a non-issue, Lonmin said they must go back to
 16 the shafts and there will be a shaft induction. You then
 17 say, there's background noise, and somebody says, "Yes".
 18 Lonmin then says, "but on the other side the first part
 19 that you spoke about, I think that is something that I'm
 20 not mandated to talk about. I do not know of Jomo has the
 21 mandate." And you say, "No, I mean fine. That is why we
 22 said Barnard must be in, because there is a commitment that
 23 the grievances of the workers who are on strike will be
 24 addressed through union structures we fully support. I'm
 25 raising the issue of technicality, because I know you guys,

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1 I've dealt with you, I know you've got a forked tongue. If
 2 I may say it without insulting you, you've got a forked
 3 tongue like this. It took us almost two years to conclude
 4 a simple recognition agreement with technicalities that are
 5 not bound there. So I know uGuthi, why I'm raising this
 6 point. There's no issue that the grievances will be
 7 addressed through the structures. I'm raising the issue of
 8 technicality that AMCU, you will be saying ANCU is not a
 9 bargaining agent." Now is that a correct transcription of
 10 what you said?
 11 MR MATHUNJWA: It could be that but not
 12 in the sense of bargaining. I was saying when the issues
 13 are addressed, those problems, AMCU will be saying is not a
 14 bargaining agent. This is a strike, the strike is outside
 15 bargaining structures, it's unprotected strike, in other
 16 words it's an illegal strike. So that's what I was
 17 referring. My participation there was mainly to say this
 18 is the problem that has occur, let the AMCU part of the
 19 solution. Hence I said earlier on when we say I mustn't
 20 run forward, at the end of the day we were introduced in
 21 the very same bargaining structure.
 22 MR BURGER SC: What was the technicality
 23 you were referring to?
 24 MR MATHUNJWA: To be part of resolving
 25 the problem.

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1 MR BURGER SC: You wanted AMCU to be
 2 recognised as a bargaining agent?
 3 MR MATHUNJWA: I know the processes of
 4 being recognised at the mine as a bargaining agent, I'm
 5 clearly with that one. In these instances we wanted to be
 6 part of that forum, of that point. Remember many things
 7 have been said that AMCU is on strike, it's forcing people
 8 to go on strike, people are killed under the disguise of
 9 AMCU. So we wanted to be part of that forum.
 10 MR BURGER SC: Mr Mathunjwa, you wanted
 11 Lonmin to agree that if the strikers come off the koppie,
 12 Lonmin must recognise you as a bargaining agent to
 13 negotiate with the strikers.
 14 MR MATHUNJWA: Can you read me in the
 15 script?
 16 MR BURGER SC: No, I'm asking you that,
 17 I'll read you the script afterwards.
 18 MR MATHUNJWA: I'm saying we wanted to be
 19 part of the forum hence the strike was outside the
 20 bargaining structures. That was my answer earlier on.
 21 MR BURGER SC: That's not correct. You
 22 wanted to be a bargaining agent and you wanted Lonmin to
 23 recognise you as such.
 24 MR MATHUNJWA: To be recognised in that
 25 forum to deal with these issues at Lonmin. Which indeed –

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1 CHAIRPERSON: I understand you want to
 2 say something?
 3 MR BRUINDERS SC: Ja, he hasn't read the
 4 transcript, it might perhaps assist to give him an
 5 opportunity to go through it.
 6 MR BURGER SC: Can I read what you said
 7 with you and then I'll pose the question again. The top of
 8 page 3, 695, you will be saying, "AMCU is not a bargaining
 9 agent. That is where we need to address those issues
 10 before. That other issue is not, if we have got a
 11 commitment that those technicalities will not be raised, we
 12 want to solve the problem, fine, we're going to the
 13 mountain. So you must get Barnard about that issue and get
 14 a mandate. But if he is not committing himself to that
 15 one, let him discharge his police to go and kill those
 16 people."
 17 MR MATHUNJWA: You will remember that the
 18 workers, they have made it clear in the mountain, as you
 19 alluded earlier on, what did they say? They said you,
 20 AMCU, you must come back tomorrow and address us, and this
 21 is the problem that we wanted to solve. It was not about
 22 point-scoring. And then again, if that was the case, I
 23 wouldn't be, I would suppose if that was the case that it
 24 was the issue of the bargaining, why did I proceed to the
 25 mountain?

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1 MR BURGER SC: Mr Mathunjwa, you're
 2 playing with the lives of workers here. You want a
 3 position at the bargaining table, and listen what you say,
 4 I read it to you again. "But if he is not" – and you refer
 5 to Barnard Mokoena – "but if he is not committing himself
 6 to that one, let him discharge his police to go and kill
 7 those people as Zokwana and Barnard was their mandate
 8 yesterday."
 9 MR MATHUNJWA: Let's talk facts. Mr
 10 Mathunjwa, irrespective of the commitment that he never
 11 received from Barnard but he went to the mountain. He did
 12 appeal to the people to leave koppie. Even the police, I
 13 was not given to me a security to escort me, no vehicle was
 14 given to me to go to the koppie but I proceeded because I
 15 care. It's not that I was going there with an ambition
 16 that I want to be a bargaining agent. If it was my
 17 ambition, I could have got into my car and drive straight
 18 to my office. Especially it was well-known that those
 19 workers who were on strike is not only AMCU members.
 20 MR BURGER SC: Yes, no, I can make
 21 submissions now to the commission on these facts. But can
 22 I just put in this context to you, Mr Seedat's evidence.
 23 You have a statement from him in a supplementary Lonmin
 24 index, and you'll find Mr Seedat on pages 1 to 6. I'll
 25 hand that up as an exhibit, just to make it more

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1 accessible. 0014, I believe, Chair. And I take it out of
 2 the chronology of my questions, but it is relevant now. Mr
 3 Seedat is a director of Lonmin, is that correct?
 4 MR MATHUNJWA: It's what he told me.
 5 MR BURGER SC: You've met him before?
 6 MR MATHUNJWA: What do you mean before?
 7 MR BURGER SC: I can't put it in simpler
 8 English. You knew him by the 16th August, you had met him
 9 before?
 10 MR MATHUNJWA: I know him from BHP
 11 Billiton.
 12 MR BURGER SC: Yes. Now he will tell the
 13 commission in paragraph 5.1, this is what happened on that
 14 morning, that we're reading about. Look at page 4, please,
 15 and read with me, because I want your comment for it. He
 16 says, "On the morning of the 16th August, I travelled to
 17 Marikana and went straight to Lonmin's offices at the LPD
 18 block. As I entered the reception area I saw Mr Mathunjwa.
 19 I greeted him and he asked me what I was doing there. I,
 20 in turn asked him about the developing situation at the
 21 mine." Let me stop there. Is it correct so far, to the
 22 best of your knowledge?
 23 MR MATHUNJWA: To the best of my
 24 knowledge, that's correct.
 25 MR BURGER SC: I read on. "He approached

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1 me, he says, "Mr Seedat, and we then moved to one of the
 2 passages leading from the reception area as there was a
 3 SAPS press conference in progress in the adjoining Hossey
 4 boardroom and we were asked not to make any noise. He" –
 5 referring to you, Mr Mathunjwa – "then said to me, "give me
 6 a place at the bargaining table and I will get the workers
 7 off the koppie.""
 8 MR MATHUNJWA: That's totally untrue,
 9 I'll dispute it. And again, in his introduction he
 10 mentioned that it's something like non-executive, if he was
 11 correct with what he was saying here.
 12 MR BURGER SC: And?
 13 MR MATHUNJWA: No, I'm just saying that's
 14 what also he said.
 15 MR BURGER SC: Why do you say that,
 16 what's the relevance of that?
 17 MR MATHUNJWA: There is relevance because
 18 I asked him what is he doing at Lonmin, what he is, then he
 19 explained himself what he is.
 20 MR BURGER SC: I read on, he says, "I was
 21 not a Lonmin Exco member but" and I put in said, there's
 22 word out – "but said that I would convey his message to the
 23 Exco. I did say to him that his request was dependent on
 24 the present recognition agreements which were in place and
 25 that it all had to be dealt with within the proper

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1 framework. Mr Mathunjwa did not respond."
 2 MR MATHUNJWA: I don't know whether Mr
 3 Seedat is deliberately confusing facts here, because these
 4 utterances was based on my first visit from koppie when I
 5 was phoning him asking his intervention that I don't get
 6 any co-operation from his management. It's when then he
 7 managed. The issue of bargaining was never, never, never,
 8 ever mentioned or discussed on that day with him. The
 9 message that he's referring to is the message that I spoke
 10 him through the phone when I was phoning him that there's
 11 no co-operation and he mentioned that he's not part of the
 12 management of Lonmin but he will convey the message and he
 13 never returned back to me.
 14 MR BURGER SC: And Mr Kwadi will say
 15 immediately after you and Mr Seedat had spoken, Mr Seedat
 16 went back to Mr Kwadi and he said to Mr Kwadi, Mr Mathunjwa
 17 had said to me, give me a place at the bargaining table and
 18 I will get the workers off the koppie, words to that
 19 effect.
 20 MR MATHUNJWA: Mr Kwadi, maybe he will be
 21 referring the earlier morning when I was saying I want to
 22 be part of the forum. After the recording that you read to
 23 me.
 24 MR BURGER SC: And Mr Mathunjwa, is it
 25 possible that because you couldn't get a seat at the table,

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1 that you went back to the koppie on the 16th August and you
 2 gave that inflammatory speech to the workers?
 3 MR MATHUNJWA: That is not correct. All
 4 what I was saying in the mountain was to convince the
 5 workers to return back to work, even though the management
 6 has reneged from its commitment.
 7 MR BURGER SC: Chair, I have to go over
 8 to a new subject now. Is this perhaps a convenient time to
 9 –
 10 MR BUDLENDER SC: Chair, before you
 11 adjourn, may I deal with two matters which need to be dealt
 12 with while everyone is -
 13 CHAIRPERSON: You say you're going to go
 14 over to another topic, wouldn't it be appropriate to put
 15 the passage at page 3 of exhibit 0013 from line, I think it
 16 must be line 12 to 19, just to sort of round this point
 17 off. And then if you do that, then once we've had the
 18 witness's answer then we can hear what Mr Budlender has to
 19 tell us.
 20 MR BURGER SC: Absolutely. May I still
 21 stay with exhibit 0013 on page 3, and may I read with you
 22 from line 12, Mr Mathunjwa? Mr Kwadi is speaking, he says,
 23 "Okay Joseph, I think it is clear to me what you're saying.
 24 You're basically saying you will go to the mountain on
 25 condition that you get some kind of a guarantee that the

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1 company will negotiate with AMCU on the demands of the
 2 people that are on the mountain, that is what you are
 3 saying it is." Did Mr Kwadi say that?
 4 [12:40] Mr Kwadi, line 12, let me read it with you. You
 5 didn't have I before. Read with me Mr Mathunjwa, "Okay,
 6 Joseph," says Mr Kwadi, "I think it is clear to me what you
 7 are saying. You are basically saying you will go to the
 8 mountain on condition that you get some kind of a guarantee
 9 that the company will negotiate with AMCU on the demands of
 10 the people that are on the mountain, that is what you are
 11 saying." "It is." Do you confirm that he said that?
 12 MR MATHUNJWA: Then my response there, it
 13 says –
 14 MR BURGER SC: No, no, I am asking, do
 15 you confirm that's what he said?
 16 MR MATHUNJWA: Yes, Mr Kwadi.
 17 MR BURGER SC: Good, let me read on then.
 18 You then said, "Or whether AMCU will be part of the demand,
 19 I mean according to those people whom they want to
 20 negotiate on their behalf." "Yes." That's what you said?
 21 MR MATHUNJWA: Yes, I am still referring
 22 to the forum.
 23 MR BURGER SC: And then Mr Kwadi said,
 24 "Yes okay. I think I might upset you here, but I am going
 25 to say it, because if I do not say it you will accuse me of

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1 being dishonest, okay. As things stand now, the – and you
 2 will say it is technicalities, but I need to say it to you,
 3 as things stand now, AMCU has an agreement with Lonmin on
 4 issue at Karee Mine. That is what is in place now, and
 5 what you are saying, the RDOs that are currently on strike
 6 are not Karee only RDOs, they are RDOs from all over
 7 Lonmin," and you say, "Yes."
 8 MR MATHUNJWA: That is correct.
 9 MR BURGER SC: Mr Kwadi says, "so you
 10 were saying that if this issue is to be resolved, there has
 11 to be, call it a central discussion for lack of a better
 12 word. There has to be a central forum to deal with the
 13 issue of RDOs across Marikana operations and you are saying
 14 the only way you will go to the mountain, is if you are
 15 guaranteed a place there," and you say, "exactly."
 16 MR MATHUNJWA: That is correct. That's
 17 what I've said. This is exactly what happened. But at
 18 that point in time, even though there was no commitment
 19 that was given to me, the facts that I am talking about I
 20 went to the mountain and talked to the people, hence you
 21 said earlier on, let's not run fast, the exactly thing that
 22 was called, there was a forum that was called. Everyone
 23 was present. The Bishop was present. AMCU was present.
 24 Workers delegation which are not recognised at the mine,
 25 were part of the process. That is exactly what they did at

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1 the end.
 2 MR BURGER SC: Mr Mathunjwa, you were
 3 playing a game with frightening odds, you were saying you
 4 will get the people off the koppie on condition that you
 5 get a place at the negotiating table, meaning, I don't get
 6 a place, I won't get them off.
 7 MR MATHUNJWA: Let's talk about the
 8 facts. Mr Mathunjwa went to the koppie without any escort
 9 from the police and tell the workers to leave koppie.
 10 MR BURGER SC: Thank you Chair, I didn't
 11 finish but if I may stand down at this point.
 12 CHAIRPERSON: Very well, before we
 13 adjourn, Mr Budlender wants to make some announcements, as
 14 I understand it.
 15 MR BUDLENDER: I apologise for
 16 interjecting earlier, but I was afraid we would adjourn
 17 before I could deal with these matters. One is clearly an
 18 administrative matter, Chairperson, we have been handed a
 19 set of keys which were left by one of the people present on
 20 the chairs, so if the person who has lost his keys, please
 21 go to the administration office at the back, they have your
 22 keys for you. The other matter, Chair, is that the parties
 23 will now meet to deal with the phase 2 questions. That
 24 meeting will have to take place here because the council
 25 chamber is otherwise occupied at the moment. Can I ask

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1 everyone to stay and that we get started within five
 2 minutes, of the adjournment. There is a pressing need on
 3 the part of many parties that we finish by 2:30 at the
 4 latest. Thank you, Chair.
 5 CHAIRPERSON: The Commission will adjourn
 6 until 10 o'clock on Monday morning.
 7 [COMMISSION ADJOURNED]
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