

Transcript of recording 20140819 140523

AFTER OPEN HEART CORA

- MS VAN DER MERWE: But you wanted to know how I contact him.
- MR BOBROFF: *Ja.*
- MS VAN DER MERWE: I sent him that Mashiloane (inaudible).
- MR BOBROFF: *Ja?*
- MS VAN DER MERWE: And then he prepared that draft article. Remember I phoned you from Deon's house after my neck operation. I said well I received this and you said I must not speak to him.
- MR BOBROFF: Yes.
- MS VAN DER MERWE: And I must write back to him. You know,
10 he's not reporting everything properly. So I sent it to him but never realised (interjection)...
- MR BOBROFF: What did you send to him?
- MS VAN DER MERWE: A short letter stating that I cannot comment on the article, the draft article. He must please speak to my principal, Mr Ronald Bobroff.
- MR BOBROFF: Yes. Yes. But now why did he ask you to comment? Where did you feature in it?
- MS VAN DER MERWE: Cora Van Der Merwe was the Deponent in that Application, the same Application.
- 20 MR BOBROFF: Of course. Oh yes. Okay. Yes.
- MS VAN DER MERWE: Remember that one?
- MR BOBROFF: Yes, okay. I remember it okay.
- MS VAN DER MERWE: So that is when I called you and thereafter you were very mad of me Mr B, so I never felt that I could (interjection)...
- MR BOBROFF: But hang on. Were you still having your surgery or not?
- MS VAN DER MERWE: No, that was after my surgery.
- MR BOBROFF: Okay. After your surgery? Okay.
- MS VAN DER MERWE: After surgery. I was sitting at home and I
30 was quite shocked and I told Deon, you know what, what they are stating

there is – because they're also referring to – no. You sent a letter stating that can be very bad for the practice and I was nearly a nervous wreck. So I sent him (interjection)...

MR BOBROFF: I sent a letter to whom?

MS VAN DER MERWE: To me.

MR BOBROFF: Okay.

MS VAN DER MERWE: And you said it may not happen again and blah, blah, blah.

MR BOBROFF: Okay.

10 MS VAN DER MERWE: To me and Lily-Ann. So I sent him an email then stating that he must please speak to my principal, Mr Ronald Bobroff. I am not at liberty to make any opinions (interjection)...

MR BOBROFF: Yes.

MS VAN DER MERWE: ...with regards to his article. But I have on gmail, and I don't know how to take it off, a pink signature with my name, telephone number and fax number.

MR BOBROFF: Your number comes up, *ja*. You told me, *ja*.

MS VAN DER MERWE: So the next was I received a WhatsApp from a guy with Beamish's picture on and he sent me pictures of his house in
20 France and (interjection)...

MR BOBROFF: You've got all that?

MS VAN DER MERWE: *Ja*.

MR BOBROFF: Okay.

MS VAN DER MERWE: And (interjection)...

MR BOBROFF: On this phone?

MS VAN DER MERWE: On this one and the other one.

MR BOBROFF: Okay. You must send it. Okay. *Ja*. So we can build up a file.

MS VAN DER MERWE: So he sent me all kinds of pictures and we
30 started chatting. I said well (interjection)...

- MR BOBROFF: On – hang on, on WhatsApp? Chatting on WhatsApp?
- MS VAN DER MERWE: *Ja. Ja.*
- MR BROOKS: Yes?
- MS VAN DER MERWE: And he will send me interesting links. Go and read this about politics and then I will send a few back and say watch, this is quite funny. And so we started building – I don't want to call it a trust relationship, but a chatting, you know (interjection)...
- MR BOBROFF: Yes. Yes.
- 10 MS VAN DER MERWE: Becoming friends. I've never seen him in my whole life.
- MR BOBROFF: Yes. *Ja. Ja.*
- MS VAN DER MERWE: And he will send me pictures of castles in France and (interjection)...
- MR BOBROFF: *Ja.*
- MS VAN DER MERWE: It's so beautiful.
- MR BOBROFF: *Ja.*
- MS VAN DER MERWE: You just want to go and live there.
- MR BOBROFF: Yes.
- 20 MS VAN DER MERWE: And so *ja*. For instance one day I was stuck in traffic and I sent a picture, big traffic, and he sent another one back with a cow. Open road with a cow.
- MR BOBROFF: Yes.
- MS VAN DER MERWE: So it's – and after that he started sending me documentation, all correspondence between the office and Norman Berger. Norman Berger and the office.
- MR BOBROFF: The office? Our office and Berger?
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: Which Berger must have given him.
- 30 MS VAN DER MERWE: They send it directly to him. Anything that

we serve or send is sent to him immediately and I'm not sure if he's copying Katz in.

MR BOBROFF: Oh yes, no question.

MS VAN DER MERWE: And all correspondence to the Law Society as well and (interjection)...

MR BOBROFF: Correspondence from us to the Law Society?

MS VAN DER MERWE: No, them.

MR BOBROFF: Them. Okay.

10 MS VAN DER MERWE: Norman Berger to the Law Society.

MR BOBROFF: Yes?

MS VAN DER MERWE: And correspondence between them and the Law Society in Australia.

MR BOBROFF: From the Law Society to them?

MS VAN DER MERWE: No.

MR BOBROFF: Okay, them to the Law Society in Australia?

MS VAN DER MERWE: *Ja.*

MR BOBROFF: Saying what?

20 MS VAN DER MERWE: That they want assistance to obtain that file.

MR BOBROFF: From the Australian attorneys?

MS VAN DER MERWE: *Ja. Ja.*

MR BOBROFF: Yes?

MS VAN DER MERWE: And then he sent me at one stage a WhatsApp and saying the case number is incorrectly, but they managed to get the right case number. So they sent their team now to get the Court file

MR BOBROFF: In Australia?

30 MS VAN DER MERWE: *Ja*, but he never came back to me with regards to that.

- MR BOBROFF: I wonder why, because the Australian attorneys would have co-operated. Anyhow, there's nothing to hide.
- MS VAN DER MERWE: *Ja*. So *ja*, and – *ja*, so this is more or less my story
- MR BOBROFF: It's very interesting. But now why do you think he sent you our ledger?
- MS VAN DER MERWE: Perhaps he may think I may make inputs on it and say (interjection)...
- MR BOBROFF: Did he ask you anything about it?
- 10 MS VAN DER MERWE: Nothing. Nothing.
- MR BOBROFF: Because it's quite strange he sends such a huge thing.
- MS VAN DER MERWE: *Ja*. *Ja*, no, if – you know what, my – it's a 16 meg.
- MR BOBROFF: *Ja*.
- MS VAN DER MERWE: It's my whole data for the month.
- MR BOBROFF: *Ja*.
- MS VAN DER MERWE: And I think he's just – I get the impression Mr B, he is very, very lonely.
- 20 MR BOBROFF: Well, he's an only child. His mother died of blood cancer (interjection)...
- MS VAN DER MERWE: *Ja*.
- MR BOBROFF: ...in Cape Town.
- MS VAN DER MERWE: *Ja*, and I get the impression he really wants to impress me so much. He will share anything with me.
- MR BOBROFF: That's (interjection)...
- MS VAN DER MERWE: That is the (interjection)...
- MR BOBROFF: That might be very helpful to us, *ja*.
- MS VAN DER MERWE: *Ja*, so I really don't want – because it's not
- 30 all about Bobroff. From time to time – you know it's fun he's also sending. So

it's not a friendship that I would like to take further. Don't understand me incorrectly, but you know, knowing that I am a spy within – you know (interjection)...

MR BOBROFF: Mmm hmm. No, you've been of great help to us.

MS VAN DER MERWE: I will give you the information that you need (interjection)...

MR BROOKS: You've been of great help to us.

MS VAN DER MERWE: You can ask me what you need and I can
10 in a subtle way (interjection)...

MR BOBROFF: Absolutely.

MS VAN DER MERWE: I don't want to hurt people. I will rather stop and walk away and change my cell phone number.

MR BOBROFF: Mmm. Mmm.

MS VAN DER MERWE: But I thought after we had the discussion I owe it to you because several times – you can ask Lizanne and PJ, where I told them you know what, if the communication lines to Mr Bobroff's office were open, I have so much to tell him.

MR BOBROFF: *Ja.*

20 MS VAN DER MERWE: And it's as if it's – sometimes we're a little bit afraid Mr B of (interjection)...

MR BOBROFF: *Ja, I understand.*

MS VAN DER MERWE: Because – no, not really. You don't know. You come and you open your heart and that, you tell whatever you know and you don't know whether you are going to walk out here and if you're going to be regarded as this special spy.

MR BOBROFF: Mmm.

MS VAN DER MERWE: And we need to lock everything away from you. I will give you my commitment and that is I will never, ever share any
30 information from this office with him.

- MR BOBROFF: Mmm.
- MS VAN DER MERWE: I'm not the one who told Beamish about the lie detector tests.
- MR BOBROFF: I believe you.
- MS VAN DER MERWE: I will make jokes about it, *ja*, and – *ja*, so that is what – you know trying to (interjection)...
- MR BOBROFF: Your polygraph was totally satisfactory.
- MS VAN DER MERWE: *Ja*.
- MR BOBROFF: Okay. They said to me totally satisfactory.
- 10 They had no – not even the slightest suspicion that you were the leak. They told me that.
- MS VAN DER MERWE: He told me that he could see that truth is a very important virtue.
- MR BOBROFF: *Ja*, exactly. Exactly.
- MS VAN DER MERWE: And it is so. So *ja*.
- MR BOBROFF: No, he had no concerns that you were the leak at all.
- MS VAN DER MERWE: Okay. No, I will print that for you Mr B.
- MR BOBROFF: *Ja*. You see, I'm just asking myself and it's
- 20 a rhetorical question, sending you the ledger he must have had some intention to use you (interjection)...
- MS VAN DER MERWE: I will ask him.
- MR BOBROFF: ...at some point.
- MS VAN DER MERWE: I will ask him tonight, okay, I have the ledger now, what must I do with it?
- MR BOBROFF: Now when did he send it to you?
- MS VAN DER MERWE: Last night.
- MR BOBROFF: Oh, so it's like recent?
- MS VAN DER MERWE: *Ja*.
- 30 MR BOBROFF: *Ja*, what must I do with it?

- MS VAN DER MERWE: *Ja. Ja*, I will ask him so what now?
- MR BOBROFF: Yes.
- MS VAN DER MERWE: And then I'll (interjection)...
- MR BOBROFF: Now when did he say that he's got this attorney with a team that are now visiting our Black clients?
- MS VAN DER MERWE: Yesterday.
- MR BOBROFF: By email or what? Obviously by email.
- MS VAN DER MERWE: This WhatsApp.
- MR BOBROFF: So what did he say specifically?
- 10 MS VAN DER MERWE: He has a team of (interjection)...
- MR D. BOBROFF: Forward it to me, that WhatsApp.
- MS VAN DER MERWE: Okay. He has a team and they're going to – *ja*, they're going to visit a client.
- MR BOBROFF: A client or clients?
- MS VAN DER MERWE: A client. They are consulting now with one of – with a client and they will report back to him soon. And then I will respond, okay, keep me up to date.
- MR BOBROFF: *Ja*, absolutely.
- MS VAN DER MERWE: And *ja*, but – *ja*, as I said, I got the
20 impression he is very lonely.
- MR BOBROFF: *Ja*.
- MS VAN DER MERWE: And he has nobody to speak to. It's his journalism and his (interjection)...
- MR BOBROFF: Does he write something else? I mean you don't see him write something else anyway?
- MR D. BOBROFF: He doesn't get any journalism.
- MR BOBROFF: He doesn't get any work to do.
- MS VAN DER MERWE: *Ja. Ja*.
- MR D. BOBROFF: No-one will employ him, the useless fat
30 sod.

- MS VAN DER MERWE: *Ja.* So I think because I responded to his WhatsApps and (interjection)...
- MR BOBROFF: *Ja. Ja. Ja.*
- MS VAN DER MERWE: Actually there is so much humour in life that I use in my house as well. The children knows. Sometimes it seems as if Cora is just (interjection)...
- MR BOBROFF: *Ja.*
- MS VAN DER MERWE: ...very *streng, emosieloo*s.
- MR BOBROFF: *Ja. Ja. Ja.*
- 10 MS VAN DER MERWE: But one of the biggest things that my kid could tell me two weeks ago when I said please go to daddy for the weekend, mommy needs some rest, he said no, I don't want to. I like it here.
- MR BOBROFF: Shame.
- MS VAN DER MERWE: So humour is (interjection)...
- MR BOBROFF: Sure.
- MS VAN DER MERWE: ...such a very important part of my life.
- MR BOBROFF: That's what keeps me sane.
- MS VAN DER MERWE: And that is funny pictures and that's why I also told you about this one with the sheep.
- 20 MR BOBROFF: *Ja. Ja. Ja.*
- MS VAN DER MERWE: Because I am also paranoid (interjection)...
- MR BOBROFF: *Ja. Ja. Ja.*
- MS VAN DER MERWE: ...look at my bank statements.
- MR BOBROFF: *Ja.*
- MS VAN DER MERWE: So I am prepared to put (interjection)...
- MR BOBROFF: The only person that would get your bank statements could only be Beamish. No-one else.
- MS VAN DER MERWE: But he will tell me. He would tell me.
- MR BOBROFF: No but you see you must remember he
- 30 may be playing you.

- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: He may be playing you.
- MS VAN DER MERWE: *Ja. Ja*, perhaps. See, ha, Cora. She's a single mother. Let's see if I can flirt with her a little bit and see what (interjection)...
- MR BOBROFF: No, apparently he is gay. I think he is gay.
- MS VAN DER MERWE: *Ja*, I think so, because he sent me correspondence between him and Gauntlet as well.
- MR BOBROFF: Oh, to what effect?
- 10 MS VAN DER MERWE: I cannot remember. It was (interjection)...
- MR BOBROFF: But you've got it?
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: You must send everything. Everything.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: Because I can then build up a picture of who we are dealing with you see.
- MS VAN DER MERWE: *Ja.* So I thought my, but is this guy gay or what?
- MR BOBROFF: No, I'm told he is gay.
- 20 MS VAN DER MERWE: *Ja. Ja.*
- MR BOBROFF: Gauntlet is gay.
- MS VAN DER MERWE: *Ja. Ja. Ja*, Gauntlet sent him something with regards to his last – with his last Moneyweb article and he forwarded it but I only remember things that makes (interjection)...
- MR BOBROFF: You mean Gauntlet sent him a comment (interjection)...
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: ...on his last article.
- MS VAN DER MERWE: By email and he made a screen shot and
- 30 he WhatsApped it back to me and he told me I am famous.

- MR BOBROFF: Yes. And I think he has a desperate need for recognition.
- MS VAN DER MERWE: *Ja*.
- MR BOBROFF: And all of this just like the last two months?
- MS VAN DER MERWE: *Ja. Ja*. When did that – when did we attend Court when I had that neck brace on?
- MR BOBROFF: Oh, for that urgent Application?
- MS VAN DER MERWE: *Ja*. It was since then, because – and then I nearly begged him please don't publish that article.
- 10 MR BOBROFF: Yes.
- MS VAN DER MERWE: I beg you please don't do it, and then he said it's in order. And then he also told me with that other article on Moneyweb where Senobo typed a letter on behalf of Pippa and it was sent, then Pippa phoned him on his cell phone and asked him please not to publish it.
- MR BOBROFF: He told you that?
- MS VAN DER MERWE: Beamish.
- MR BOBROFF: *Ja*, I'm saying he told you that?
- MS VAN DER MERWE: *Ja*, he told me that.
- 20 MR BOBROFF: By way of an email or WhatsApp?
- MS VAN DER MERWE: No he – I think it's by way of WhatsApp. Emails, we don't correspond by email.
- MR BOBROFF: So that was actually – what it was (interjection)...
- MS VAN DER MERWE: And then he said he spoke to Ryk. Ryk said okay, we're not going to publish it. We are all human beings. If a client – if somebody comes to you and says please don't publish it, they are not bullies.
- MR BOBROFF: *Ja*. And in fact there was nothing wrong
- 30 with that letter. It was simply (interjection)...

- MS VAN DER MERWE: And then he said, and the next day or two Mr B contacted them and say – or contacted Ryk and say you're not giving us the right of a reply.
- MR BOBROFF: Mmm hmm.
- MS VAN DER MERWE: And then they published it.
- MR BOBROFF: Yes.
- MS VAN DER MERWE: So (interjection)...
- MR BOBROFF: Well, as I said to you earlier, Pippa doesn't take – she won't take responsibility.
- 10 MS VAN DER MERWE: *Ja*.
- MR BOBROFF: She's very happy to get huge commission on her fees (interjection)...
- MR D. BOBROFF: Until (inaudible).
- MR BOBROFF: *Ja*, huge commission on her fees, but when it comes to standing up and justifying what she did, she is too cowardly to do so. I mean she did nothing wrong in (inaudible). She got brilliant results.
- MS VAN DER MERWE: Mmm.
- MR BOBROFF: And her mandate is the – it's Law Society compliant. It's the same everybody uses. Why not say hey, I did nothing
- 20 wrong, I'm proud of what I did, I got a great result.
- MS VAN DER MERWE: Mmm.
- MR BOBROFF: And it's basically cowardice and – no, an inability or a reluctance to take responsibility. So I must be the one that is always attacked. It's not fair.
- MS VAN DER MERWE: *Ja*.
- MR BOBROFF: We did nothing wrong and what I gave to Senobo to type was defending Pippa.
- MS VAN DER MERWE: *Ja*.
- MR BOBROFF: It was defending her.
- 30 MS VAN DER MERWE: I think if I think now back Mr B, that day at

Court then a day or two thereafter he sent that article and in that time you sent me that email stating that it must not happen again.

MR BOBROFF: Yes.

MS VAN DER MERWE: So when I sent him the email, please don't, communicate with Mr Bobroff, he sent me a WhatsApp and I actually (interjection)...

MR BOBROFF: Sorry, who mustn't communicate with me?

MS VAN DER MERWE: Beamish must communicate with you with regards to that specific article for the urgent Application.

10 MR BOBROFF: Oh, yes. Yes.

MS VAN DER MERWE: So then I received a WhatsApp and I thought oh, what is this now, and I really thought – you know I'm also paranoid Mr B – who will this now be. You know is it somebody who is trying to see if they can affect me negatively and then a picture came through of him on his motorbike and a picture of his house, and okay, now I know what I'm dealing with. And then when I asked him to please keep the matter in abeyance, please don't publish it now, I also mentioned to him that it was not a good Application and you're not very happy with me at this stage, because we have ill advised him and that is how it all happened and I think he thought
20 okay, Cora was now in a negative position. You know, her boss is mad of her and perhaps I can see if I can recruit her for my own purposes.

MR BOBROFF: *Ja. Ja. Ja.*

MS VAN DER MERWE: So that's how it all started. Sometimes, some days, no communication. Most of the time after supper there will come an email or two stating look at your mails. I've sent you mails.

MR BOBROFF: You'll get an email or a WhatsApp?

MS VAN DER MERWE: A WhatsApp, *ja*.

MR BOBROFF: To say look at your mail?

MS VAN DER MERWE: *Ja*, look at your mails.

30 MR BOBROFF: So he emails you as well as WhatsApping

you ?

MS VAN DER MERWE: *Ja. Ja.*

MR BOBROFF: To your gmail?

MS VAN DER MERWE: Yes, I gmail but I don't do it from my phone because it's too expensive receiving all the data.

MR BOBROFF: Yes, Yes. The data, *ja*.

MS VAN DER MERWE: *Ja*. So I'm receiving it then on my laptop.

Then I put my WiFi on. I was so cross (interjection)...

10 MR BOBROFF: Now this huge thing, was that on your laptop?

MS VAN DER MERWE: *Ja*.

MR BOBROFF: Okay, *ja*, because I mean it will swamp your phone.

MS VAN DER MERWE: *Ja. Ja.*

MR BOBROFF: He obviously intends you to use the ledger for some purpose. I don't think he would have just sent it to you.

MS VAN DER MERWE: *Ja*.

MR BOBROFF: Because it's a huge thing to send.

20 MS VAN DER MERWE: I will ask him tonight, okay, because I was very tired last night and I didn't have time to wait and when I saw it's downloading, downloading, downloading, I thought oh my gosh, here is all my data going (interjection)...

MR BOBROFF: *Ja*.

MS VAN DER MERWE: So I will send him a mail, you've used up all my data now.

MR BOBROFF: When did he tell you that he has got lists of all our Discovery clients?

30 MS VAN DER MERWE: I've sent him at one stage a WhatsApp. I've just completed Fourie and it's looking good, Johan Fourie, and it was strange, because Fourie is one of the matters that Norman Berger requested the files

- MR BOBROFF: Mmm.
- MS VAN DER MERWE: And he came back and I see – *ja*, I see it's on my list, on my Discovery list.
- MR BOBROFF: So who had just completed Fourie?
- MS VAN DER MERWE: No, I. I sent him a (interjection)...
- MR BOBROFF: No, no, you sent him a mail to say?
- MS VAN DER MERWE: No, not an email, a WhatsApp.
- MR BOBROFF: To say you've just completed Fourie (interjection)...
- 10 MS VAN DER MERWE: Tired. I'm so tired I've just completed Fourie and it's looking good.
- MR BOBROFF: And he replies?
- MS VAN DER MERWE: And he replies, *ja*, I've looked on the list. Fourie is on my list, on my Discovery list, so it seems as if they have a list of all (interjection)...
- MR BOBROFF: Well Van Wyk had our list
- MS VAN DER MERWE: *Ja*.
- MR BOBROFF: Because what happened, after the attack on us we went through every single file, whatever we've got, to try and identify
20 which of our clients were Discovery members so we could tell them what Discovery was up to and get them in and ask them were you ever told about this condition, that condition, this exception, this exclusion and Van Wyk was the one that did it.
- MS VAN DER MERWE: I don't know how he gets it right Mr B, with a case number. Only a case number he can find a person.
- MR BOBROFF: Well with a case – when you say a case number, of a file?
- MS VAN DER MERWE: A case number of a Court file.
- MR BOBROFF: A Court? Well, if you've got the case
30 number you go and ask them for the file if you've got a (interjection)...

- MS VAN DER MERWE: No, but at least you need an ID. Nowhere in the Particulars of Claim there's an ID or anything.
- MR BOBROFF: *Ja*, but if you've got the case number on their system at Court they must have the file.
- MS VAN DER MERWE: *Ja*.
- MR BOBROFF: I suppose.
- MS VAN DER MERWE: But how do you get the telephone number and the – you know, the personal particulars?
- MR BOBROFF: Oh, from the file? Oh.
- 10 MS VAN DER MERWE: And he told me he has a very broad network. Only with a case number.
- MR BOBROFF: And of course he is such a liar because we're – at one point I emailed him to say that it's a lie by Discovery that they have never sued a client.
- MS VAN DER MERWE: *Ja*.
- MR BOBROFF: He replied back, *ja*, no he understands that they have sued Bellon but Katz won't give him the case number and the Pleadings, which is obviously a lie. Would I give him the Pleadings?
- MS VAN DER MERWE: Mmm.
- 20 MR BOBROFF: So what I am going to do in the next few days, I'm going to say, by the way here's the Pleadings. Here is the case number and here are the Pleadings.
- MS VAN DER MERWE: *Ja*.
- MR BOBROFF: And will you now report that Discovery in fact sue members in full, without any apportionment, blah, blah, blah
- MS VAN DER MERWE: *Ja*.
- MR BOBROFF: Because that's going to – oh no, well I actually said it to the editor, saying you now, this is what they are up to.
- MS VAN DER MERWE: *Ja*.
- 30 MR BOBROFF: It's just a pity I didn't get him on our side.

We tried. I mean we took him for lunch and that because I mean the real enemy here, the real evil is Discovery. I mean he should realise that they are (interjection)...

MS VAN DER MERWE: He told me via WhatsApp that Katz would never have gone to this extent if it was not for one thing, and that was at the first disciplinary hearing when you said you want Mr Graham to come and to explain to the Council about the Medical Aid rules and he said that is where Katz lost it all. That's where he lost his marbles and then he said no, we're going for this guy now.

10 MR BOBROFF: I'm trying to understand that. Look, Mr Graham couldn't say because he is brain damaged.

MS VAN DER MERWE: *Ja*, and he said that is why Mr Katz said well – I call him Puss in Boots (interjection)...

MR BOBROFF: *Ja*.

MS VAN DER MERWE: And Katz even in German is cat

MR BOBROFF: Absolutely, *ja*.

MS VAN DER MERWE: *Ja*, and so *ja*.

MR BOBROFF: Because look, I hadn't even said anything but Helens may have said – one of the things – he wants Ms Graham to go
20 and give evidence (interjection)...

MS VAN DER MERWE: *Ja*.

MR BOBROFF: ...as to – I can't remember if he said it (interjection)...

MS VAN DER MERWE: *Ja*, that is (interjection)...

MR BOBROFF: I can't remember what he said.

MS VAN DER MERWE: And I said (interjection)...

MR BOBROFF: Why would Katz have a problem with that? Because (interjection)...

MS VAN DER MERWE: Because it's a brain damaged guy.

30 MR BOBROFF: No, but the – well, he can't give evidence,

but the wife can.

MS VAN DER MERWE: *Ja.*

MR BOBROFF: The wife was the bookkeeper
(interjection)...

MS VAN DER MERWE: But I understood he said that you
requested the brain damaged person (interjection)...

MR BROOKS: No, he's (interjection)...

MS VAN DER MERWE: ...and well, perhaps it is all based on a
misunderstanding

10 MR BOBROFF: It never got to that. It actually never got to
that.

MS VAN DER MERWE: *Ja.*

MR BOBROFF: Because they kept frustrating the hearing.
They kept on getting postponements. They applied the day before

MS VAN DER MERWE: *Ja.*

MR BOBROFF: It were supposed to come up 28 November
2012. Two days before Van Niekerk engineers a postponement. He said he's
in Atlanta, yet the hearing was arranged with him in September that year

MS VAN DER MERWE: *Ja.*

20 MR BOBROFF: Then we arranged another hearing in June
2013. The very night before, they engineer a postponement.

MS VAN DER MERWE: *Ja.*

MR BOBROFF: Because we, my team, said they want Ms
Graham to say, what is your complaint?

MS VAN DER MERWE: *Ja.*

MR BOBROFF: What is your real complaint?

MS VAN DER MERWE: *Ja.*

MR BOBROFF: I don't think – the rules would not be – I
mean – I mean we know they wouldn't know about Discovery's rules because

30 Discovery never gives it to anybody.

MS VAN DER MERWE: No of course.

MR BOBROFF: So that's quite strange. No look, Katz – Katz – Katz gets a huge portion of his income, we are told, from what he brings in.

MS VAN DER MERWE: *Ja.*

MR BOBROFF: His department deals exclusively with recovering Motor Accident Fund costs.

MR D. BOBROFF: He's too stupid to (interjection)...

MR BOBROFF: And also where pharmacists and members
10 or doctors have been screwing Discovery to the extent that he gets money back from them. He apparently gets a percentage.

MS VAN DER MERWE: *Ja.*

MR BOBROFF: Now when I reported to the Law Society Council the end of January 2012 as to what had come to light with regard to Bellon, etcetera, and other clients of ours from which it was clear Discovery had never complied with the Act and their members didn't know about these terms and conditions, the Law Society sent an advisory to all its members.

MS VAN DER MERWE: *Ja.*

MR BOBROFF: Katz then wrote to the Law Society. We
20 never mentioned Discovery.

MS VAN DER MERWE: *Ja. Ja.*

MR BOBROFF: The advisory, the (inaudible) simply referred to medical aids. Katz then wrote to Discovery. He wrote to Discovery alone – no other medical aid – wrote to the Law Society threatening they are going to sue, this and that, and the Law Society has got to retract it, blah-di-blah and they basically told him to go to hell.

MS VAN DER MERWE: *Ja.*

MR BOBROFF: In April that same year they sent out another advisory, this time chapter and verse that all attorneys must ensure
30 when advising clients with regard to requests made by medical aids for

reimbursement that the medical aid should comply with the following provisions of the Act

MS VAN DER MERWE: *Ja.*

MR BOBROFF: And I gave the Law Society those provisions. Then Katz wrote another letter, even angrier, to say since the first one went out their recovery of Road Accident generated costs had dropped to 25% of what it was before and we know it was R100 million before.

MS VAN DER MERWE: Mmm.

MR BOBROFF: That's a lot of money (interjection)...

10 MS VAN DER MERWE: *Ja.*

MR BOBROFF: For Discovery and for Katz to collect a percentage of it.

MS VAN DER MERWE: *Ja.*

MR BOBROFF: So that's the real reason

MS VAN DER MERWE: *Ja.*

MR BOBROFF: That's the real reason. I affected his pocket and he realised when we wrote that innocuous letter – innocuous means harmless letter – in November 2010 when they were harassing us with regard to Bellon and some other big matters, where we wrote to them, to their
20 attorneys. We simply said look, you are making these demands, requests, etcetera. On what basis does Discovery allege they are entitled to do so?

MS VAN DER MERWE: *Ja.*

MR BOBROFF: I thought I would get a reply in a day or two to say well here's the contract. When you join Discovery you sign a contract, and there, condition 4 says that's the terms of cover that if you're injured in a road accident you've got to do a, b, c, d, e, f and g.

MS VAN DER MERWE: *Ja.*

MR BOBROFF: And if that was going to be the case, we would then say to our clients you're bound.

30 MS VAN DER MERWE: *Ja*

- MR BOBROFF: Yes, okay, they must contribute – they must agree to a deduction pro rata for the cost that you’ve incurred and if the fee was 25% why should you be (inaudible) 25% must come off what you are reimbursing them, but other than that you are bound to the contract.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: I didn’t for a moment dream that a public company was such a crook.
- MS VAN DER MERWE: *Ja.*
- 10 MR BOBROFF: They had fraudulently not disclosed, and not just temporarily, but ever since it started (interjection)...
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: ...those are the terms and conditions because they don’t want their members to know. Because imagine if you’re going to join a medical aid and the broker says to you now listen Cora, you must be aware the only medical care that you and your family are entitled to as of right unconditionally is if you are sick.
- MS VAN DER MERWE: Mmm.
- MR BOBROFF: But if you need medical care arising out of – and the rule says “the act of another” (interjection)...
- 20 MS VAN DER MERWE: *Ja.*
- MR BOBROFF: ...for example a road accident (interjection)...
- MS VAN DER MERWE: Slip and fall.
- MR BOBROFF: Anything like that. Uh uh, we don’t have to pay. You’ve got a claim at your own risk and cost and you’ve got to pay us back every cent. I’d say *Jesus* but you know I don’t want to get involved in claiming and I’ve got to get lawyers. It’s cost.
- MS VAN DER MERWE: *Ja.*
- 30 MR BOBROFF: What if I lose? Let’s assume you’re an intelligent person who knows that you know what happens if you lose a case.

What if I lose? Who is going to pay the costs awarded against me?

MS VAN DER MERWE: Mmm.

MR BOBROFF: Then you'd say to the broker, well what about another medical aid.

MS VAN DER MERWE: *Ja.*

MR BOBROFF: Surely.

MS VAN DER MERWE: *Ja, but – ja, but (interjection)...*

MR BOBROFF: So that's why the brokers don't disclose. When I wrote a letter to their principal officer, Starke, and the MD Bloomberg
10 (interjection)...

MS VAN DER MERWE: *Ja.*

MR BOBROFF: ...in July 2011 asking on behalf of specific clients specific questions, are your brokers informed of the exclusions and conditions applicable to injuries to medical care required other than from illness (interjection)...

MS VAN DER MERWE: *Ja.*

MR BOBROFF: ...and the response was we don't give our brokers a script.

MS VAN DER MERWE: *Ja.*

20 MR BOBROFF: Which was an evasive answer.

MS VAN DER MERWE: *Ja.*

MR BOBROFF: Because your brokers must be told what they are selling.

MS VAN DER MERWE: *Ja.*

MR BOBROFF: Because the Act, Regulation 28(1) says a broker acting on behalf, selling a product, selling a medical aid product owes the prospective member a duty of good faith.

MS VAN DER MERWE: *Ja.*

MR BOBROFF: *Bene fidae*, utmost good faith.

30 MS VAN DER MERWE: *Ja.*

- MR BOBROFF: Which means full disclosure.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: So obviously they don't want their brokers to disclose. Secondly. So the first reason why Katz has attacked us with such vigour, he realised that literally to coin a pun, the cat was out the bag, because he realised that the genie was out the bottle. The truth was now out.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: And that he must be terrified that – and I should have done it but I am going to do it – the directors, the principal officer
10 and everyone who ever sat as a trustee for Discovery Medical Scheme are liable to prosecution in terms of Section 66(1) of the Medical Schemes Act. Five years imprisonment or a fine or both.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: And it's a cast iron case.
- MS VAN DER MERWE: You see, they are too strong, financially too strong Mr B.
- MR BOBROFF: Well (interjection)...
- MS VAN DER MERWE: They wipe it off the table and they say okay, now I go behind you. I will chase you and I will hunt you down.
- 20 MR BOBROFF: Well, the thing is this. If we can persuade the State to prosecute it's an open and shut case.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: Because they can't – the trustees can't say well we didn't know that the company wasn't complying with the Act.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: Because since this has emerged, 2011, they know.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: So it's therefore fraudulent non-disclosure
- 30 MS VAN DER MERWE: *Ja*

- MR BOBROFF: Deliberate fraudulent non-disclosure and deliberate non-compliance with the Act.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: And compliance with the Act is so simple. It's a click of a button.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: Welcome Cora to Discovery Medical Aid. Here is your detailed summary of the rules.
- MS VAN DER MERWE: *Ja.*
- 10 MR BOBROFF: Please have regard to Rule 15.6.1 and Annexure C.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: But they don't want to do it. And not only don't they want to do it with new members, they don't want current members to find out.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: Because they might say well hang on, we didn't know about this. Life is dangerous in South Africa. There's hijacking, there's police assaults, there's open manhole covers, there's vicious dogs,
20 there's road accidents, and if I'm not going to get medical cover, unless I have to claim, I'd rather go to another medical aid. So there's a risk they might lose hundreds and thousands of members.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: So they see me as a major threat.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: And that's the reason for the attack.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: Now the question is how much more harm
30 are going only to Black clients.

- MS VAN DER MERWE: Well, that is the impression that I got. I will go back onto my WhatsApps and just go back, but *ja*.
- MR BOBROFF: Because that could be because White clients would understand what they're up to.
- MS VAN DER MERWE: *Ja. Ja.* Then he also said that Katz – when is Darren's hearing, Monday or Tuesday?
- MR BOBROFF: Monday, *ja*.
- MS VAN DER MERWE: *Ja*, Katz will also be here.
- MR BOBROFF: Yes.
- 10 MS VAN DER MERWE: He has – they sent him a letter to say that it's important for him to be here.
- MR D. BOBROFF: That's great. Well cross-examine Discovery (interjection)...
- MR BOBROFF: No, no.
- MR D. BOBROFF: ...bribery tactics and corruption (interjection)...
- MR BOBROFF: He'll be torn to pieces.
- MS VAN DER MERWE: *Ja*.
- MR BOBROFF: Torn to pieces.
- 20 MS VAN DER MERWE: *Ja*. So he is definitely going to be there. So *ja*, I'm glad I had this discussion with you Mr B (interjection)...
- MR BOBROFF: No, I'm glad too, because I've always trusted you and you've always been very helpful. I mean with Joubert, etcetera.
- MS VAN DER MERWE: *Ja. Ja.*
- MR BOBROFF: And you know the evil nature of the enemy. I mean they are evil people.
- MS VAN DER MERWE: *Ja*.
- MR BOBROFF: Pure evil.
- 30 MS VAN DER MERWE: But Mr B they say the best way to beat

- your enemy is to join them.
- MR BOBROFF: *Ja*, keep your enemy close.
- MS VAN DER MERWE: *Ja*. Your friends close, your enemy closer.
- MR BOBROFF: Mmm.
- MS VAN DER MERWE: So (interjection)...
- MR BOBROFF: But please urgently you must send us everything you've got.
- MS VAN DER MERWE: Okay.
- MR BOBROFF: Because now that I know, I know how to
- 10 (interjection)...
- MS VAN DER MERWE: *Ja*, you know what you're dealing with.
- MR BOBROFF: I know what I (interjection)...
- MS VAN DER MERWE: It's not something in the dark and you're punching and fighting and you don't know what are you fighting against.
- MR BOBROFF: *Ja. Ja.*
- MS VAN DER MERWE: I will ask him tonight what must I do with the ledgers.
- MR BOBROFF: *Ja*, what you do with the ledgers and (interjection)...
- 20 MS VAN DER MERWE: And so then I'll tell you. Ask him if he has more.
- MR BOBROFF: *Ja*. Just be careful not to make him suspicious you see.
- MS VAN DER MERWE: *Ja. Ja.*
- MR BOBROFF: Because if you start asking too many questions (interjection)...
- MS VAN DER MERWE: No, I will just ask him okay, I have it now, so what now.
- MR BOBROFF: *Ja*, what must you do with it.
- 30 MR D. BOBROFF: Ask him where it is from.

- MS VAN DER MERWE: Pardon?
- MR D. BOBROFF: Where did you get these from?
- MR BOBROFF: Ja. Say where is this from and what must I do with it?
- MS VAN DER MERWE: Ja.
- MR BOBROFF: Like act up. Where is this from? What must I do with it?
- MS VAN DER MERWE: Ja.
- MR BOBROFF: And gee, you took all my data, you know.
- 10 MS VAN DER MERWE: Ja. Ja.
- MR BOBROFF: And see what his reply is there.
- MS VAN DER MERWE: Ja.
- MR BOBROFF: And for example you could – you could – we don't want him to become suspicious.
- MS VAN DER MERWE: Ja.
- MR BOBROFF: But bearing in mind this thing is on Monday, I urgently need everything that relates to Monday.
- MS VAN DER MERWE: Okay.
- MR BOBROFF: So was there anything else that you can
- 20 remember, besides the fact that Katz has been asked to be there?
- MS VAN DER MERWE: Ja.
- MR BOBROFF: No, I say is there anything else that you can remember?
- MS VAN DER MERWE: No, no, no, no. I was just thinking how can I get the information from him. Perhaps I must tell him that there is an Application prepared to interdict the proceedings and see what is his reaction, or something like that.
- MR BOBROFF: Wait until tomorrow.
- MS VAN DER MERWE: Okay.
- 30 MR BOBROFF: I'll tell you tomorrow

- MS VAN DER MERWE: And then just see what is his reaction. Normally when I say something he will react and give me more information that I need.
- MR BOBROFF: *Ja. Ja. Ja. Ja.*
- MS VAN DER MERWE: And...
- MR BOBROFF: At the time that Lisa got this phone call which we found out was from Millar, to say that I was leaving for – packing for Perth (interjection)...
- MS VAN DER MERWE: *Ja?*
- 10 MR BOBROFF: Did you have anything from Beamish about that?
- MS VAN DER MERWE: No. No. No. He just told me at one stage he tried to contact immigration to see what movements were there on Darren, Lisa's, yours and your wife's passports, but immigration didn't want to give him the info. Then I said well, let me send you a proper PIA form so that you can do it with a proper PIA form.
- MR BOBROFF: They wouldn't give him anyhow.
- MS VAN DER MERWE: No, they will not give it to him.
- MR BOBROFF: He wouldn't find much because I haven't –
- 20 I never travel.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: I haven't been overseas. I just went to – when did I go? I went last year for a few days and then years before.
- MS VAN DER MERWE: *Ja.*
- MR D. BOBROFF: We won't be going anywhere until Millar and (interjection)...
- MR BOBROFF: Oh no, no, sure, but we're going to fix Millar
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: If it's the last thing I do.
- 30 MS VAN DER MERWE: So *ja*, no none of that came out. It was just

gossiping in the office when everybody disappeared, or not really disappeared but – so what are we going to do now? Because we were so stressed with all the (interjection)...

MR BOBROFF: *Ja*, but now who disappeared?

MS VAN DER MERWE: Not really disappeared Mr B. It's just a way of speaking, but you went away to Cape Town I think for a while and Darren went away and Lisa came and she said, Darren is in Mauritius. Darren is in Mauritius. And I said oh my goodness (interjection)...

MR BOBROFF: Nice. Mauritius is a nice place.

10 MS VAN DER MERWE: *Ja*, and when he came back I told Lizanne, gee, I wonder what did he do in Mauritius because he didn't even have a tan. Okay so (interjection)...

MR BOBROFF: He was in Mauritius. He'll show you his pictures.

MS VAN DER MERWE: *Ja*.

MR BOBROFF: And I was in Cape Town.

MS VAN DER MERWE: *Ja*.

MR BOBROFF: I'll show you my pictures too. But we're not going anywhere. Why should we?

20 MS VAN DER MERWE: *Ja*. No, it's like running away

MR BOBROFF: But we've done nothing. What have we done?

MS VAN DER MERWE: *Ja*.

MR BOBROFF: What have we done?

MS VAN DER MERWE: *Ja*.

MR BOBROFF: You've been in this office for two years now. What have we done?

MR D. BOBROFF: Charged common law fee agreements, like everyone else.

30 MS VAN DER MERWE: *Ja*, charged common law (interjection)...

- MR BOBROFF: Fight cases tooth and nail, do the best for our clients and charge common law fee agreements like everybody else.
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: What have we done?
- MR D. BOBROFF: Which Berger and Millar still do today.
- MS VAN DER MERWE: *Ja.*
- MR D. BOBROFF: We stopped I think like four years ago and they are still doing it.
- MR BOBROFF: *Ja.*
- 10 MS VAN DER MERWE: Okay sir.
- MR BOBROFF: No, this is all very helpful. Thank you very much.
- MS VAN DER MERWE: Okay. Thank you Mr B.
- MR BOBROFF: Try and get the stuff to us so (interjection)...
- MS VAN DER MERWE: I'll print it out and put it in a folder.
- MR BOBROFF: Wait. *Wag 'n bietjie.* It's on your laptop?
- MS VAN DER MERWE: *Ja.*
- MR BOBROFF: Okay. Couldn't you print it out here?
- MS VAN DER MERWE: I'll bring my laptop tomorrow
- 20 MR BOBROFF: Oh, you don't have it here now?
- MS VAN DER MERWE: No.
- MR BOBROFF: Oh, so where did you send this to us from?
- MS VAN DER MERWE: Directly from gmail, but I'll print it out.
- MR BOBROFF: Oh, hang on. Is everything on gmail that's on your laptop?
- MS VAN DER MERWE: Not everything.
- MR BOBROFF: What else is there on gmail that you can print out?
- MS VAN DER MERWE: Well, most of the letters. Even the letters
- 30 that Katz will be there on Monday (interjection)...

MR D. BOBROFF: You can just print it there.

MR BOBROFF: Just print it now. Just print it now and as soon as you print, go to the printer (interjection)...

MS VAN DER MERWE: Okay.

MR BOBROFF: Just put it in a nice file. Thank you. I really appreciate it. I won't forget this. Thank you.

END OF DISCUSSION WITH MS C. VAN DER MERWE