
AFFIDAVIT

I the undersigned

MARK HEYWOOD

hereby affirm and say :

- 1 I am a member of the National Executive of the Treatment Action Campaign (“the TAC”). I am also the head of the AIDS Law Project (“the ALP”), a project of the Centre for Applied Legal Studies in the Faculty of Law at the University of the Witwatersrand.
- 2 The contents of this affidavit are true and correct.
- 3 I have been made aware of the allegations as to sources of funding made against the Treatment Action Campaign (“TAC”) by the Rath Foundation

("Rath"). I am aware of the claims made by Anthony Brink in his affidavit on behalf of the respondent. I am also aware of the allegation in paragraph [49] of Brink's affidavit that I have relied on pharmaceutical company moneys for work travel and accommodation expenses.

- 4 The purpose of this affidavit is to set out the relevant facts. The Rath and Brink claims referred to above are to my knowledge false and untrue.

AIDS Law Project

- 5 ALP was formed in 1993 as part of the Centre for Applied Legal Studies at Wits University. It employs attorneys and researchers, and engages in litigation to redress discrimination against people with HIV, legal advice to people living with and affected by HIV/AIDS, legal advice and litigation services for key HIV/AIDS organisations working to advance the rights of people living with HIV/AIDS, research, lobbying and advocacy to develop an appropriate legal and policy framework; and development of resource

materials on HIV/AIDS and human rights that promote legal literacy and an awareness of human rights.

6 Apart from my position on the TAC executive, TAC and ALP are entirely distinct organisations. ALP has advised and acted for TAC as its attorneys on a number of occasions in the past, including in some of the actions against pharmaceutical companies described in the founding affidavit, which I have read.

7 I refer to the allegation in para [49] of Brink's affidavit. I notice that no evidence is offered in support of this claim, which in any event is not made against TAC. I deny the allegation. It is simply not true that I or other staff of the ALP have our travel or accommodation expenses paid by Glaxo Smith Kline.

8 Except for the incident described below, I deny that I, or other staff members of ALP, have ever on behalf of the ALP (or TAC, for that matter)

travelled to conferences and events or been accommodated at the expense of pharmaceutical corporations or their agents.

- 9 The ALP and its staff have not and do not accept money or other support from pharmaceutical corporations. This would be contrary to our aims and objectives and would compromise our work.

- 10 ALP's operations (including any staff travel and expenses) are not and have not been paid for by pharmaceutical companies.

- 11 For the sake of completeness, I do recall that in 1998, before TAC was in existence, Fatima Hassan, a staff member of ALP received an amount of R5 000 from Glaxo Wellcome to cover the cost of her registration at the International AIDS Conference in Geneva, Switzerland. The money had no conditions attached to it and Fatima Hassan has since then been the ALP's attorney of record in legal action against the same company.

The TAG / SADF funding claim

12 I am aware of the claims made by Anthony Brink at paras [33] to [39] of his affidavit concerning the source of funds for TAC from the TAG.

13 I have read the affidavits of Judie Blair of the South Africa Development Fund and Laura Morrison of the Treatment Action Group. I confirm that at time of the events described by Judie Blair in relation to attempted funding of TAC in 2001, she informed me of what had happened and what action she had taken, as is set out in her affidavit. I confirm the correctness of her account in relation to the instructions which I gave her on behalf of TAC.

14 In the instance related to Boehringer Ingelheim, once I became aware that the source of the funds was a German pharmaceutical company, I instructed Ms. Blair that we (TAC) would not accept the funds. This was in keeping with our policy in this regard. The matter was resolved as she describes. TAC did not accept this offer of money.

15 I confirm that the funds TAC received from TAG in 2001 and 2002 were accepted because we were aware of the precise source of these funds. To the best of my knowledge and belief the sources were those described by Laura Morrison. None of these sources of funds, which include the US federal government and the United Nations, were from pharmaceutical companies.

The European Coalition for Positive People (“ECPP”) claim

16 I am aware of the claim made by Anthony Brink at para [40] of his affidavit.

17 I have read the affidavit of Nathan Geffen (paras [22] to [27]). I was involved in the decision not to accept ECPP funds. I confirm the correctness of Nathan Geffen’s description of the attempted funding of TAC by ECPP, and TAC’s refusal of further ECPP funds.

MARK JAMES HEYWOOD

1. SIGNED AND AFFIRMED BEFORE ME IN THE
PRESCRIBED MANNER AT JOHANNESBURG ON THIS
DAY OF APRIL 2005, THE DEPONENT HAVING STATED
THAT HE HAS CONSCIENTIOUS OBJECTIONS TO TAKING
THE OATH AND THAT HE REGARDS THE AFFIRMATION
AS BINDING ON HIS CONSCIENCE.

COMMISSIONER OF OATHS