AFFIDAVIT

I, the undersigned

NATHAN GEFFEN

hereby make affirm and state as follows:

- I am a member of the secretariat and management team of the Applicant.
- 2. The facts contained herein are true and correct, are within my personal knowledge, and are based on my personal experience.
- I first joined the TAC as a volunteer in February 2000. I was soon after appointed as the TAC treasurer and thus a member of the TAC secretariat.
- 4. I was the TAC treasurer for 2000 and 2001. This was a voluntary position and I received no remuneration from TAC during this period. I lectured full-time in computer science at the University of Cape Town.

- As treasurer, I signed the TAC's first audit for the period ending 28
 February 2000 and the TAC's second audit for the period ending
 28 February 2001.
- 6. In January 2002 I became the TAC's national manager, a full-time salaried position. I held this position until the beginning of 2005. In January 2005 I became director of the TAC's newly established policy, research and communications desk. I remain on the TAC secretariat in an *ex-officio* position.
- 7. Either as treasurer or national manager, I have been involved in the administration, decision-making processes and oversight of every significant funding transaction that the TAC has conducted from 2000 up until the end of 2004. I have also been party to the refinement of the TAC's principles of financial management. These principles include the identification of the sources (individuals and organisations) from which the TAC will not accept funding.
- 8. As a result of my work within the TAC, I am in a position to know whether or not the statements and claims made by the First Respondent regarding the sources of the TAC's funding are true.
- 9. Those statements and claims are false.

A MEETING ATTENDED BY ME IN 2004

- 10. In November 2004 I attended a public meeting of the First
 Respondent in Athlone, Cape Town. At this meeting a male
 person who identified himself as Matthias Rath ('Rath') alleged that
 the TAC is a front for the pharmaceutical industry. He put up a
 slide display with a diagram purporting to show how this worked.
 The display alleged the TAC received money from what he called a
 "pharmaceutical front", the Rockefeller Foundation. He also
 claimed that other funders of TAC were also fronts for the
 pharmaceutical industry.
- 11. No evidence was offered by Rath at this public meeting to support his claim that the Rockefeller Foundation or any of the TAC's other funders are pharmaceutical fronts.
- 12. The claims about the TAC made at Athlone and described above are to my knowledge and belief false.

ROCKEFELLER FOUNDATION

13. I now deal with the First Respondent's claims that the TAC received "millions of rands" in funding from the Rockefeller Foundation, and that this foundation is a "front" for the pharmaceutical industry.

- 14. It is not true that the TAC has received "millions" from the Rockefeller Foundation. As our publicly accessible audited financial records reveal, the Rockefeller Foundation has donated a total of R482 683.50 to the TAC. This money was received on 26 August 2002.
- 15. I do not believe the Rockefeller Foundation to be a "front organisation" for the pharmaceutical industry. If it were, the TAC would refuse to accept any of its funding offers.
- 16. It is not for the TAC or me to defend the reputation of the Rockefeller Foundation. However, the Rockefeller Foundation is, to my knowledge, a well-respected philanthropic organisation without any attachment to the drug industry of the sort claimed by the First Respondent.
- 17. I can not make any comment concerning the Rockefeller financial group, which is distinct from the Foundation. We have received no funding from the financial group.
- 18. The last occasion on which I accessed the official Rockefeller Foundation website was on 22 March 2005. The website may be found at: http://www.rockfound.org. This displays the following:

18.1. A mission statement stating that "The Rockefeller Foundation is a knowledge-based global foundation with a commitment to enrich and sustain the lives and livelihoods of poor and excluded people throughout the world."

18.2. Statements that the Rockefeller Foundation funds public health, food security and cultural initiatives around the world aimed at improving the lives of poor people.

18.3. A statement that the source of the Rockefeller

Foundation's funds is "the original corpus, which was fully funded in 1929". It is apparent from the website that the Rockefeller Foundation's moneys available for grants are from proceeds of investment of this original amount.

18.4. The Rockefeller Foundation funds a number of initiatives in areas that are in my opinion usually ignored by the pharmaceutical industry because of the lack of perceived profits in these areas. These include assisting African farmers gain access to new technological initiatives, the Public Sector Intellectual Property Resource for Agriculture, the International

AIDS Vaccine Initiative, the International Partnership for Microbicides, and the Global Alliance for Tuberculosis Drug Development.

18.5.

I have looked at some of the grant recipients of the Rockefeller Foundation listed on the website. I can not claim to know who all the recipients are, but many of them are organisations within my general knowledge.

Many of the funded projects described there are small-scale scientific research projects in the developing world.

18.6.

In the course of my work and research for the TAC I have become familiar with the nature and role of the Food and Agricultural Organisation of the United Nations, Human Rights Watch, the University of Witwatersrand Centre for Health Policy and Health Systems Trust. These are listed as recipients of funding from the Rockefeller Foundation. It would be preposterous to claim that these organisations are party to some conspiracy of pharmaceutical fronts.

18.7.

Most of the recipient organizations which I identified have nothing whatsoever to do with pharmaceuticals.

EUROPEAN COALITION OF POSITIVE PEOPLE

- 19. The First Respondent refers to the TAC having received support from the European Coalition of Positive People ("the ECPP").
- 20. It is correct that on 20 June 2000 the TAC signed a funding contract with the ECPP for R180 000. This was to fund a salary for our national co-ordinator.
- 21. The TAC ECPP contract is attached as annexure NG1. The contract states that a condition of the TAC entering the funding arrangement is that "No funding shall come from, directly or indirectly, from any pharmaceutical company." This clause reflects the TAC's desire and need to remain entirely independent of such organisations.
- The TAC only accepted R120 000 of the ECPP contract amount.

 This was because we, TAC, became dissatisfied, after the arrangement was entered into, with the public stance of the ECPP on access to affordable medicines. It became apparent that this position differed significantly from ours. We came to the view that the ECPP's position was too similar to that of the pharmaceutical industry, which we opposed, and was a policy position unlikely to lead to greater access to life-saving medicines.

- We therefore declined to accept the remainder of the grant from the ECCP, or to accept any further funds from them. When our national co-ordinator resigned, TAC secretariat member Mark Heywood informed the ECPP on behalf of the National Executive Committee that the TAC would not be accepting the remainder of the money.
- 24. Heywood conveyed to me at the time that the ECPP had at this point tried hard to convince him to accept the remainder of the funds, but that he had refused to do so out of concern for the potential conflict of interests.
- 25. The TAC went to reasonable lengths to ensure that money received from the ECPP was not sourced from drug companies.

 We have no evidence that the ECPP breached the terms of the funding contract with us on this matter. However, we perceived the ECPP acceptance of a position on access to medicine to be too similar to that of the pharmaceutical industry.
- 26. This decision to decline further funding, made even without evidence of any breach of the funding clause, reflects our consistent concern to maintain our independence from the pharmaceutical industry.

- 27. At the TAC we consider the fact and perception of this independence to be vital to our ability to operate effectively in terms of our constitutional objectives and institutional ideals.
- 28. It is a principle of the TAC not to take money from pharmaceutical companies.
- 29. In all my time with the TAC, we have consistently criticised the effect of the pharmaceutical industry's pricing and other policies and practices on the accessibility and affordability of HIV/AIDS treatment.
- 30. I have personally taken reasonable measures, investigations and enquiries to ensure that the TAC has never taken money from a drug company. I have always observed that my colleagues involved in raising money for the TAC also understand and apply this principle.
- 31. I am not aware of a single case where the TAC has received money from a pharmaceutical company or companies, either directly or indirectly.
- 32. It is hypothetically conceivable that a funding source of any organization might with hindsight be shown to have had links to a particular industry. However, in all its conduct towards funders and

potential funders, and in its standard form funding contracts, the TAC makes every reasonable effort to ensure this does not happen. To the best of my knowledge it has not happened.

- The TAC places a high value on both its independence from the pharmaceutical industry and on the quality and ethics of its financial records and management. We make our financial information publicly available by placing our audits and other financial information on our website, http://www.tac.org.za. Our audits are up-to-date and have no qualifications other than a standard one to which all organisations receiving donations are subject.
- 34. As the TAC secretariat member most closely acquainted with our financial records, I consider the respondent's claims and statements that the TAC is a "front" of or funded by drug companies (or their "fronts") are manifestly false.

TAC DEMONSTRATORS ARE NOT PAID

35. In my experience as treasurer and then national manager of the organisation I, together with the financial manager, had oversight of expenditure.

- 36. Never was an instruction given by me to pay people to demonstrate. There has never been a single incident of which I am aware that the TAC paid people to demonstrate. If such an incident had occurred, we would have taken disciplinary action against any staff members or volunteers involved in such an act.
- 37. People who participate in TAC-organised marches are sometimes provided with TAC T-shirts that clearly and publicly state "HIV Positive". This is part of our campaign visibility and awareness strategy, both at the time of marches and when the "HIV Positive" T-shirts are later worn generally.
- 38. It is correct that the TAC expends funds on various services in relation to demonstrations, to cover the costs of taxis, buses and refreshments. But under no circumstances are people paid for coming to a demonstration.
- 39. The claim that the TAC pays people to attend and participate in marches is in my experience and belief false.
- 40. My colleague Rukia Cornelius has deposed an affidavit confirming aspects of my affidavit to which she has personal knowledge. She has taken over from me as national manager of the TAC. Her affidavit describes her knowledge of TAC funding for 2005, the period in which she has been the TAC's national manager.

NO PERSONAL MOTIVE TO TAKE PHARMACEUTICAL COMPANY MONEY

- 41. I have a masters degree in Computer Science from the University of Cape Town. My earning potential in the private sector far exceeds what I earn from the TAC.
- 42. Like all other TAC secretariat members, I work long hours under stressful conditions. My February 2005 gross salary was approximately R13 000. This is my sole income. By comparison, in 1996 I earned approximately R20 000 per month for a "9 to 5" computer programming job in South Africa. I worked in a managerial position at a software development company in Toronto, Canada in 1999 earning approximately R30 000 per month.
- 43. It would be much more profitable for me to leave the TAC and to work in the private sector. I work for TAC for a modest salary, because I believe in what we are campaigning for. The same applies to other members of the secretariat.
- 44. I have had close work relationships with TAC secretariat members
 Zackie Achmat, Sipho Mthathi, Mark Heywood, Rukia Cornelius,
 Linda Mafu and Nonkosi Khumalo for a number of years. These

persons and I constitute the secretariat of TAC, i.e. the current leadership of the organisation.

- 45. Achmat and Heywood to my knowledge receive no remuneration from the TAC. I believe that the other four secretariat members have sufficient skills that they could be employed in the private sector working less time at far higher salaries with less stress.
- 46. I find it deeply offensive that the respondent claims that the TAC is a front for the pharmaceutical industry and receives funds directly or indirectly from the pharmaceutical industry, that it pays people to march, and that it promotes substances that poison or kill people. These claims are completely without foundation, are willfully deceitful, and are hurtful to me. Claims of this sort undermine our work and discredit the good, hard-won reputations of the TAC and its secretariat members.
- 47. I also believe that the claims are inflammatory on a subject concerning life-and-death, and have a capacity to endanger the well-being of TAC community outreach workers, members and volunteers.

NATHAN GEFFEN

I CERTIFY THAT THE DEPONENT ACKNOWLEDGED TO ME THAT HE KNOWS AND UNDERSTANDS THE CONTENT OF THIS DECLARATION, THAT HE HAS CONSCIENTIOUS OBJECTIONS TO TAKING THE PRESCRIBED OATH AND CONSIDERS THIS AFFIRMATION BINDING ON HIS CONSCIENCE.

THUS SIGNED AND AFFIRMED TO BEFORE ME AT CAPE TOWN ON THIS DAY OF MARCH 2005.

COMMISSIONER OF OATHS