

SUBMISSION
TO
THE TRUTH & RECONCILIATION COMMISSION
REGARDING:
THE CIRCUMSTANCES SURROUNDING THE DEATH OF
MR ANTON LUBOWSKI

In recognition of the fact that Apartheid was declared a crime against humanity, and in line with the establishment of the Truth and Reconciliation Commission, which involves the granting of Amnesties to perpetrators of Human Rights Abuses, the commission is also tasked to investigate the commission of Gross Human Right's Abuses.

Therefore the enforcement of apartheid falls into the category of a Gross Human Rights Abuse.

One can not distinguish between the Human Rights crime and the enforcement of Apartheid, as it is contrary to Generally accepted principles of international law.

It is common cause that during the dark days of Apartheid the Republic of South Africa was managed by the security forces namely the South African Police and the South African Defence Force.

Joint Management Committees were established throughout the Republic, which was divided into sectors, with the object of quelling any resistance to the Standing order reporting via a pyramid structure to the State Security Council as well as to give effect to decisions taken by the State Security Council.

Part and parcel of this was the creation by the Department of Defence and in particular, of Military Intelligence of front organisations and companies who would operate both within and without the Republic of South Africa, outside the official control of the

various State Departments, which lead to the creation of third force activities.

The Government's position with regard to these third force activities is that these activities were never authorised when it came to Human Rights Abuses such as killings and other illegal activities.

The fact is that the Government allowing these organisations to be set up, and in fact continuing to pay the salaries of the agents concerned, amounts to a creation of risk, on the Government's part, which makes the Government at law accountable for any vicarious loss which were to occur.

Furthermore seen in light that the activities contributed directly towards the maintaining of the apartheid regime, means that these organisations were in fact acting out a mandate on behalf of the Government, apart from the fact that they were state funded, which also then indicates that the State must attract vicarious liability for any Delictual claims that arise pursuant to the activities of these organisations.

If I may refer the commission to the documentation appendix "A" hereto, which involves the setting up of the CCB, it is evident therefrom that the planning of these organisations came from the Government, they did not create themselves, neither were they self funded.

These organisations were created by the state to perform functions that could not be traced back to the Government, but at the same time were funded entirely by the secret funds made available.

The fact that this documentation specifically states that the killing of anti apartheid activists must not be seen as murder, is indeed an evil subversion of reality and is indicative of the degree to which the state was prepared to go, to maintain itself in a position of power. See Affidavit Joubert, from Goniwe Inquest.

It is against this background and the bitterness associated with the Namibian settlement that one can properly understand the death of Anton Lubowski.

One must keep in mind that people were tasked, to disrupt the Namibian elections, to primarily discredit SWAPO in order to gain advantage to the Turnhalle Alliance.

The killing of **Anton Lubowski** was part and parcel of the military's endeavours to discredit the elections and disrupt them but was also a final act of vengeance against the person who they saw as a traitor, who had always stood up for the underdog and championed the cause of the innocent and the oppressed.

Had the South African Government not allowed the culture of third force activities to develop in South Africa, his death may well have been averted.

The Defence Force and Police against whom action has been instituted, on behalf of the dependants of **Anton Lubowski**, have consistently denied any responsibility for his killing, and have notwithstanding the findings of the Levy Inquest into his death persisted with such denials.

Furthermore the Defence Force has stated that even if it could be proved that the people involved in his death were part of the CCB, then in that event they deny that the activities of the CCB were in fact sanctioned by the Ministers concerned.

It is however our submission that these Front Organisations and the CCB itself was an act on behalf of the Government to create a vehicle, to neutralise the opposition, which then means that the Government created a risk, and it was foreseeable at the time that people would be killed and at law any delictual loss lies squarely with the Government.

The government in its attempt to cover up its involvement has stated that **Anton Lubowski** was a paid agent of Military Intelligence, but have done nothing to provide proof of these allegations, and we challenge the government to provide proof of this.

To date the Government can not provide **Anton Lubowski's** code name, his source number on the central register of sources, his recruitment file and his production file.

These are all official files which would exist in the event of **Lubowski** having been an agent.

It would appear that monies were paid into **Anton Lubowski's** account in such a way as to incriminate him, which is further more contrary to the usual practice in protecting a source from detection. It is also important to note that on the last requisition form for funds it states *Final Payment*. Why, if he was a source is it a final payment did they know he was going to be killed.

It could well be that **Anton Lubowski** never knew of the payment made, because had he been in the financial predicament that the Harms Commission attempted to depict he was, why was it that no attempt was made by him to immediately move the funds deposited.

Some weeks before **Anton Lubowski's** assassination, he was instructed by a Cape Town Attorney Mr Cyril Prisman to consult with a certain convicted drug dealer, Mr Vito Palazzolo in Lugano in Switzerland, where Palazzolo was completing his sentence after having been deported by South Africa.

Palazzolo needed advice on citizenship as he was soon to be a stateless person, and was looking at possibly moving to Namibia.

After Palazzolo was deported from South Africa, his business associate at the time, the National Party member of Parliament for East London, Mr Peet Du Pontos, was suspended from the National Party and from Parliament and was convicted of certain criminal offences pertaining to his dealings with Palazzolo.

Officials in the Department of Home Affairs were also convicted of having forged his application for permanent residence.

Attorney Cyril Prisman has stated that he never received an account from **Lubowski** in respect of his week long visit to consult with Palazzolo in Lugano Switzerland, and according to him he had stated to **Lubowski** that Mr Palazzolo would be directly responsible for his fees.

Quite co-incidentally at this time an amount of R100 000.00 was deposited into two accounts of **Anton Lubowski**, firstly his current account and the bond account of a property owned by him in Cape Town registered in the trust for the benefit of his children, the **Paradiso Trust**.

The amount of R100 000.00 is not out of keeping with what a senior advocate would have charged for the services to consult with Palazzolo:

The fact that Attorney Prisman never received an account from **Lubowski** would indicate that **Anton Lubowski** had in fact made arrangements with Mr Palazzolo for the payment of his fees.

It might well be that the monies paid into his account were in fact for the services provided and it is for this reason that he never knew the true origin of the funds.

It would seem that regard being had for the circumstances above, that the only inference that can be drawn, and it is our submission that the Inference becomes irresistible, namely that the monies paid to him were in fact sourced via Palazzolo who had connections with Military Intelligence, and the Military saw this as a convenient way to discredit **Lubowski** with the future possibility of blackmailing him alternatively the money was paid by the military as a cover up for his assassination.

In the 6 years since **Anton Lubowski's** death, the government has failed to provide any proof that he was an agent of the South African Military Intelligence and we believe that the reason for this is that there exists no proof whatsoever, and until such time as the Government were to provide proof, one can not accept or attach any weight to the allegations made by them that he was an agent.

The payments were made to **Lubowski** via a Military Intelligence Front Company, namely Global Capital Investments.

Enclosed please find a copy of the company office file pertaining to this company.

It is interesting to note that the Harms Commission found that Attorney E J V Penzhorn had long since made over his rights and interests in and to the company and in fact had disposed same to a certain person Rika Marie Roux during or about 1986.

It is however interesting to note from the Registrar of companies file that the date upon which the company is transferred to Roux is the same date of its de-registration which is the 28th of March 1990 at the time of the Harms Commission.

It is furthermore interesting to note, that a CK2 document signed by Mr Penzhorn, giving over the rights title and interests to Rika Marie Roux retains P O box 276 Pretoria as the Postal Address for the new purchaser Rika Marie Roux which is in fact the address of the Attorneys firm Mac Robert De Villiers Lunnon & Tindall of which he was a director at the time.

It would appear that the letter submitted to the Registrar of Companies as well as the Harms Commission was designed to mislead the commission.

Furthermore Standard Bank has confirmed that the account of Global Capital Investments was in the name of Mr E J V Penzhorn and was closed on the 5th May 1994 some years after the company was in fact de-registered.

It is furthermore interesting to note that at the time that the Goldstone Commission raided Military Intelligence's offices at Momentum Mews in Pretoria, they found two front companies namely Arac and Paic who were both registered by Mr Penzhorn at the time that he was a director of Mac Robert De Villiers Lunnon & Tindall.

We would specifically draw the Commission's attention to the testimony of Jan Anton Nieuwoudt in his action against the South African Defence Force wherein he spells out the precise activities of both of these companies.

It is also interesting to note that the Goldstone Commission discovered a contract of employment with Mr Ferdie Barnard who is implicated in the assassination of Lubowski,

when they raided the offices of Arac and Paic, which were at Monument Mews.

If you read the evidence of Jan Anton Niewoudt vs the Minister of Defence you will see that these companies were covert operations run by Military Intelligence.

It is our feeling that if the Truth and Reconciliation Commission is going to make any headway in unravelling the sins of the past, as well as to come to the truth regarding the assassination of **Anton Lubowski**, it will have to have reference to the findings of the Goldstone Commission as well as all the evidence that was laid before it.

It will also be necessary to obtain copies of the State Security Council minutes, which are presently held by the Department of National Intelligence as custodian.

It will also have to obtain the co-operation of the Department of Military intelligence with reference to all of its front companies.

CONCLUSION

In conclusion there can be no doubt that the South African Government and or one or more of its Departments were responsible for the assassination of **Anton Lubowski** and although no application has been made to the Commission of Truth regarding amnesty sought for his killing, it is brought to the attention of the Commission that action has in fact been instituted by the ex wife of **Anton Lubowski** Mrs Gabi Lubowski as well as his dependants for compensation arising out of the loss of a breadwinner, and the Commission ought to request that the South African Police and South African Defence Force settle the civil action in order that a further Human Rights Abuse does not take place namely the fact that the orphans of **Anton Lubowski** and his ex wife, to whom he owed a duty of support, will not be deprived of the benefits that they would have received had he not been killed.

The commission has been placed in possession of;

The inquest finding of Judge Levy

The Heads of Argument on behalf of the Lubowski family.

Attached hereto are the following:

1. The file, Global Capital Investments (Please ask Louise Flanagan to forward her copy)
2. Court Transcript Jan Anton Nieuwoudt
Bundle A and B of discovered documents (Given to Denzil Potgieter)
3. Documentation regarding the CCB
4. Press Clippings.
5. Our draft Rule 35(3) notice.
6. Comprehensive fax from Louise Flanagan dated 21 November 1995.
7. Affidavit General Joubert

Your investigations will have to liaise and network with Louise Flanagan who has been doing much research over the past 5 years and her contribution would be of great assistance to yourselves.

Detailed investigations will have to be handled into the activities of the CCB/Military Intelligence Fronts, as well as their finances as well as to obtain a copy of the Steyn Commission of Inquiry. There were two reports one verbal given to F W De Klerk and the other was written. I am advised that the Attorney General for Transvaal Jan De Oliviera is in possession of a copy of the Written Report.

The Commission must vigorously investigate the payments made to **Lubowski** and the allegation that he was an agent.

In this regard the Commission must request his;
Recruitment file

Production file

Code name and his number on the Central Register of Sources.

We must also investigate on who's authority the payment was made, who requisitioned the funds.

CCB We must also request all documentation regarding the CCB and specifically the channel set up at the meeting on the (12th of May 1987) as this may well lead to the solving of other murders as per the Affidavit of Maj. Gen. Joubert.

Attached also find the Court files of the following actions in the Supreme Court of South Africa, Transvaal Provincial Division; they are:

Case no 21102/91

Case no 10425/93 Winn vs The Minister of Defence

Case no 10425/93 Frank vs The Minister of Defence

Case no 10427/93 Keith vs The Minister of Defence

Case no 11857/93 Koos vs The Minister of Defence

Case no 11858/93 Pieter Johan Verster vs The Minister of Defence

A handwriting expert will confirm that the requisition forms and the cheques made payable to Global Capital Investments and ATEA Lubowski were completed by Joe Verster, alias Jack Van Staden, the chairman of the CCB on orders from Military Intelligence. *or made*

CCB It would appear that there was a very close working relationship between Paic and the CCB as well as Military Intelligence, and the commission is specifically requested to peruse the documentation with regard to Jan Anton Nieuwoudt.

It is furthermore interesting to note that in the Pre-trial minute of Jan Anton Nieuwoudt vs The Minister of Defence, it was pertinently put to the Defendants namely the Minister of Defence or his legal representatives whether or not Mr Nieuwoudt was still being investigated with regard to the Goniwe Murders.

If there was no suspicion of Mr Nieuwoudt's involvement, why then ask the question.

We would also draw to your attention paragraph 7 of the affidavit of Pieter Johan Verster.

It would appear that the activities of the CCB were directly responsible for the deaths of various anti-apartheid activists such as Anton Lubowski, David Webster and Dulcie September, and many others and amounts to a gross human rights violation and all the activities of these organisations must be investigated.

It is also evident that the Department of Defence is not willing to give assistance to the Truth And Reconciliation Commission preferring, to advance its own interests, in protecting members who were members of the CCB, at the cost of suffocating the truth.

It is also evident that the office of the Attorney General are not assisting the Commission in that they are presently withholding relevant dockets in various matters, on the basis that their content is sub-judice.

Furthermore the Attorney General for the Transvaal, Mr De Oliveira denies that he is in possession of the Steyn Commission into the activities of Military Intelligence and the CCB, when it has been confirmed to the writer by a member of his office that a copy of the Report is presently in the safe in the Attorney General's office.

If the Commission is going to make any headway it is suggested that they demand that the following information be given.

MI Subpoena AT ne
Sandua Nolan

1. All Surveillance file regarding ANTON LUBOWSKI.
2. All documentation regarding the allegation that he was a paid Agent of the South African Government including the following:-
 - 2.1 His Code Name.
 - 2.2 His number on the Central Registrar of Sources.

- 2.3 His Production File including all Source Reports made by him.
- 2.4 His Operational File including all documentation regarding his recruitment as a Source.
- 2.5 The name of his Handler.
- 2.6 The Project name in respect of his recruitment.
- 2.7 The name of the Project that recruited him as an Informer.
3. The Project name in respect of payments made to Global Capital Investments and copies of all documentation pertaining thereto.
4. Copies of all cheques made payable to Global Capital Investments dated the 8th of June 1989, 16th of June 1989 and 28th of June 1989 made by the Treasury payable to Global Capital Investments.
- 4.1 The identity of the Requisitioning Officer as well as his address.
- 4.2 Copies of authorization for payment and cheque requisitions for payments referred to in par. 4 above.
- 4.3 The name of the person who authorised the payments and the name of the persons who signed the cheques in par. 4 above and par. 7 below are requested.
5. All documentation relating to the file Global Capital Investments CC at the Registrar of Companies, the names of its members and their interests as well as their date of registration and/or resignation.
- 5.1 The true identity of **Rika Marie Roux** is requested. *M.I.*
6. All documentation relating to the company file, Goudoes (Pty) Ltd.
7. Copies of all cheques paid by Global Capital Investments to A T E A Lubowski dated the 8th of June 1989, 16th of June 1989 and 28th of June 1989, as well as copies of all deposit slips in respect of which those cheques were paid into the accounts of

Reg of Companies

M.I.

originals with M.I.

Bank has copies →

what other money was in A/E

ANTON LUBOWSKI, as well as the names of the persons who deposited the cheques.

8/10

8. The names of the authorised signatories on account number 010252215 Standard Bank, Pretoria, held in the name of E J V Penzhorn.

MANDAT CANCELLED

9. Copies of all documentation regarding the establishment of the Civil Co-operation Bureau.

10. Copies of Service Contracts in respect of the following people, as well as the dates of their termination of their services with the SADF. The CCB as well as with the Companies listed in par. 12 hereunder.

- 10.1 Calla Botha.
- 10.2 Ferdie Barnard.
- 10.3 Abraham Slang van Zyl.
- 10.4 Joe Verster.
- 10.5 Bill Ulman.
- 10.6 Staal Burger.
- 10.7 William Knox
- 10.8 Chappie Maree

Handwritten notes and stamps:

- South African History
- Handwritten: "homon + Tumbor"
- Handwritten: "Hans Coetzee"
- Handwritten: "Mike Cross"
- Handwritten: "Jingulabits"
- Handwritten: "Penzhorn"
- Stamp: "S.A.I.A."

stop

11. Copies of all documentation regarding operation Orpheus and Katzen in so far as it relates to the activities of JALC and Vito Palazzolo. Orpheus and Katzen were operations run by Eastern Province Command by Joffel Van Der Westhuizen who have become head of Military Intelligence and will link to various murders in the Eastern Cape. The name Katzen is a derivative of Kat Liebenberg and Joffel Van Der Westhuizen, hence the name Katzen.

12. Copies of all documentation including copies of the files at the Registrar of Companies in respect of the following companies:-

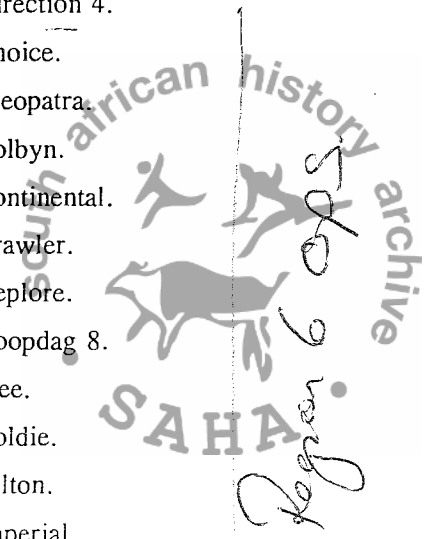
MI Trends

- 12.1 Africa Risk Analysis Consultancy.
- 12.2 Pan Afrika Industrial Investments Consultants.
- 12.3 Cabot International CC.
- 12.4 Income International.
- 12.5 Lima International Trading.
- 12.6 Park Lane Hotel.
- 12.7 J.A.K.

13. The Operational Files of the following Military and Intelligence Operations are requested:-

See Note

- 13.1 Operation Direction 4.
- 13.2 Operation Choice.
- 13.3 Operation Cleopatra.
- 13.4 Operation Colbyn.
- 13.5 Operation Continental.
- 13.6 Operation Crawler.
- 13.7 Operation Deplore.
- 13.8 Operation Doopdag 8.
- 13.9 Operation Flee.
- 13.10 Operation Goldie.
- 13.11 Operation Hilton.
- 13.12 Operation Imperial.
- 13.13 Operation Maagd.
- 13.14 Operation Maxi.
- 13.15 Operation Onus.
- 13.16 Operation Patriotic.
- 13.17 Operation Soundbox/Sandbox.
- 13.18 Operation Toddler.
- 13.19 Operation Visa Rend.



As well as to investigate the operations listed as an annexure to Joe Verster's affidavit during 1990.

It is furthermore drawn to your attention the fact that the CCB was operationally suspended during 1990 and it is interesting to note that in the attached CCB actions instituted against the Minister of Defence that some of the appointments are as late as 1992.

The Commission is furthermore referred to the documentation attached to the Summons' which gives rise to their cause of action, which officially establishes the CCB as a military organisation working in conjunction with Military intelligence and Armscor, the precise details of which are unknown.

It is as clear daylight to the writer that the activities of these organisations most definitely amounted to Gross Human Rights Violations in that their activities were deemed necessary during the State of Emergency, to give effect to programs that the State itself could not be seen as party to, which would in view of the history of our country amount to gross human rights violations.

It is also interesting to note that it would appear that the signature on various of the contracts of employment entered into by the CCB members were approved by Joffel Van Der Westhuizen who was at the time head of Military Intelligence.

With regard to the assassination of Anton Lubowski and the surrounding suspicious nature of his trip to consult with Vito Palazzolo we would suggest that the following be followed up.

Prisman Subpoena.

1. That attorney Cyril Prisman of Cape Town, {who acted at various times for Palazzolo, Oupa Gqoso as well as International Researches Ciskei Intelligence services (which was a front for Military Intelligence) operating in the Ciskei.}

2. To interview Mr Palazzolo who is presently a wine farmer in Franshoek as to what arrangements was made with him for the payment of Adv Lubowski's account to

consult with him.

3. To ask the Department of Military Intelligence for their administration and production files on Advocate Lubowski (if he was a source they would have these files). We must obtain copies of Magnus Malan's signature to compare them with one of the signatures on the cheques from the treasury as well as the cheques from global capital investments as well as to obtain clear copies of these cheques without the signatures blanked out as well as their requisition forms which lead to the cheques being generated.

Standard Bank
4. Request

Request Standard Bank for a statement on the Global Account no 010252215 in the name of EJV Penzhorn which was closed on the 5th of May 1994.

5. To request from them what legal action, if any, did Standard Bank take against EJV Penzhorn and or others for the misuse of the Global Account (when Louise Flanagan was briefed by the military on the Lubowski matter she was told by them that the payments made against Mr Penzhorn's account had been unauthorised.)

6. We must obtain the mandate cards authorising different signatories from time to time of the Global Capital Investments Account at Standard Bank as well as to find out who opened the account and on whose instructions it was closed.

7. Request Standard Bank to supply information whether or not the global cheques made payable to Lubowski were ever drawn on the account.

Foreign
Affairs

8. We must obtain details from the Ministry of the Department of Foreign Affairs about Mr Penzhorn's work for them.

9. We must obtain details from the Ministry of defence and the South African National Defence Force about Mr Penzhorn's work for them.

AKS CAP

10. We must obtain minutes of the Cabinet Committee meeting which approved Mr EJV Penzhorn's assignment (this was referred to by the Ministry of Foreign Affairs) We must obtain a copy of the Kahn Commission report for details of Mr EJV Penzhorn's work as this report approved the work being done by him.

W.R
boule de details bruts

11. We must obtain copies of the company files Paiic, Arac and Gravitax. The commission must also investigate Mr Penzhorn's links to international companies as well as the Freedom Foundation.

check JAN 00

12. We must check the Harms Commission with regard to its report on hit squads as well as the Harms Report on Cross Border Irregularities in so far as it relates to the JALC matter.

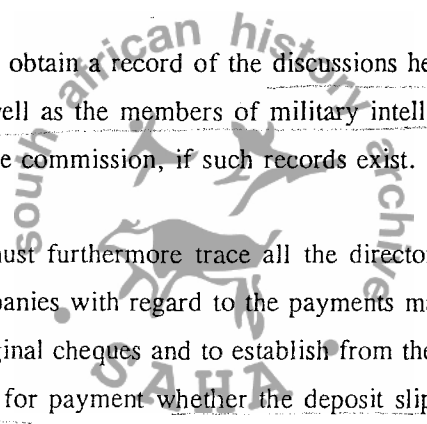
13. We must attempt to obtain a record of the discussions held between Mr Harms and EJV Penzhorn as well as the members of military intelligence which records were suppressed from the commission, if such records exist.

14. The Commission must furthermore trace all the directors linked to JALC and the various JALC companies with regard to the payments made to Anton Lubowski we must obtain the original cheques and to establish from the Banks at which they were allegedly presented for payment whether the deposit slips accord with the deposits made into his account.

15. We must obtain information from the Department of Military Intelligence as to who D Jensen who deposited one of the amounts is.

16. We must obtain details of the accounts and the audits for Global Capital Investments from Auditors Ernst & Winney in Pretoria, the commission must also check the ownership or rental of the address 2127 Goldreich Heights, Goldreich Street, Hilbrow, 4012 which was the address given for Rica Marie Roux which was also an address used by the CCB.

*links to Wester



Ernst & Winney

NT

17. We must obtain information from Standard Bank with regard to account number 010252215 as to whether or not this account was transferred to a Mr Esterhuizen as it would appear that upon closure of the account on the 5th of May 1994, that the proceeds of the account were transferred to the account of a certain Esterhuizen held at the same branch.

JULIAN B KNIGHT

On behalf of the dependants of the Late Mr ATEA Lubowski.

PS Enclosed also see letter from Mac Roberts.

There should also be a subpoena for Mac Roberts Re who were the clients in respect of Africa Risk Analysis Consultants and Pan Afrika Industrial Investments Consultants CC and who paid for the Registration ARMSCON / SADF on Foreign Affairs.

Remember Mac Roberts acted for the Government F.W. de Klerk did his articles there RadioFF Senior was head of ARMSCON.

We need to also subpoena Records of Trust deposits made from Foreign Affairs + SADF which was then disbursed out

Regards

Julian