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TO: MR H. VALLI

TELEFAX NO: 021 245225

FOR ATTENTION: MR H. VALLI

RE: LUBOWSKI

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FROM: MR J. KNIGHT /JJK

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HANIF VALLY

PER TELEFAX: 021 245225

Date: 2 July 1996

Your Ref.: Mr Vally

Our Ref.: Mr Knight/wlh/L57

Dear Sirs

LUBOWSKI

We refer to the above matter and the possibility of the Commissioners meeting with the Minister of Defence regarding this matter and wish to bring to your attention the following.

Summons was issued during August 1990 out of the Transvaal Provincial Division of the Supreme Court against the Ministers of Defence and Law & Order, by our client Gabrielle Lubowski, in her personal capacity as well as in her capacity as mother and natural guardian of the deceased's two children Almo and Nadia.

These proceedings have been held in abeyance for some years awaiting the emergence of clear evidence regarding the question of who was responsible for Advocate Lubowski's assassination.

In the inquest into the death of Anton Lubowski held in the high court of Namibia, Levy J found on the 23rd of June 1994 that Lubowski had been assassinated on the 12th of September 1989 by the Civilian Co-operation Bureau.

In his findings in the inquest to the death of the deceased, Levy J concluded that there was prima facie evidence that the CCB initiated the deceased's murder, that Donald Asherson, a mercenary and "hit man" hired by the CCB shot and murdered the deceased and that nine named aware and unaware CCB members were involved as accomplices in the murder.

The finding of fact on which these conclusions are based, was set out in page 92 and following of the written findings.

We believe that there is an abundance of evidence which goes to prove that the CCB assassinated the deceased and further that they were acting at all times within the course and scope of their employment with both the Ministers of Defence and Law & Order at the time and that their actions were in fact authorised.

Julian Bret Knight BA LLB (Rhodes) Assisted by Elizabeth De Oliveira B Juris LLB (Pretoria)

Furthermore, should there be a denial that their activities were authorised then the Ministers concerned ought to attract vicarious liability on the basis of a creation of risk, in that by creating an organisation like the CCB it must have been envisaged that people would be killed and as a result of that fact, the Minister would be liable.

The Minister of Defence is represented by Mr Jan Wagenaar of Wagenaar Muller & Partners, who has made a general denial on behalf of his clients, of all involvement in this matter and have stated that we must prove our case.

We have written numerous letters to Mr Wagenaar calling upon him to provide ourselves with evidence regarding the payments made to Advocate Lubowski shortly before his death, as we believe they are directly relevant to the case, in that the Government allege that this is proof of the fact that he was a spy and that they would not kill their own.

It would appear that attorney Wagenaar is not receiving adequate instructions from the Ministry of Defence as he has failed to have the courtesy to reply substantially to our numerous letters to him, notwithstanding one telephonic conversation where he verbally advised that his client was under no obligation to release the documentation sought as it was irrelevant and that we must prove our case.

One would have expected more from the Department of Defence whose mandate Mr Wagenaar was obviously carrying out in replying to ourselves in the manner in which he did.

We believe that the Minister of Defence as well as the Minister of Safety & Security ought to settle this matter and pay in compensation the amount which is claimed by our client in her personal capacity and in the capacity of guardian and mother of the children.

Should you wish to discuss any part of this letter with the writer please do not hesitate to contact ourselves.

Yours faithfully

JULIAN KNIGHT ATTORNEY
Per JULIAN KNIGHT

Enclosed are letters which have gone unanswered.