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WAGENAAR, MULLER & PARTNERS
P O BOX 40904
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Date: 9 May 1996
Your Ref.: Mr Jan Wagenaar
Our Ref: Mr Knight/mk/

Dear Sir

G I LUBOWSKI / MINISTER OF DEFENCE & MINISTER OF LAW & ORDER

We refer to the above matter and to the telephonic conversation between the writer hereof and your Mr. Wagenaar of the 8th instant and advice as follows :

We believe that the Defence Force is compelled to give discovery of the documentation requested by ourselves, under cover of our previous correspondent and in particular with regard to the payments received by Anton Lubowski and all other documentation pertaining to the payments made to him, as well as documentation substantiating the fact that he was an agent of Military Intelligence.

It was the Minister of Defence at the time, Mr Magnus Malan's advise to Parliament that Mr Lubowski was an agent for Military Intelligence and therefore the Defence Force would never have been responsible for his death.

We wish to test these allegations, firstly in view of the innuendo created thereby, as well as with regard to the allegations made in the findings of various of the commissions of Inquiry into the activities of the CCB and inquests which have made findings regarding there involvement.

The allegation made by your Mr. Wagenaar, regarding the fact that the CCB was independent to Military Intelligence, is as far as we are concerned an attempt on the part of your client to confuse the issues and to obstruct the truth from surfacing.

Quite clearly and it is undisputed both of these organisations fall within the Department of Defence and fall under the control of the Minister of Defence.

We furthermore believe that the Defence Force must come clear with regards to the allegations made by it pertaining to Anton Lubowski being an agent.

Julian Bret Knight BA LLB (Rhodesia) Assisted by Elizabeth Da Oliveira B Juris LLB (Pretoria)

Minister Modise is on record of having stated to the Weekly Mail that he refused to divulge the information pertaining to these allegations due to the fact that the matter was sub-judice.

If the Minister in his position, were to have been at the time, of the opinion that the documentation which was requested by the Weekly Mail pertaining to the payments made to Anton Lubowski was sub-judice, it is evident to ourselves that the minister believes that these payments are relevant to the case and on that basis alone we believe that same should be discovered.

We are sure that your firm, as well as the Department of Defence which it represents, would not wish to associate itself with a conspiracy to conceal the truth, especially regard being had for the tenants of the new Constitution incorporating it's Bill of Rights and the ANC's public stance of openness and transparency.

It is for this reason that we require the fullest discovery from yourselves and we would implore upon your client to desist from its apparent obstructive attitude in frustrating the Plaintiff's case by refusing to divulge information which is directly relevant to this case.

We would also appreciate it if your client would desist from attempting to dis-associate itself from the activities of the CCB on the basis that Military Intelligence was an entirely separate entity.

Both of the above organisations fell within the Defence Force and were subject to the control of the Minister of Defence.

We confirm having further advised yourselves that the Lubowski family has requested the Truth Commission to investigate the allegations regarding whether or not Anton Lubowski was an agent of the State as well as to investigate the circumstances surrounding his assassination.

We would again appear from your comments made to the writer that the Department of Defence would not be obliged to release this documentation on the basis that it has not amount to a Human Rights abuse, is again evidence of your client's obstructive attitude.

We respectfully disagree with yourselves as we believe that the unlawful and intentional killing of a human being is one of the grossest Human Rights abuses, and the failure on the part of the Department of Defence, to make available to the Truth Commission all information that they may request, which would include the allegations regarding whether or not Anton Lubowski was an agent of the State, would not be in line with the general policy of the African National Congress.

If Anton Lubowski was an agent of the South African Defence Force we challenge yourselves to provide us with the proof thereof and to desist from hiding behind legal niceties it an attempt to suffocate the truth.

We are instructed to advise yourselves that should we not receive a proper response that our client reserves the right to approach President Mandela in this regard.

Furthermore, various Cabinet Ministers including Minister Modise have stated publicly that they will give their fullest co-operation to the Commission of Truth, and we would be pleased if you would kindly advise ourselves, whether Minister Modise in fact dis-associates himself from the other Cabinet Ministers in regard to co-operating with the Commission of Truth.

We would be pleased if you would kindly as a matter of urgency forward this letter to your client, the Minister of Defence, who we understand has a particular interest herein, and we would furthermore appreciate a substantial reply to this letter, as well as to commit yourselves in writing precisely what your are not prepared to disclose to us and the reasons therefore.

4 We look forward to hearing from you as a matter of extreme urgency.

Yours faithfully

JULIAN KNIGHT ATTORNEYS
per: JULIAN KNIGHT

