



**BERNADT ■ VUKIC
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A T T O R N E Y S

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OUR REF: MJT/vdk/117941

YOUR REF: Mr P Maponya/if
COM6/02

DATE: 23 May 2003

Maponya Incorporated
Pretoria

Facsimile No. : 012 342 0439

Attention : Mr P.E. Maponya

Dear Sirs

CCII Systems (Pty) Ltd / S.A. Fakie NO & 3 Others

1. We refer to your undated letter received by us on 16 May 2003 under cover whereof you listed the documents:
 - 1.1 released by the Auditor-General ostensibly in terms of Paragraphs 1.1 to 1.3 of the Order (95 documents, 751 pages);
 - 1.2 not released by the Auditor-General in terms of Paragraph 1.4 of the Order (5 documents, 492 pages).
2. We do not intend to traverse all the allegations made by you in your letter under reply and our failure to do so must not be construed as an admission of the correctness of such allegations.
3. Both in your letter under reply and your prior letter to us of 13 May 2003, you refer to a "settlement agreement" negotiated by our respective clients' Counsel.
4. There was no such agreement. We repeat what we stated in our faxes to you of 10 March, 18 March and 16 May 2003, namely that:
 - 4.1 our client's Counsels informed Advocate Marcus SC that they, our client and the writer all interpreted the Order as referring to the so-called reduced record, i.e. that in respect of the corvette component of the Strategic Defence Packages ;
 - 4.2 our client and their legal representatives would be prepared to undertake to retain as confidential the contents of certain of the documents produced in terms of the Order and categorized as this "third category" as termed by you;
 - 4.3 that should your client wish for our client and his legal representatives to keep certain of these documents confidential, then these had to be specifically indicated as such

PARTNERS : IGOR VUKIC KEITH GETZ MICHAEL JEREMY LEWIS TYFIELD WAYNE DAVID FIELD LINDSAY DIANNE GOLDBERG
GRAHAM JOHN SONNENBERG ALAN GARY RUBIN ROBERT GLEN PATRICK
ASSISTED BY: CHRISTOPHER HESSIAN ANJE LUCILLE MAASDORP MOOSA AKOODIE
CONSULTANTS: HIMAN BERNADT ELIZABETH HACKING CARLA LUISA PINHEIRO

with the reasons for the confidentiality being sought by your client and specifics as to which portion of the document or record was deemed to be confidential.

5. Our client's request for access to information commenced on 20 November 2001, some 18 months ago.
6. A High Court Order was granted on 15 November 2002 ordering your client to furnish our client with various documents within 40 court days of the grant of Order.
7. On 6 December 2002 your client as well as the Second and Third Respondents lodged an application for request for leave to appeal, which request it finally withdrew on the day prior to the date set for the said application to be heard.
8. Then, despite our client's proposal put to your client in our letter of 18 March 2003, it took your client a further 40 court days from the date of the withdrawal of the application for leave to appeal to produce 751 pages, plus a list of the documents comprising those 751 pages, as well as a list of 5 documents comprising 492 pages that your client was not, in terms of Paragraph 1.4 of the order, prepared to disclose.
9. You have advised us that your client spent 36,5 manhours, which is less than one manweek, preparing the documents for access and listing the refused documents, a mere 2% of the time your client stated would be required to process the full record (see Paragraph 9.8 of your client's opposing affidavit).
10. In your client's answering affidavit, your client stated that of some 700 000 pages of documents perused by his office in the course of his investigation, some 135 000 pages were copied (Paragraph 7(a) of his affidavit jurat 28 March 2003) and that further documents were generated by the investigators, thus bringing the total number of pages of documents held by the investigation team to 225 000 pages. These comprised, inter alia, according to your client:
 - 10.1 Contracts;
 - 10.2 Minutes of meetings;
 - 10.3 Working papers which contain analysis of facts, consultation notes, questions to be asked of witnesses, conclusions to be drawn from facts, documents, witness statements, summaries of findings and working drafts of paragraphs to be included in the report (Paragraph 7(b) of his affidavit);
 - 10.4 Cabinet minutes (Paragraph 7(c) of his affidavit);
 - 10.5 Minutes of ministerial committee meetings (Paragraph 7(d) of his affidavit);
 - 10.6 Documents emanating from the Department of Finance (Paragraph 7(e) of his affidavit);
 - 10.7 Draft reports (Paragraph 7 (f) of his affidavit).
11. Our client is still in the process of considering the documents disclosed to it, but based on its preliminary analysis thereof, it has concluded that:
 - 11.1 save for some 7 documents of those disclosed to it, our client is, to the knowledge of your client, in possession of copies of all the other documents, which documents

were either handed to your client's investigators by our client or were contained on the CD-ROM handed by our client to Adv Charles de Chermont, one of your client's investigators;

- 11.2 copies of all the documents listed pursuant to Paragraph 1.4 of the Order are, to your client's knowledge, in our client's possession;
- 11.3 your client has failed to disclose all the draft versions of the report submitted to parliament in terms of Paragraph 1.1 of the Order or any of the other documents listed in Paragraph 10 above.
12. In this latter regard, we point out that your client has produced Chapter 12 only of his alleged final draft of his report handed to President Mbeki as well as the entire alleged final draft of the Public Protector's Report.
13. You will note that there is no limitation in Paragraph 1.1 of the Order – your client is to provide our client with **all** and **complete** draft versions of the investigation report. By this it is meant provision of copies of all drafts of the report of the three investigating agencies as well as those of the joint report.
14. Our client is aware that the drafting process of the report took place in three stages, i.e.
 - 14.1 drafting of chapters of the agency reports (this is borne out by your client's attestation of there being amongst the working papers drafts of paragraphs to be included in the report);
 - 14.2 drafting of the consolidated individual agency reports;
 - 14.3 drafting of the multi-agency joint report from the individual agency reports;
15. Our client is aware from information supplied to it by reliable sources who wish to remain anonymous that there are a number of drafts in each of the aforementioned three categories.
16. Scarcely any of the documentation produced relates to the issues set out in Paragraph 1.2 of the Order, nor is there any reference thereto in the list produced in terms of Paragraph 1.4 of the Order. As set out in our client's replying affidavit, our client estimates that already at an early stage there were 15 files (about 4 500 pages) relating specifically to our client's complaints and that the documents relating to the investigation of the acquisition of the corvettes as a whole subsequently comprised about 26 files.
17. For the foregoing reasons, our client is satisfied that your client is in contempt of the Order granted on 15 November 2002.
18. The purpose of this letter is to provide your client with one final opportunity to comply with the terms of the Order by no later than noon on 6 June 2003, failing which it will institute further proceedings against your client.
19. All our client's rights, both in regard to its civil and criminal law remedies, remain fully reserved.

Yours faithfully

BERNADT VUKIC POTASH & GETZ

Per:

M J TYFIELD