



BERNADT ■ VUKIC
POTASH ■ & ■ GETZ
A T T O R N E Y S

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E-MAIL ADDRESS : mail@bvpg.co.za

OUR REF: MJT/vdk/117941

YOUR REF: Mr P Maponya/if
COM6/02

DATE: 27 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. Your undated fax received by us on 27 May 2003 refers.
2. Would your Mr Maponya please date his letters to us. This is not the first time that we have received undated letters from your firm and your failure to date letters does not readily facilitate one being able to discern to which letter we are responding or referring to in later correspondence.
3. You will by now have received our fax of 23 May 2003 which was prepared prior to receipt of your fax and hence you will now be able to inform your client in which respects his performance in terms of the Court order is deficient.
4. Please note what we have stated in previous correspondence and in our fax of even date regarding the alleged agreement concluded between our respective clients' Counsel.
5. You will note from our fax of even date that proceedings have not been commenced against your client. Notwithstanding the manner of our client's treatment by your client over the past 18 months, your client has been afforded another opportunity to purge his deficient performance in terms of the Order.
6. Our client wishes to advise that he considers the public body with whom he is dealing, i.e. your client, to be the Office of the Auditor-General, represented in the court proceedings by Mr S.A. Fakie NO, the Auditor-General. The Auditor-General has previously in writing requested our client to make contact with him on the matter. On 20 May 2003 our client was told by a journalist that Mr Fakie was overseas. He therefore contacted the Acting Auditor-General, Mr Wally van Heerden, to advise the Office of the Auditor-General that he (our client) considered the provision of documents not to be in compliance with the Order. Our client very deliberately and specifically, at the commencement of the telephone conversation, advised Mr van Heerden that his contacting him was on a ***without prejudice*** basis in order to discuss in good faith that which what our client

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

considered to be satisfactory compliance with the Order. It was Mr van Heerden who proposed to our client that he would advise the Auditor-General on his return from abroad to meet with our client and their respective legal teams in this regard. Mr van Heerden also advised our client's Dr Young that he had already read a draft press article sent by a newspaper to your client for their comment. It was this press article and not only client who mentioned the threat of legal action. Dr Young only advised that he considered the provision of documents thusfar this far to be in contempt of the Order (which he believes it is) and that he reserved our client's rights in this regard which include citing your client for contempt of court.

7. Our client advises both you and your client that he is not "discuss(ing) this matter (with your client) through the media". He is engaging on this matter with your client by means of correspondence between his attorneys and you as your client's attorneys.
8. Whatever your client has read in the press are press articles written by journalists and editors after their own analyses of the differences between the draft and published versions of the investigation reports, as well as reporting on comments (which is in accordance with accepted journalistic best practice) from both our client and your client.
9. Our client is of the understanding that your client was provided and took the opportunity to provide comprehensive written responses to at least some of these articles before they were published. This was despite his being overseas at the time.
10. Regarding your allegation that our client was responsible for "sensational allegations in the media" and that he chose to do so when your client was overseas, our client wishes to point out that :
 - 10.1 our client was merely responding to legitimate queries from the press after an eighteen month legal struggle to obtain disclosure of documents from your client about a matter that was and still is very much in the public interest, as well as using post-democratic legislation that is even more in the public interest;
 - 10.2 the sensational nature or otherwise of the matter is one purely of your client's making after the manner in which he chose to handle our client's application for records of a public body and, furthermore, how your client chose to implement the Order of the High Court;
 - 10.3 your client failed to advise our client that he (your client) would be overseas immediately after releasing the small number of records to our client;
 - 10.4 accordingly, our client denies that knowingly and/or willfully he took advantage of your client's being overseas and thereby caused an avalanche of articles mentioning your client, written by a press over whom our client denies any control whatsoever.
11. Nevertheless, we note that your client issued a press release to Sapa early yesterday evening wherein he stated that "his legal team had been in contact with Young's to find out which documents were still outstanding". We advise that the only such contact with us thus far is your letter under reply which was sent to us by facsimile at 09:46 this morning.
12. Our client requires your client to advise him as to the identity of his "representative" to whom you refer in Paragraph 3 of your letter under reply.

13. Our client certainly takes heart at your client's undertaking in the final sentence of Paragraph 3 of your letter under reply wherein he "undertakes to follow up and provide any relevant document not already released, if this be the case".
14. However, so as not to allow any possibility for ambiguity to confuse your client about the documents which are due to our client under the Order, this includes **all** documents relating to the corvette component of the Strategic Defence Packages, whether such relationship is of a specific or of a general nature.
15. It is not your client's prerogative to judge whether the documents are relevant or not, but merely to conform to the terms of the Order in respect of the Reduced Record.
16. The records due to our client in terms of the Order also include each and every page of each and every draft report by each of the investigation agencies.
17. For the rest, it is our client's view that your fax under reply merits no further response.

Yours faithfully

BERNADT VUKIC POTASH & GETZ

Per:

M J TYFIELD