

**THE CIRCUMSTANCES SURROUNDING THE DEATH OF ANTON LUBOWSKI - INVESTIGATIVE PROPOSAL**

**OVERVIEW OF EVENTS AND ACTION TAKEN FOLLOWING LUBOWSKI'S DEATH**

*Advocate Anton Lubowski was a leading member of Swapo and was murdered in Windhoek on 12 September 1989.*

*The Namibian Police Force conducted an investigation into the murder, and were assisted in this endeavour by their South African counterparts. The investigation resulted in criminal prosecution. One Donald Acheson was charged with murder and brought before the Supreme Court of Namibia in 1990. The link which the investigation established between the accused and the Civil Co- Operation Bureau resulted in warrants of arrest being issued against certain members of the CCB based in South Africa. A conviction of Acheson could not be secured because the Namibian authorities were unable to obtain the extradition from South Africa of the relevant key witnesses and role player members of the CCB. It seems that the matter was postponed indefinitely with Acheson being released from custody.*

*The result of the inquest into Lubowski's death was handed down by Judge Levy on 1994/06/23. The findings were that prima facie Donald Acheson shot and murdered Lubowski and prima facie the CCB initiated and were involved in the murder and acts of members of the CCB amounted to acts of accomplices to kill Lubowski.*

*The South African Defence Force and South African Police against whom a civil claim, on behalf of the dependants of Anton Lubowski, was instituted, have consistently denied any responsibility for his killing, and have done so notwithstanding the findings of the Levy inquest.*

*Furthermore the Defence Force has stated that even if it could be proved that CCB members were involved in his death, then they deny that the CCB activities were in fact sanctioned by the ministers concerned.*

*Allegations made that the SA Defence Force, and more particularly the CCB, were instrumental in his killing prompted General Magnus Malan in parliament to disclose that Anton Lubowski was a paid agent of Military Intelligence ('MI') and that consequently the Chief of Staff: Gen Witkop Badenhorst would not have approved any action against Lubowski.*

*The Harms Commission subsequently investigated certain payments made to Lubowski via the Military Intelligence Front Company, Global Capital Investment ('GCI'). The commission concluded that the money paid to Lubowski had its source in MI and that Lubowski received money as an agent of MID.*

*However the evidence presented to the commission in this regard was untested because of the Defence Force's unwillingness for the evidence to be subject to public scrutiny and cross-examination. Furthermore, the terms of reference of the Commission did not include an investigation into the circumstances leading to the death of Lubowski.*

*To date the government has not provided any of the official files which would exist in the event of Lubowski having been a paid agent. These include Anton Lubowski's code name, his source number on the central register of sources, his recruitment file or his production file.*

*In order to investigate the payments made to Lubowski and the allegation that he was an agent, the TRC must request various documentation from Military Intelligence, listed below.*

*Further, in order to conduct investigations into the activities of the CCB and the Military Intelligence Fronts as well as their financial positions, documentation and information listed below will need to be obtained from the Registrar of Companies and the Standard Bank.*

*It is hoped that by following "the paper chain" we might be placed in a position to understand some of the anomalies surrounding Anton Lubowski's death ( See Julian Knight's submission for some of these anomalies) and ultimately establish who or what entity was behind the planning and initiation of his murder.*

#### INVESTIGATIONS:

#### CURRENT STATUS

- 1. During last year I obtained a set of documentation relevant to this case from Julian Knight, the attorney representing the Lubowski family in the civil claim on behalf of the dependants of Anton Lubowski.*
- 2. Various additional documentation has been received by the TRC over the past year from different sources. An Inventory of all this documentation was prepared by Cees Kooimans.*
- 3. An in depth study of all the documentation has been made.*
- 4. Wilson Magadla, Cees Kooimans and I met with Tori Pretorius of the Attorney Generals office . We requested an indication of the status of their investigation into the murder of Lubowski. Pretorius advised that they had witnesses who could testify concerning both the allegations of Lubowski being an agent and the circumstances leading to his death. He gave no detail and gave no indication of pending arrests or prosecutions.*
- 5. I contacted and interviewed a Mr Guy Pudney in an attempt to obtain information concerning the front company, Global Capital Investments and its one time sole owner Mr EJV Penzhorn.*

*I obtained the following information:*

*Pudney was a partner at Mac Robert de Villiers Lunnon & Tindall Attorneys of which Mr Penzhorn was also a partner. According to Pudney, the company Goudoes ( Reg No 763745) was formed in 1976 by three partners of the firm and was founded mainly to do business as a property company. In 1980 eight other attorneys of the firm, including Penzhorn, joined Goudoes. In October 1984 Goudoes applied for a change of name and the name Global Capital Investments was approved.*

*Also in October 1984 ten directors resigned and Penzhorn remained the sole director of GCI. The following year Penzhorn approached Pudney and asked him to attend to the conversion of GCI into a close corporation. Pudney effected this conversion.*

*Some time after this, a friend of Pudney's, a Mr Gibson, who was a medic with the Military, asked Pudney about Penzhorn & GCI. Gibson explained that he was interested because he had knowledge that the Military were buying military vehicles through the entity GCI.*

*This incident raised the suspicion of partners of the firm and they conducted a search of Penzhorn's office to try and obtain further information. They found nothing, but certain partners were none the less intent on having Penzhorn removed as a partner because of the suspicion surrounding his connections with the Military. However the then senior partner of the firm, a Mr Schoeman, ( who was & is apparently a close friend of both P W Botha & FW De Klerl), is also Penzhorn's uncle & he protected Penzhorn from dismissal.*

*In March 1990, after Anton Lubowski's death, when the press named the firm of attorneys in connection with Goudoes & GCI, the firm obviously confronted Penzhorn concerning GCI and its activities . Penzhorn contended that he had originally been asked by some friends in the military to set up the cc, and that he had long since( 1986) made over all his rights and interests in the cc to some one else. When Pudney went to check the file at the companies office he was told that the file had on request been withdrawn from public scrutiny.*

*Pudney subsequently, through a connection at the companies office was able to establish that Penzhorn had in fact been lying since he only transferred the cc to 'Rikka Marie Roux' on 28/03/90. On the strength of this information, Penzhorn was asked to leave the firm.*

*It is interesting to note however, that this is the same date as its de- registration and it is a date during the Harms commission, at which Penzhorn gave evidence. It is further interesting to note that the CK2 document signed by Mr Penzhorn, giving over the rights, title and interest to Rikka Marie Roux retains PO box 276 Pretoria as the postal dress for Rikka Marie Roux, which is in fact*

*the address of Mac Robert De Villiers Lunnon & Tindall of which Penzhorn was a director at the time.*

*Standard bank has furthermore confirmed that the account of GCI was in the name of Mr EJV Penzhorn and was closed on 5 May 1994 some years after the company was in fact de registered.*

*Pudney also confirmed that another of the senior partners of the firm , Mr Radloff, had close connections with Armscor. (His farther was chairman.)He also said that he suspected that Radloff, Schoeman & Penzhorn met regularly with an elite "political circle of influential political players". This, he said was entirely speculation.*

6. *I contacted and interviewed a Mr Alan Lintner who has former links with Military Intelligence. I obtained the following information: Lintner was involved in providing training to intelligence agents, in the Ciskei. This bought him into contact with Jan Anton Nieuwoudt and the activities of Paaic.*

*Paaic apparently supplied the financing for operational aspects of CCB. Sandra Nolan was the principal administrator of Paaic and Arac . According to Lintner, she would have knowledge of the activities of Paaic and Arac as well as who would have been in charge of the Namibian desk. ( Nolan is presently at the Air Force staff college at Voortrekkerhoogte )*

*Bob Wishart was in charge of the Ciskei/Transkei desk. His code name was Rawhide. Tolletjie Botha, who was assisted by Mariette Hartley ( nee Muller ) were also involved at a senior level in Paaic and Arac and would have information.*

*( Tolletjie lives on a plot outside Pretoria and Mariette works at Foreign Relations, Vermeulen Street)*

7. *The TRC has received a letter from the attorneys David H Botha, Du Plessis & Kruger who are representing the following persons in their amnesty applications:*

*D.F. Du Toit Burger ( Alias Staal Burger)*

*A Van Zyl ( Alias Slang Van Zyl)*

*L. A. Maree ( Alias Chappies Maree)*

*C. C. Botha ( Alias Calla Botha)*

*Their attorneys have indicated that their clients are willing to assist the TRC voluntarily. Although they have not mentioned the Lubowski case as one in respect of which they will be applying for amnesty for, we have contacted the attorneys by letter concerning obtaining information from their clients on the Lubowski & Webster cases & the activities of the CCB. We wait to hear from them.*

**PERSONS STILL TO BE CONTACTED:**

*The following persons are likely to have further information relevant to our investigations. We may wish to approach some of them informally and subpoena others.*

*Persons mentioned 1-8 should have information on the MI Front Companies. It would appear that there was a very close working relationship between Paic, Arac & the CCB. Interestingly, when the Goldstone Commission raided Momentum Mews, it found a contract of employment with Ferdi Barnard of the CCB (who is implicated in Lubowski's assassination) in the offices of Arac & Paic.*

- 1. Sandra Nolan : Former principal administrator of Paic.*
  - 2. Mariette Hartley : Assisted Tolletjie Botha at Paic.*
  - 3. Tolletjie Botha : Paic*
  - 4. Bob Wishart : Ran Ciskei/Transkei desk for Paic*
  - 5. Eugene De Kock : Apparently he was also on the Paic pay list/ involved with Paic.*
  - 6. Radloff and Schoeman : Have information on Penzhorn and probably on the front companies*
  - 7. EJV Penzhorn : Should be subpoenaed/ questioned on GCI as well as on Paic & Arac ( When the Goldstone Commission raided Military Intelligence's offices at Momentum Mews in Pretoria, they found the two front companies, Paic & Arac which were both registered by Penzhorn at the time he was a director of Mac Robert De Villiers Lunnon & Tindall. )*
- We should also obtain details from the Ministry of Department of Foreign affairs and the Ministry of defence about Mr Penzhorn's work for them.*
- We should attempt to obtain a record of the discussions held between Mr Harms & EJV Penzhorn as well as the members of MI , which records were suppressed from the commission.*
- 8. Ernst & Winney- auditors of GCI : Obtain details of the accounts and the audits for GCI.*
  - 9. Vito Palazzolo : Regarding the allegations of Lubowski having been a paid agent for Military Intelligence and the surrounding suspicious nature of his trip to consult with Vito Palazzolo in Switzerland ( set out in the submission to the TRC prepared by Julian Knight) : We should interview Mr Palazzolo, who is presently a wine farmer in Franshoek as to what arrangements were made with him for the payment of Adv Lubowski's account .*
  - 10. Cyril Prisman, the attorney who instructed Adv Lubowski in this matter could also be contacted for questioning. He is presently practising in Cape Town.*

## **ORGANIZATIONS IN POSSESSION OF INFORMATION**

*The Registrar of companies and the Standard Bank both have relevant documentation and information. We should probably initially approach them informally and if they do not co operate, there after, issue subpoenas.*

### **REGISTRAR OF COMPANIES**

*We need to obtain from the Registrar of Companies :*

- 1. All documentation relating to the file Global Capital investment CC, the names of its members and their interests as well their date of registration and/or resignation.*
- 2. All documentation relating to the company file, Goudoes ( Pty ) Ltd*
- 3. Copies of the company files Paiic, Arac and Gravitas.*

### **STANDARD BANK**

*We need to obtain from Standard Bank :*

- 1. A complete statement on the Global Capital Investment Account no 010252215 in the name of EJV Penzhorn, held at Standard Bank Pretoria, which was closed on the 5 May 1994.*
- 2. The names of the authorised signatories on the account number 010252215 .*
- 3. The mandate cards authorising different signatories on the Global Capital Investments Account at Standard Bank.*
- 4. Who opened the account number 010252215 and on whose instructions was it closed ?*
- 5. Information on whether or not the global cheques made payable to Lubowski were ever drawn on the account.*
- 6. On closure of account number 010252215 on 5 May 1994, were the proceeds of this account transferred to the account of a certain Mr Esterhuizen held at the same branch?*
- 7. What legal action, if any, did Standard Bank take against EJV Penzhorn and or others for misuse of the Global Account ( Payments made against Mr Penzhorn's account had been unauthorised)*

## **THE MILITARY :**

*The documents and information listed below are required from the Military. The recommended route would be to try and obtain the documentation and information from the Registrar of Companies and the Standard Bank, as well as the other sources listed above, first. Once we've been placed in possession of this information, we will be in a stronger position when subpoenaing the military. (We would probably subpoena Rudolph Badenhorst, the then Chief of Staff, Military Intelligence as well as the present Chief of Staff, Military Intelligence.)*

### **Documents pertaining to payments made to Lubowski and allegations that he was an agent:**

1. *All Surveillance files 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*
3. *Copies of all documentation pertaining to Global Capital Investments, including*
  - 3.1 *The Project name in respect of payments made to Global Capital Investments*
  - 3.2 *The true identity of Rika Marie Roux*
3. *Copies of all cheques made by the Treasury SADF payable to Global Capital Investments dated the 8 of June 1989, 16 of June 1989 and 28 June 1989 .( We should request to examine the original cheques and requisition forms and if not possible to at least obtain clear copies of these cheques without the signatures blanked out)*
  - 4.1 *The identity of the Requisitioning Officer as well as his address*
  - 4.2 *Copies of authorisation for payment and cheque requisitions for these payments.*
  - 4.3 *The name of the person who authorised the payments and the name of the person who signed the cheques.*
5. *Copies of all cheques paid by Global Capital Investments to ATEA Lubowski dated 8 June 1989, 16 June 1989 and 28 June 1989, as well as all deposit slips in respect of which those cheques were paid into the accounts of Anton Lubowski.*

*( We should request to examine the original cheques and deposit slips and if not possible, obtain clear copies of the cheques without the signatures blanked out)*

*5.1 Who is D. Jensen who deposited one of the amounts of R40000 on 8/06/89 ?*

*Documents pertaining to setting up of CCB, its functions and activities, its financing, including its relationship with the Military Intelligence Front Companies*

- 1. Copies of all documentation regarding the establishment of the Civil Co-Operation Bureau.*
- 2. Minutes of the meeting of the 12 May 1987 , referred to by Gen- maj AJM Joubert in his affidavit to the Goniwe inquest.*
- 3. All documents pertaining to the working relationship between Paaic and the CCB.*
- 4. What date was the CCB officially suspended?*
- 5. Where did the CCB obtain financing from for operational activities?*

*KATE PITMAN*

