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A T T O R N E Y S

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**OUR REF:** CQ/145584

**YOUR REF:** Dr RMM Young  
P2/01/2014

**DATE:** 17 July 2014

**The Chairman: Arms Procurement Commission of Enquiry**

Council Chambers  
Cnr Lilian Ngoyi and Madiba Streets  
PRETORIA  
By e-mail: [admin@armscomm.org.za](mailto:admin@armscomm.org.za)

cc: **Advocate Mdumbe**

Arms Procurement Commission of Enquiry  
Cnr Lilian Ngoyi and Madiba Streets  
PRETORIA  
By e-mail: [fmdumbe@armscomm.org.za](mailto:fmdumbe@armscomm.org.za)

Dear Sirs

**RICHARD YOUNG / ARMS PROCUREMENT COMMISSION OF ENQUIRY**

1. We act on behalf of Dr. Richard Young and CCII (Pty) Ltd ("CCII"). We address this correspondence to you on behalf of Dr. Richard Young ("our client").
2. Our client has instructed us that he has been provided with a summons in terms of section of 3(1) of the Commissions Act 8 of 1947 ("the Act") in which he was called upon to attend the Arms Procurement Commission of Enquiry ("the Commission") on 21 July 2014. This summons was served on our client's secretary at the CCII offices in Kenilworth.
3. The purpose of this letter is to explain why our client will not be attending the Commission on 21 July 2014. Our client has instructed us that the Commission has previously accepted written submissions without the presence of parties or legal representatives being present. We request that the Commission accept this letter

**PARTNERS:** IGOR VUKIC KEITH GETZ MICHAEL JEREMY LEWIS TYFIELD WAYNE DAVID FIELD CHRISTOPHER HESSIAN  
MOOSA AKOODIE MARIA RENA GIBSON ROSS KUDO LAUREN FINE NICOLAS GROBLER DAVID KRIEL  
**ASSISTED BY:** ROSE BIDEN CHRIS QUINN  
**SENIOR ASSOCIATE:** LEAH DARLEY  
**EXECUTIVE ASSOCIATE:** PETER SLACK **ASSOCIATES:** UNATHI MALUNGA SADULLA KARJIKER  
**CONSULTANTS:** ELIZABETH HACKING NICCI MATISONN URVESH MAKANJEE ADAM SNITCHER

as our client's submissions. Our client has not instructed any legal representative to attend the Commission for that reason and as he does not wish do so at considerable expense to him.

4. Our client underwent a corneal transplant operation three weeks ago which resulted in him being off work for a period of two weeks as his vision was adversely effected. He subsequently suffered a fungal infection which caused the healing of his eye to be delayed and his vision has been very limited as a result. This has caused our client difficulties in preparation as he cannot read documents (be they hard copies or electronic copies displayed on a computer screen) easily and once he commences working he can only do so for a relatively short period of time.
5. Our client again consulted with his ophthalmic surgeon, Dr Michael Attenborough, on 16 July 2014, who stated at that consultation that he would produce a doctor's note in which he will report on our client's condition. This will be provided to the Commission as soon as it becomes available from Dr Attenborough.
6. As a result it will not be possible for our client to appear before the Commission to testify on 21 July 2014. It would in any event be an exercise in futility for our client to appear under those circumstances. At best our client would testify for an hour or two before being unable to continue until the next day. Our client's vision is likely to improve or at least stabilise over time. However, he will require more time to prepare and give evidence due to this difficulty.
7. On 11 July 2014 our client sent an e-mail to the evidence leaders appointed by the Commission in which he requested details of the arrangements for him to travel from his place of residence to the offices of the Commission on 21 July 2014.

He has yet to be provided with any details of travel arrangements. Our client cannot be expected to attend the Commission when no arrangements have been made for him to travel to Pretoria.

8. For these reasons alone our client cannot testify on 21 July 2014. There are however a number of other reasons why it is not possible for our client to testify on 21 July 2014. Our client has instructed us that:

8.1. The schedule for the witnesses to be called after 21 July 2014 is entirely unrealistic and it would be impossible for the program to be completed. Our client has repeatedly stated that his evidence will take between one and two weeks, without cross-examination. It would thus be impossible for our client's evidence to have been completed within the three days allocated. We understand that Ms De Lille will testify on 24 July 2014 which date has been "set in stone" and cannot be moved.

8.2. The evidence leaders of the commission started preparing his evidence two weeks ago due to the change of the order of witnesses. The evidence leaders only requested our client's discovered documents two weeks ago from our client in electronic format. As a result our client's evidence has not been adequately prepared in the circumstances (due to no fault of the evidence leaders).

8.3. The affidavit on which our client's evidence is to be based is over three years old. The draft witness statement produced by our client (which is to be the basis for a part of our client's evidence) is also hopelessly out of date as it is based on this affidavit. This will lead to confusion regarding his evidence. Our client has repeatedly stated that he was prepared to

update his witness statement. No draft has yet been produced for or settled by our client. This should be done before his evidence commences.

- 8.4. There are 1061 documents which our client has discovered and our client believes that some 200 documents (approximately 5 000 pages) would be relevant to his evidence. No bundle of documents has been produced or made available for our client to prepare his evidence. As a result his evidence would be impossible to lead sensibly. It would result in long delays in which our client would have to search through masses of documents to locate a document or part of a document.
- 8.5. Much of our client's evidence is to deal with the evidence of Nortjé and Kamerman whom our client was granted leave to cross-examine, but could not as their witness statements were only made available to our client *after* their evidence was concluded. Our client thus would like to cross-examine Nortjé and Kamerman before he commences his evidence in chief.
- 8.6. Our client has been requesting specific documents in terms of the Commission's rules from Armscor and the Department of Defence which our client believes are relevant to the Commission (and which were referred to in other discovered documents). Our client's request for one particular document (which has been sought by our client since 2001 from the Department of Defence and 2013 from the Commission) has been ignored by the Commission. Our client requires this document (as well as others) in order to testify.

9. Our client has repeatedly e-mailed the Commission and the evidence leaders to state that:
  - 9.1. The date of 21 July 2014 was not suitable for medical reasons and due to the fact that his farm workers were taking leave.
  - 9.2. It was impossible for his evidence to be ready for the reasons set out above.
  - 9.3. The time allocated for our client's evidence was insufficient.
  - 9.4. His evidence requires weeks in order to prepare.
10. Our client understands that a memorandum has been produced by the evidence leaders dealing with our client's unavailability to testify on 21 July 2014. The Commission has thus been aware of these difficulties for some time. Despite this fact the Commission has refused to be accommodating to our client, although it has been accommodating in respect of other witnesses due to their circumstances.
11. Furthermore, our client was required to produce a witness statement and to bring an application in order to cross-examine a witness before the evidence of a witness was led. Our client is not aware that any such application has been made regarding other parties cross-examining him. In order to properly lead his evidence our client requires these matters to be resolved and dealt with in the same manner in which his applications were dealt with.
12. It will be grossly prejudicial to the conduct of the Commission and our client should he be required to give evidence before the Commission in these circumstances.

13. We point out that our client would like to testify at the Commission and believes that it is important that he does so. He would like to testify at a time when it would be possible for him to do so and once he has had sufficient time for his evidence to be prepared. Our client would be happy to engage with the Commission in order to arrange a suitable time and will be co-operative in this regard.

Yours faithfully

**BERNADT VUKIC POTASH & GETZ**

Per:

**CJ QUINN**

[cquinn@bvpg.co.za](mailto:cquinn@bvpg.co.za)

A handwritten signature in black ink, appearing to read 'CJ Quinn', is written over the printed name and email address.