

MJ Hood & Associates

A T T O R N E Y S

19 March 2019

Our Ref: Mr Hood/rm/S0503

Your Ref: 3539/18/Z22 / N QONGQO

THE STATE ATTORNEY, PRETORIA
PER EMAIL: naqongqo@justice.gov.za

Dear Madam

RE: THE SOUTH AFRICAN ARMS AND AMMUNITION DEALER'S ASSOCIATION // THE MINISTER OF POLICE AND OTHERS CASE NO. 41415/18

1. Previous correspondence refers.
2. At the meeting held between the various legal representatives of the parties under the above case number (which we accept was without prejudice) it was made clear to the writer and to his Counsel that the State legal team was not taking instructions from the Central Firearms Registry and that there were valid reasons for not doing so. Those reasons were in essence the obstructive attitude taken by officials within the Central Firearms Registry.
3. Our client entered into discussions with your office i.e. the Office of the State Attorney on the basis that it was necessary and because it was in the interest of proper control of firearms that various solutions be explored in a *bona fide* manner and with good faith. Our client remains committed to finding solutions to problems created not only by the actual legislation but by the implementation thereof.
4. It has always been our client's view that the implementation of the legislation and in fact the conduct of particular officials in the form of Major General Mamotheti, Brigadiers Bopape and Mabule and

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more recently Colonel Lesige has been of such a manner that they have intended to undermine the rights of firearm owners in unlawful ways not sanctioned or authorised by the Firearms Control Act, and their conduct consequently hinders the implementation of the legislation

5. The writer personally attended a meeting with Major General Mamotheti and Brigadier Mabule in January 2019, where Major General Mamotheti personally intimated that talks should recommence and 2019 should be a year of progress and joint action.
 6. During the course of this year, officials in the Central Firearms Registry have made unilateral decisions in an unlawful way and in a manner that are not sanctioned by or authorised in terms of the Firearms Control Act. These decisions, besides lacking in rationality, are in areas of the implementation of the Firearms Control Act that most directly impact upon firearm dealers and new firearm purchasers. It is clear in the view of our clients, that officials within the Central Firearms Registry either are acting on direct political instructions in circumventing the legislation or are completely and utterly unsupervised and are managing and implementing the Firearms Control Act in a manner where they have sole and exclusive control over firearm legislation without supervision or control. The conduct of the abovementioned persons is unlawful and constitutes substantial contraventions of firearm owner's rights.
 7. We have included Major General Mamotheti in the list of persons who authorise, sanction or permit unlawful acts, because she is the commander in charge of the Central Firearms Registry and many of these issues have been brought to her attention and she has chosen not to take action and to ignore our clients concerns.
 8. In doing so, she has made herself equally culpable along with Brigadiers Bopape, Mabule and Colonel Lesige.
 9. Examples of unlawfulness that have happened since the beginning of this year are as follows.
 - 9.1 Submission of SAPS350 forms: Major General Mamotheti established a task team and advised our client that SAPS350's should be submitted to two specific email addresses. The significance of this will appear hereunder.
 - 9.2 Refusal to extend import permits: permanent import permits used to be issued for a year, but a unilateral decision was made to limit these to six months. It is not practical to limit an import permit to just six months, due to the time required
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for foreign authorities to issue export permits and the difficulties and time delays in the actual shipping of these controlled items from Europe and the United States of America, in particular. Colonel Lesige has decided not to issue extensions to import permits even though this is clearly allowed by Regulation 62(9)(K)(2). This decision is to put matters simply, irrational and has created (intentionally) substantial inconvenience to the industry. Coincidentally it has also created more work for your clients.

10. Colonel Lesige has issued an instruction that gunsmiths are not allowed to change barrels on firearms. This again is a unilateral decision taken without consultation with gunsmiths and has been done in circumstances where the practice was always to allow barrel changes, because Section 59 of Regulation 50 clearly allows this. Colonel Lesige's decision is therefore unlawful.
11. The same Colonel Lesige has issued an instruction that temporary export permits can no longer be applied for and processed at station level. A temporary export permit is for a licence holder to remove their firearm from the Republic on a temporary basis, for example for a foreign hunt or a sport shooting event and has always been regarded as a simple administrative record keeping exercise.
 - 11.1 Colonel Lesige has indicated that applications need to be made to the Designated Firearm Officer who in turn has to send these applications to the province for "quality control" and thereafter to the Central Firearms Registry for consideration. These permits were always automatically issued in the past and we might add, Colonel Lesige has ignored the provisions of Regulation 62(5) and has instead erroneously applied the provisions of Regulation 62(8), because Colonel Lesige does not understand the legal difference between a private individual and a legal entity, or he is deliberately misapplying the Act to be obstructive.
12. Against the background set out above, we now need to turn to the discussions that have emanated from your office at the instance of your senior counsel and consequent upon this, the written proposal made to our clients. Our client entered into exploratory discussions with your office in good faith, based upon the written proposal and the clear intention to resolve a real problem amicably.
13. Shortly after these discussions, Brigadier Mabule and Colonel Lesige attended a Western Cape provincial meeting with firearm dealers.

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14. At this meeting Brigadier Mabule indicated that and in no particular order:
- 14.1 Dealers were the cause of all problems in the Central Firearms Registry, because they had "flooded" the Central Firearms Registry with SAPS350 forms.
 - 14.2 This statement, which is a repetition of what he stated in the answering affidavit under the above case number is simply false. Dealers are obliged to send the SAPS350 forms to the Central Firearms Registry. Brigadier Mabule has admitted receiving them. He and his staff simply cannot do their job and process them.
 - 14.3 Brigadier Mabule advised dealers present to only use the armscontrol1 email address, which is direct conflict with the instruction of Major General Mamotheti received by my client on 5 February 2019 to use the following two email addresses:
 - 14.1.1 MolefeLeromo@saps.org.za.
 - 13.1.1 Mahlangul6@saps.gov.za.
 - 14.4 Brigadier Mabule has directly contradicted the instructions of his immediate superior: this is insubordination or a deliberate misleading of our clients by Brigadier Mabule and Major General Mamotheti. Furthermore, submissions to the ArmsControl1 email address are simply deleted and not read.
 - 14.5 Brigadier Mabule indicated that he was aware of the dealer's case and that in order to undermine that case, nothing at the dealers meeting in the Western Cape should be disclosed to any member of the dealer's association, because the South African Police Services were testing a new system with two dealers, with the express intent of excluding our client from that system. This is in direct contrast with our discussions, with your office.
15. We trust that you understand and appreciate that our client's position is that it took your clients to court because your clients were not processing the SAPS350's. It is simply astounding and blatantly dishonest for Brigadier Mabule to allege that the problems are created by firearm dealers, when they (dealers) simply comply with the law and do what Section 39(8) stipulates. More important is the
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fact that Brigadier Mabule has adopted an attitude that is completely and utterly in conflict with the discussions that we, on behalf of our client, entered into with your offices and your legal team to try and resolve this matter. Brigadier Mabule's utterances and attitude has completely destroyed all good faith our clients had in these negotiations. Brigadier Mabule is a key role player in the implementation of the Firearms Control Act and if he overtly seeks to undermine any proper implementation of the Act and any bona fide discussions to resolve issues, then our client can only conclude that there has never been any bona fide intent to address issues in a bona fide way.

16. In other words, because of Brigadier Mabule's seniority and because of his statements, attitude and general demeanour towards firearm dealers, our client has no faith in the possible success of any process that either involves him or requires his input or approval. Our client does not believe that he will do what is required of him, but that he will carry on with an obvious vendetta against firearm dealers and firearm owners for reasons that only Brigadier Mabule knows.
17. Our client does not believe that Brigadier Mabule should be involved in this process anyway, shape or form. He has numerous personal cost orders against him and a warrant for his arrest for contempt of court. To this should be added the allegations of assault against the writer of this communication, allegations of assault and kidnapping by members of the Central Firearms Registry and well documented protests that have taken place within the confines of the Central Firearms Registry against Brigadier Mabule.
18. The individual victimisation of one of the members of our client, who is also a committee member thereof, should be added to the aforementioned transgressions. Colonel Lesige has embarked upon a personal course of conduct victimising this member of our client whilst legal proceedings are still pending concerning the subject matter of Colonel Lesige's demands and intimidatory visits.
19. In doing as he has, Colonel Lesige has completely and utterly undermined the independence and role of the High Court of the Republic of South Africa. He has acted in conflict with three court orders obtained in the High Court North Gauteng. It is no coincidence, in our client's opinion, that these are the very same court orders which have resulted in three different judges giving three different personal cost orders against Brigadier Mabule and authorising the issue of a warrant of arrest for Brigadier Mabule's contempt of court.

20. It is clear, in our client's opinion, that Colonel Lesige is instructed by Brigadier Mabule in a way that is intended to be some form of payback for our client and its members instituting legal action against officials within the Central Firearms Registry.
21. Our client has no faith in the possible success of any process that involves Major General Mamotheti (head of FLASH), Brigadier Bopape (head of CFR), Brigadier Mabule (head of Compliance at CFR) or Colonel Lesige or that requires their input or approval. While these individuals remain in their roles at CFR and whilst our client acknowledges the State legal team is not taking instructions from CFR, in order to further these discussions it would be prudent for your clients to take instructions from the Divisional Commissioner in charge of FLASH. This will prevent the management of the Central Firearms Registry undermining this process.
22. All of our client's rights are reserved.

Yours faithfully



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