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Our Reference: **JSM/CG/VENETE KLEIN**

Your Reference:

Date: **26 March 2019**

Dear Sirs

IN RE: VENETE KLEIN // CORRUPTION WATCH

1. Your e-mail dated 24 March 2019 bears reference.
2. After we received your e-mail, we were advised that the publication in the Business Day referred to in our letter, dated 22 March 2019, was part of a wider reaching fund-raising effort which involved further publication of the defamatory statements in respect of our client, including through e-mail, social media and websites ("the campaign").
3. The well-known case law that you have referred to condemns corruption in South Africa in the strongest terms. Our client respectfully agrees with the sentiments expressed in the judgements referred to in your letter, as well as in numerous other judgments.
4. Our client also has no qualms with your client's stated mission to "undertake activities aimed at the combating of corruption in all forms in South Africa in order to ensure integrity and accountability in both the public and private sector in the conduct of their functions and operations".
5. These are laudable objectives worthy of support. Similarly, our client has no objection to your client raising funds to advance its cause, including to continue to fund any costs that have arisen, and might arise, in the application that your client has instituted against our client.
6. However, when advancing its interests and its campaigns against corruption, your client is still required to act lawfully and in compliance with the rights of others. The legitimacy of its main aims and cause does not entitle it to engage in unlawful defamation. For the reasons already referred to in our letter,

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Chief Operating Officer Dave Forbes

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dated 22 March 2019, we respectfully contend that the advertisement, insofar as it concerns our client, amounts to unlawful defamation and is impermissible.

7. As a result of your client's conduct, the reputational harm that would befall our client in the event that a court ultimately declares her to be a delinquent director (which has not yet been determined) is now being exacted upon her. Her reputation is being deeply and irreparably damaged by your client's conduct, and unless this is stopped immediately, this damage will not be capable of repair, even if our client succeeds in having your client's application against her dismissed. This is so in respect of both her personal and business reputation.
8. It is precisely your client's reputation as a prominent anti-corruption civil-society organisation that exacerbates the impact on our client when your client, without qualification, declares her to be "delinquent" and describes her as one of your client's "Most Wanted".
9. Your client would be able to achieve its purpose of raising funds for its litigation, without vilifying our client in the way that it has. The fact that your client had not done so is a further aggravating factor. In this regard we reiterate the concerns that we have expressed in respect of our client's personal security. We do not believe that you and your client would not take this issue very seriously.
10. Although we do not believe that your client will through correspondence be persuaded of our client's defense to the pending application, we do point out the following factors that, with respect, your client must consider in assessing what we contend is the impermissibility of its conduct:
 - 10.1. Our client has consistently denied all wrongdoing. She has done so in substantive statements, written and oral, and in some instances under oath to, inter alia, parliament and the Hawks;
 - 10.2. She cooperated fully with parliament's investigation and continues to cooperate and assist the Hawks with their investigation.
 - 10.3. She was not a party to the proceedings that you refer to in paragraph 6 of your e-mail, and the judgement, in any event, contains not a single finding against our client.
 - 10.4. She has retained reputable attorneys and counsel to represent her in the pending application.
 - 10.5. Your client's application is founded on an affidavit of its head, who has no personal knowledge of the factual allegations in the affidavit and which relies, for its veracity, on a supporting affidavit by Ms Suzanne Daniels whose credibility has been called into question, inter alia, by Adv Nazir Cassim SC in his capacity as the independent chairperson of Ms Daniels' disciplinary hearing. Her admissions of guilt in respect of, inter alia, corruption at Eskom had become a matter of public record.
 - 10.6. Your client must, therefore, surely accept that there is at least the real possibility, if not a probability, that its application against our client might fail.
 - 10.7. We, therefore, respectfully request that your client reconsider its position and provide us with an undertaking that it will immediately cease the publication of any defamatory statements in respect of our client, at least until your client's pending application has been determined. Such a limited undertaking can cause your client no material prejudice.

11. If despite this, your client continues to indiscriminately and irresponsibly pronounce on the outcome of the application, and to defame our client, it will have to bear the consequences. Your client's laudable objectives to "ensure that the custodians of public resources act responsibly to advance the interests of the public, and to ensure that opportunities for entering into corrupt relationships are reduced" would not shield it from liability to our client in these circumstances. In our respectful view, your client's objectives would be undermined if it were to expose itself to such liability.
12. Our client sincerely wishes to mitigate the ongoing harm that she is suffering as a result of your client's campaign, without having to resort to the Courts, if possible. We, therefore, again respectfully impress upon your client to reconsider its position and to provide us with an undertaking referred to above.
13. We would be grateful to receive your substantive response by 16:00 tomorrow.
14. All our client's rights are reserved.

Yours faithfully
ADAMS & ADAMS

J MARAIS