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Advocate Rodney de Kock  
Director of Public Prosecutions  
115 Buitengracht Street  
Cape Town

4 October 2007  
*Delivered by hand*

Dear Mr de Kock

**FORMAL COMPLAINT AGAINST COMFORTER'S HEALING GIFT, MR FREDDIE ISAACS AND MS CHRISTINE QUNTA**

1. I am writing on behalf of the Treatment Action Campaign (TAC).
2. The TAC hereby lodges a formal complaint against a company called Comforter's Healing Gift (CHG), Mr Freddie Isaacs and Ms Christine Qunta.
3. There is *prima facie* evidence that CHG has acted illegally in that it has breached the Medicines and Related Substances Control Act 101 of 1965 (Medicines Act). The evidence shows that the illegal actions were carried out by Mr Isaacs personally on the property of CHG. Ms Qunta is a director on the board of CHG and therefore shares responsibility for the actions of the company.
4. This is therefore a formal complaint against CHG, Mr Isaacs and Ms Qunta. We request the Director of Public Prosecutions to investigate our allegations and to take appropriate action.

**SELLING UNREGISTERED MEDICINES AS A CURE FOR AIDS**

5. On 13th September 2007 Ms Emma Baleka and a Rhodes University student, Ms Nompumezo Makinana, went to the offices of Comforters Healing Gift in Uitenhage. In the course of their visit, Mr Freddie Isaacs sold to them unregistered medicines as a cure for AIDS. I attach annexure NK1, an affidavit by Ms Baleka which describes how this occurred.
6. I also attach annexure NK2, an article that appeared in the Saturday Argus on 15

September 2007.

7. Further evidence that the premises of CHG are used to sell unregistered medicines as a cure for AIDS and that this is the general purpose of CHG is contained in NK2. The photograph in NK2 is of the Comforters Healing Gift premises where this event took place. A nearby sign identifies the CHG building as a treatment centre and a sign on the building reads "Our mission is to fight all AIDS-related illnesses."
8. The text of NK2 contains further allegations that CHG is used to sell unregistered medicines as a cure for AIDS and that Mr Isaacs and Ms Qunta are involved in this company, the latter as a director.
9. According to the packaging on their products, the registration number of CHG is 2004/010747/07. The address given on their products is 2 Clevedon Road, Clevedon Building, Port Elizabeth, 6000. Ms Baleka gives the address at which she visited the company as Constitution Road, Uitenhage. I note that the photograph in NK2 appears to indicate that the street number is 18.

## **ILLEGALITY**

10. I am advised that Section 14 of the Medicines Act prohibits the sale of medicines eligible for registration with the Medicines Control Council (MCC) which are not registered.
11. I am further advised that medicines for which antiviral effects are claimed are eligible for registration with the MCC. (See
12. The claim that a medicine treats or cures HIV or AIDS renders it an antiviral. The medicines sold by Mr Isaacs to Ms Baleka and Makinana as described in NK1 are therefore eligible for registration with the MCC.
13. The medicines sold to Ms Baleka and Ms Makinana are not registered with the MCC.
14. Therefore the sale of medicines by Mr Freddie Isaacs as described in the affidavit of Ms Baleka is prohibited in terms of the Medicines Act and is illegal.
15. Furthermore, CHG, Mr Isaacs and Ms Qunta should be investigated for breaching Section 20 of the Act which prohibits the publication or distribution of false or misleading advertisements or unauthorised claims concerning any medicine.
16. Furthermore, CHG, Mr Isaacs and Ms Qunta should be investigated for breaching the labeling requirements for medicines as specified in the Medicines Act and its regulations.
17. Furthermore, CHG, Mr Isaacs and Ms Qunta should be investigated to determine if they are licensed or registered to act as medical practitioners.

## **MS QUNTA'S RESPONSIBILITY**

18. Ms Qunta is a director of Comforter's Healing Gift. She therefore shares responsibility for its activities. This at minimum warrants an investigation of Ms Qunta in which the following should be determined:
  - (a) What knowledge does she have of the activities of CHG?
  - (b) Has she exercised her responsibility as a director of this company?

(c) What financial interests does she have in the activities of CHG?

19. The King Report on Corporate Governance for South Africa 2002 states:

“2.1 The board must retain full and effective control over the company and be responsible for monitoring management in respect of implementation of board plans and strategies. The board, with the guidance of the company secretary, has the duty of ensuring that the company complies with all the relevant laws, regulations and codes of business practice.

2.2 The board is ultimately responsible for the affairs of the company. The delegation of authority to any committee does not discharge the responsibility of the board in respect of the actions and decisions of a committee.”

20. The *prima facie* evidence indicates either that Ms Qunta is aware that CHG is marketing a cure or treatment for AIDS, in which case she is willfully conspiring to breach the Medicines Act, or that she has failed to carry out her responsibilities as a member of the company's board. In this latter case her negligence has contributed to breaches of the Medicines Act.

### **THE IMPORTANCE OF THE MEDICINES ACT**

21. In *Administrator, Cape v Raats Röntgen and Vermeulen (Pty) Ltd* - 1992 (1) SA 245 (A), Kriegler AJA pointed out in his judgment that the Medicines Act was

“put on the statute book to protect the citizenry at large. Substances for the treatment of human ailments are as old as mankind itself; so are poisons and quacks. The technological explosion of the twentieth century brought in its wake a flood of pharmaceuticals unknown before and incomprehensible to most. The man in the street - and indeed many medical practitioners - could not cope with the cornucopian outpourings of the world-wide network of inventors and manufacturers of medicines. Moreover, the marvels of advertising, marketing and distribution brought such fruits within the grasp of the general public. Hence an Act designed, as the long title emphasises, to register and control medicines. The enactment created a tightly meshed screening mechanism whereby the public was to be safeguarded: in general any medicine supplied to any person is, first, subject to stringent certification by experts; then it has to be clearly, correctly and comprehensively packaged and labelled and may only be sold by certain classes of persons and with proper explanatory information; to round it out detailed mechanisms for enforcement are created and ancillary measures are authorised.”

22. Many of us in TAC know friends, family-members, colleagues and others who have died or become ill because they have been sold untested medicines as treatments or cures for AIDS that have also been marketed as alternatives to registered antiretroviral medicines. Such breaches of the Medicines Act endanger lives.

23. We therefore urge you to conduct this investigation efficiently and properly, and to inform the TAC of its outcome.

**Ntombozuko Kraai  
TREATMENT ACTION CAMPAIGN  
WESTERN CAPE TAC CHAIRPERSON AND PERSON LIVING WITH HIV  
ON BEHALF OF THE TREATMENT ACTION CAMPAIGN**

**cc:**

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