



**ATTORNEY GENERAL'S CHAMBERS  
17 TOWN RANGE  
GIBRALTAR**

6710

D A Schiller  
Biancas  
Admirals Walk  
Marina Bay  
GIBRALTAR

Telephone: 78882 (Country Code 350)  
Telex: 2223 ADM SEC GK  
Fax: (350) 79891

Your reference:

Our reference:

Date: 15 May 1998

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Dear Sir

I refer to your letters dated 27 April 1998, addressed to the Honourable Attorney General, which has been passed on to me for my attention and reply.

Your "letter before action" contains a history of the vessel Dee Dee and of the Captain of the Port's alleged failure to issue a licence for its operation, which information these Chambers are already well familiar with.

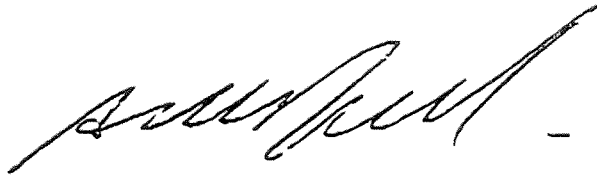
It is a well known fact that the various legal issues which you refer in your letter have already been answered and dealt with ad nauseam on numerous occasions, both by officials of these Chambers and other administrative and official bodies in Gibraltar. Additionally, your application for Judicial Review of the Captain's refusal to issue you with a licence have already been dealt with by the Supreme Court of Gibraltar, the Court of Appeal of Gibraltar and the European Commission of Human Rights. In all these cases your application has been categorically rejected. You have now applied to the Privy Council and the Case, I understand, is to be heard on 23 June 1998. Until the aforementioned hearing takes place there is little more than I can say with respect to the contents of your letter.

On a final note, I note your reference to the fact that your vessel Dee Dee has now sunk. In view of the physical impossibility to operate this vessel any longer, I would be keen to learn on what basis are you appealing to the Privy

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JED T. FALCON 11.07.10  
Council for the Judicial Review of the Captain's refusal to issue you with a licence, if the boat no longer exists. In other words, why do you still require a licence to operate a vessel which is no longer in existence? I await with interest your reply.

Yours faithfully

7/8/10



**A A J Trinidad**  
Senior Crown Counsel

ref our telecon

Freedom 4/5

W.H. Arthur  
All church/whitton  
A.E. Neal  
admiral

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Biancas  
Admirals Walk  
Marina Bay  
Gibraltar

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AS

R R Rhoda Esq  
Her Majesty's Attorney General  
17 Town Range  
Gibraltar

M.

27th April 1998

Discussed with the  
Trinidad who  
advised that this  
does not need action from  
ME as it is referred to A1  
PA free

Dear Sir

**Contravention of Constitutional Rights (Letter Before Action)**

A In 1987 the Admiralty Marshall sold the undersigned a vessel (Dee Dee) purportedly free of encumbrances at auction and upon learning that a licence was needed to operate it or be in charge of it one was applied for

After three months and having complied with the requirements of the port surveyor the Captain of the Port without giving a reason refused to issue a licence

Later the Captain agreed that Dee Dee could leave Gibraltar and if necessary be left in Spain awaiting the outcome of a judicial review with regard to the refusal to issue a licence

Having learnt of the arrangement with the Captain you forbade the removal of Dee Dee and following an emergency application to the Chief Justice for relief in April 1989 you threatened me with arrest if she was ever moved from her moorings off the ImmoSSI slipway at Bayside

Neither you the Captain or the police have taken any action in regard to the violation of the Fast Launches Ordinance resulting from the unlicensed vessel Dee Dee being in the controlled area since 1987

[Having conducted the judicial review in person I was refused legal assistance for an appeal and an application was made to the European Commission of Human Rights on the basis that domestic remedies had been exhausted due to the unavailability of legal assistance in Gibraltar. Upon notification to the Respondent (UK) of the application immediate action was taken to raise the legal assistance financial threshold and it was argued that the applicant should apply for assistance under the new figure and appeal the judicial review decision to the court of appeal and thence if necessary to the Judicial Committee of Her Majesty's Privy Council

Submissions put to the Commission regarding jurisdiction were not rebutted by the Respondent and untrue 'facts' submitted by you (improperly) to the judicial review were repeated to them

After granting the applicant legal assistance the Commission by a majority considered the application as a whole to be manifestly ill-founded and declared it inadmissible

In arriving at its decision the Commission (inter alia) took note of the Respondents submissions ignored those of the applicant ignored their own rules of procedure and altered the evidence submitted by the applicant

In publishing their Decision they lifted the requirement of confidentiality and included details, some known to be false (or which they ought properly to have known to be false), which if published without the protection of privilege enjoyed by the Commission would render it liable to prosecution for libel

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The Commissions decision was considered by you to be good news for Gibraltar and gave you much pleasure and relief

Subsequently, legal assistance having been granted in Gibraltar for the purposes of appealing the judicial review decision, an appeal to Her Majesty's Privy Council was said not to be covered by the legal assistance scheme

Further the court of appeal ordered me to deposit security for the Respondents costs in the event of me prosecuting an appeal to the Privy Council in person thus stifling the appeal

That necessitated an application for special leave to appeal which was granted in February 1996 and the case is to be heard soon (having taken over 10 years to reach the present stage)

In January 1997 the Chief Justice ruled the non provision of legal assistance to prosecute an appeal to Her Majesty's Privy Council to be a contravention of Article 6 of the European Convention of Human Rights and in so doing clearly ruled it to be unconstitutional under Gibraltar law (although the judgement refuses to acknowledge such)

No changes to the legal assistance law have been made since 1991 and His Excellency has declined requests to exercise his power under the relevant ordinance (and his duty under the constitution) to ensure compliance with the Gibraltar Constitution Order 1969

Both you and the Supreme court (having been petitioned) have refused to take any action to correct the situation]

B Towards the end of 1995 all vessels moored in the waters off the slipway including Sheilooan (the applicants home) and Dee Dee were served with notices from the Captain of the Port requiring them to vacate the waters

No reason or lawful authority for the demand was given

In the early part of 1996 a mob from the port office forcibly boarded Sheilooan and Dee Dee and (using a tug boat operated by Batty Tugs) moored them in waters off of Western beach whilst police officers stood by

Resultant court action by the undersigned led to your chambers representing the Captain of the Port and in doing so you took instructions from one of your own staff in defending the acts referred to

You were represented by a local firm of solicitors and told the court (inter alia) that the waters in question had to be cleared as a matter of urgency

It is understood that the waters were cleared because a government minister had arranged for the sale of the yard

Since the area was cleared of vessels no action has been taken in the waters concerned (the 'government' changed during the court proceedings)

[The undersigned was not the only victim of the disgraceful acts of (amongst others) the port department and the following is an extract from a letter to the Governor:-

*Some time ago a mob consisting of employees from the Port department forced vessels from the 'Imossi' slipway to leave whilst the Police and a tug stood by (because a Government Minister had arranged the sale of the yard?)*

BFB

10/10

*One of the vessels was owned by and consisted of the home of Mr David Cotton who was forced out onto the anchorage in open sea in the full knowledge that a force 8-9 gale was forecast He was denied the chance to place his vessel in public anchorage sheltered by a mole and forced to anchor on the seaward side of it*

*The same night his vessel was shipwrecked against the mole and he narrowly escaped with his life but lost most of his worldly possessions*

*Mr Cottons story was not the only one*

*At the time the actions of the authorities were publicly condemned by the political party that is now in office*

*The legislation used to justify the criminal acts referred to above was the same as led to the 'riots' in 1995 and the near enforced take over of Gibraltar by British troops and contains what must amount to a fraudulent attempt to extend 'territorial waters' ]*

C Last Summer Dee Dee sank on the moorings she had been placed on and the police refused a request to investigate the sinking which showed signs of being deliberate

Prior to sinking completely a report to the Captain that Dee Dee was taking on water was not acted upon

Your response has been to advise me to remove Dee Dee from the jurisdiction without delay

Dee Dee has remained sunk and represents a danger to navigation

D Dee Dee and to a lesser extent Sheiloon are involved in proceedings soon to be put before the Judicial Committee of Her Majesty's Privy Council and it was not considered appropriate to take action in regard to the incidents referred to herein until those proceedings are concluded

That stage will soon be reached and the purpose of this letter is to put you on notice of the intention to take action against the unlawful acts perpetrated by you and those you represent

In an effort to clarify the situation and perhaps save time and effort in the long run you are invited to justify in law the acts referred to and/or to rebut any of the facts related herein

For the record you are also requested to formally confirm your refusal to take proceedings against those responsible for the acts referred to herein

This letter is being copied to the relevant parties

Sincerely

D A Schiller

copy: Sir Richard Luce The Governor of Gibraltar  
John W Prior Captain of the Port of Gibraltar  
Alan Crabtree Commissioner of Police for Gibraltar