MEMORANDUM ON SAGA COURT CASE

In June 2009, just prior to the expiration of transitional (re-licencing provisions) the South African Hunters & Game Conservation Association ("SAH") obtained an interim court order, declaring that all green card licences remained valid until a number of issues that they raised (including some of a Constitutional nature) were heard and adjudicated upon by the High Court in what is termed their "main application". The main application was due to be heard at some point after the interim application. At the time of the granting of the court order all interest groups welcomed the actions of the SAH.

Although SAH did not consult with fellow firearm organizations at the time of the obtaining of their court order or invite them to participate, various discussions were held individually and on a broader basis with SAH and fellow firearm organizations and it was agreed that SAH will not enter into any discussions or settlements without consulting the broader firearm community. The rationale for this was that the membership base of SAH in comparison to the number of persons affected by the transitional provisions, through not re-licencing, was relatively small. Secondly, SAH only has a mandate to represent its members. SAGA has been accepted since 2004 by the current Government as having a much broader mandate in representing gun owners in general.

Unfortunately, SAH did not consult with fellow firearm organizations in any meaningful way. It became apparent that ongoing discussions were taking place to which other interested parties were not a party to. Some general unease existed about this unhealthy state of affairs from shortly after the obtaining of the interim court order. An informal forum was set up to which SAH were invited and to which they sometimes, but not always, came to liaise between the various organizations concerning the

Firearms Control Act and its implementation. This informal body existed long before (as SAH claim) any formal body was instituted with the co-operation and intervention of the Secretary of Police.

SAGA became aware, through the ongoing re-licencing process, firstly on a gradual basis, but more recently on a much more accelerated basis that people were being prejudiced by the SAPS refusing the renewal of firearm licences for which individuals already had existing licences. On a proper construction and examination of the SAH interim decision by Judge Prinsloo and in conjunction with counsel, it was decided that because the interim court order declared all existing licences valid, the SAPS should not have continued with the re-licencing process until the SAH case had been finalized and a final decision had been made on the validity of the transitional provisions and on the status of the so-called old Act or green card licences. Not only was there much uncertainty created by the SAH decision, but with the Minister intervening in the Central Firearms Registry and ordering that the backlogs be disposed of, more and more people had their renewals refused.

As a result of this SAGA launched an application for an interdict to stop the re-licencing process until such time as the SAH decision had been finalized. SAGA did liaise with the legal representative of SAH throughout this process and other than formal acknowledgments received during this time period by SAGA, there was for all intents and purposes little co-operation.

SAGA had accepted at face value the undertaking that it had been given that there wouldbe no consultations or agreements between SAH and the SAPS without consultation with other role players. When SAGA received the answering papers of the SAPS this appeared most definitely not to be the case. The SAPS referred to various discussions and consultations and even agreements, which when queried by SAGA, SAH were not prepared

to comment on. The State Attorney who represents the Minister of Police even went so far as to indicate that they had been told by SAH that SAH would file an affidavit in support of the SAPS, i.e. against SAGA.

Ultimately, SAH elected not to support the SAPS and filed an application to intervene in the SAGA application. Normally an application to intervene is done because the intervening party has some form of interest in the matter and can positively contribute towards the ultimate resolution of the matter in the interest of justice.

However, SAH has elected to do something entirely different. In their application to intervene, a copy of which is available on the SAGA website at www.saga.org.za, SAH have asked the court to stop the SAGA court case. They have also asked that the court case be stopped until such time as SAH have had the opportunity to settle their court case with the SAPS. What SAH have effectively asked the court is to exclude all interested role players from participating in the ultimate resolution of their court case. This is unacceptable to SAGA.

It is for this reason that SAGA will be opposing the relief asked by SAH to stop the SAGA court case.

SAGA calls upon SA Hunters to join the broader firearm fraternity in seeking to attain equitable legislation that regulates firearm ownership in South Africa.

SAGA wishes to stress that it does not want to fight with any firearm organization, but it will not tolerate attempts to infringe upon the rights of firearm owners in general.