

COUNTERFEITING IS NOT A VICTIMOUS CRIME

On 17 January 2011 shocking news of Warrant Officer Nortje's death reached the Bowman Gilfillan Anti-Counterfeiting Group. Warrant Officer Nortje was the head of the South African Police Services' Anti-Amuggling unit in Durban Harbour. This unit is tasked with investigating the smuggling of counterfeit and illicit goods into South Africa.

News reports confirmed that Nortje was shot and killed in his own drive way and the death was being described as a "hit". Given that he had recently been involved in the arrests and seizures related to high profile counterfeit goods cases, there was an immediate suspicion that his death was linked to the duties which he performed with great skill and enthusiasm.

His death evoked an outcry amongst the anti-counterfeiting fraternity in South Africa, leading to calls from leading South African law firms and their clients for an urgent special investigation into his death supported by Interpol and the World Customs Organisation.

High profile members of the South African Police Services confirmed on Friday, 21 January 2011 that their investigations had led to the arrest of three suspects whilst a fourth suspect had been killed during a shootout with police officers when they tried to arrest him. Details later emerged from the three suspects' appearance in the Durban High Court on Friday, 4 February 2011, that they were paid R30 000.00 (about US\$4000.00) to murder Warrant Officer Nortje.

But as Nortje's surviving son has stated, although the investigation had yielded results, it will not bring back his father. The South African anti-counterfeiting community can, to some extent, identify with this loss. Warrant Officer Nortje was very passionate about his task and it was a daily testament to the pride he took in doing a very difficult job incredibly well. He was a wonderful ally to the anti-counterfeiting community, always willing to assist – often before his help had even been requested. His professionalism and integrity will be sorely missed.

His death should dispel the myth that counterfeiting is a victimless crime. But it is not only the lives of Police Officers and Customs officials in South Africa and indeed the world that are at risk. From the exploited Chinese national (sometimes under aged kids) who works in unimaginable conditions to produce the counterfeit goods to the often unsuspecting member of the public who ends up purchasing a poisonous or sub-standard product which may harm his or her health, counterfeiting is clearly more than a mere economic crime, posing a risk to

corporate profits as cynics often remark. The fight against counterfeiting is important and in a very real sense, intellectual property rights holders' continued monitoring and policing of their rights contributes to protect the public.

Marius Haman