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## **Reply of Andreas Meyer to the Committee for Family Affairs, Senior Citizens, Women and Youth dated March 8th 2013**

"Cologne, March 8th 2013

Re: Letter of the Board of the Contergan Foundation dated February 22nd 2013 in regard to the public hearing of the Family Affairs Committee on February 1st 2013

Dear Members of Parliament,

Regarding the letter of the Board of the Contergan Foundation dated February 22nd 2013 in regard to the public hearing of the Family Affairs Committee on February 1st 2013, I would like to comment as stated below:

### **For 30 years Grünenthal has had access to the medical files of the Contergan victims**

Between December 6th 1972 and December 31st 2003, Attorney Herbert Wartensleben was Chairman of one of the two Medical Commissions of the Contergan Foundation.

Until January 1st 2004 there were two Medical Commissions at the Contergan Foundation.

In this way Mr Wartensleben was able to inspect the medical files of Contergan victims as these were available for the Medical Commission.

Mr Wartensleben had been the head of the legal department of the Grünenthal Company at the time of the Contergan criminal case. And at least at the time when he was appointed by the Advisory Council of the Contergan Foundation on December 6th 1972 to work as the chairman of one of the two Medical Commissions of the Contergan Foundation, he was acting as counsel for the Grünenthal Company on the subject of Contergan.

This fact has been known for years to the judicial supervisors of the Contergan Foundation and therefore also to the Federal Ministry of Family Affairs.

As Mr Karl Schucht, now a member of the Board, replaced Mr Wartensleben as chairman of the Medical Commission on January 1st 2004 he should also have been

well aware of that fact. Mr Schucht only began his work as member of the Board of the Contergan Foundation in the year 2009.

Since 1972 one sees Mr Wartensleben again and again as counsel for the Grünenthal Company on the subject of Contergan. Most recently, in 2007, he appeared for the Grünenthal Company in the lawsuit against the WDR regarding the Contergan feature film.

### **Payment of costs of the Medical Commissions by Grünenthal**

Regarding this topic I would like to quote from a letter by the Grünenthal Company to the Contergan Foundation dated March 5th 1973:

#### **“Expenses of the Medical Commissions**

**Dear Sirs,**

**We thank you for your enquiry dated February 8th 1973.**

**With regard to the agreement with the Federal Government of which you are aware we would like to confirm that we will pay the expenses of the medical experts as stated in your letter of February 8th 1973.”**

The letter was signed by Dr Franz Wirtz and (ppa.) Herbert Wartensleben.

Furthermore one finds payment of the expenses of the Medical Commission by the Grünenthal Company in the budget plans of the Contergan Foundation:

The payment for the Medical Commission by the Grünenthal Company is found as an item in transit in the budget.

I quote from title 1.1.4. of the revenues in the 2004 budget plan:

**“This is an item in transit as the Grünenthal Company has agreed to pay for these expenses.”**

One can read under title 1.2.6.1. of the expenses:

#### **“Expenses of the Medical Commission**

**There is a direct connection to title 1.1.4. of the revenues. This is an item in transit as the expenses are reimbursed by the Grünenthal Company.”**

From the date of the entry into force of the Act establishing the Foundation until today, the budgets of the Contergan Foundation have had to be approved by the Federal Ministry of Family Affairs.

### **Advocacy of the contract with the Grünenthal Company for paying the expenses of the Medical Commission**

Without any doubt a contractual agreement exists between the Foundation and the Grünenthal Company, dated April 18th 2005, on the basis of which the Grünenthal Company makes annual lump sum payments to fund the expenses of the Medical Commission backdated to January 1st 2004.

As mentioned above, for decades the Grünenthal Company has been making regular payments to the individual members of the Medical Commission. As this type of self-interested “landscape management” by Grünenthal was evidently getting out of hand, fortunately the Foundation’s former Chairwoman, Ms Schmidt-Zadel, and former Board member Dr Breuer, worked hard to get the above-mentioned contract into effect and put an order in place to regulate the expenses of the Medical Commission, in order to at least enable the Board to control the expenses and somewhat minimise the danger of influence on the members of the Medical Commission by the Grünenthal Company .

During my first meeting of the Advisory Council on December 17th 2009 after my inauguration I tried to make the request to cancel this contract between the Foundation and the Grünenthal Company.

Among other reasons for my request I referred to the draft budget plan sent as attachments with the invitation, from which it appeared that the Federal Ministry of Family Affairs was negotiating with the Grünenthal Company about an increased annual lump sum of 160,000 €. But at the latest through the entry into force of the Contergan Foundation Act on June 25th 2009, according to Section 4 Paragraph 1 Number 1 of the Contergan Foundation Act the Federal Government itself must pay for the administration of the Foundation and therefore also the expenses of the Medical Commission amounting to 160,000 € annually as planned in the 2010 budget. Therefore there might be the danger that passing the budget could be against the law. By the way, the Grünenthal Company could donate an annual amount of 160,000 € for the special payments category, which might be a bigger help for the Contergan victims. Mr Dieter Hackler (Federal Ministry for Family Affairs) took the initiative to make sure that my request was not submitted for decision as “this topic is not on the agenda”.

As proof of this whole proceeding, I point to the minutes of the 79th meeting of the Advisory Council on December 17th 2009 as well as my difference of opinion as reported in the annex to this minutes according to Section 2 Paragraph 3 Sentence 2 of the internal rules of procedure of the Advisory Council.

At the 80th meeting of the Advisory Council on February 18th 2010, I again moved to cancel the contract with the Grünenthal Company as part of agenda item 7: Change in the expenses regulation of the Medical Commission.

My motion was rejected by the majority of the government representatives in the Advisory Council and one abstention.

As proof of this proceeding, I point to the minutes of the 80th meeting of the Advisory Council on February 18th 2010.

Karl Schucht, as member of the Board, was present at both meetings.

According to Section 7 Paragraph 5 Sentence 1 of the Contergan Foundation Act of June 25th 2009, the Board is responsible for executing the resolutions of the Advisory Council and for the management of the Contergan Foundation.

According to Section 4 of the contract with the Grünenthal Company of April 18th 2005 for the financing of the Commission's expenses, the contract ended on December 31st 2008. The contract is prolonged for a further year if none of both contract parties cancels the contract with notice of 6 months before the next expiry date.

Until today, neither Mrs Blumenthal nor Mr Schucht have argued against the decisions of the Advisory Council as mentioned above or for a cancellation of the contract with the Grünenthal Company for the financing of the Medical Commission's expenses.

### **Accusation of money laundering**

At no time during the public hearing of the Family Affairs Committee on February 1st 2013 did I allege that the Contergan Foundation had received money from the Grünenthal Company which had been passed on to Dr. Graf. Neither did I allege that this way of handling things had been chosen to avoid accusations of corruption. Furthermore I did not make the allegation that the Contergan Foundation had evidently let itself be used to launder money.

I only quoted part of the minutes of the Advisory Council meeting of December 8th 2010, and to make myself understood I explained the quote to the audience.

I am happy to repeat the quotation once more:

**“Ms Fusenig suggested that these expenses might be paid for by the Grünenthal Company. To avoid possible accusations of corruption, the Grünenthal Company would not pay the money directly to Dr. Graf but the reimbursement should take place through the Foundation.”**

To make it clear I explained at the public hearing of the Family Affairs Committee on February 1st 2013:

**“I repeat once more, Grünenthal paid these expenses to the Foundation and not to Dr. Graf to avoid accusations of corruption. That means that the Contergan Foundation apparently let itself be exploited to ‘launder’ money.”**

To correct this, Mr Schucht now asserts in his letter to the members of the Family Affairs Committee dated February 22nd 2013 “that the Board did not accept the offer from the Grünenthal Company and the Contergan Foundation has at no time accepted money from the Grünenthal Company to pass it on to Dr Graf.”

I understand two things from Mr Schucht's assertion:

1. At the meeting of the Foundation Board on December 8th 2010 there was an offer

by the Grünenthal Company to pay money to the Contergan Foundation so that the Contergan Foundation could pass it on to Dr. Graf to avoid accusations of corruption.

2. The Board of the Contergan Foundation declined the offer from the Grünenthal Company.

If that is true I would pose the question why we of the Advisory Council as the controlling body of the Foundation Board have not been informed about this outrageous offer from the Grünenthal Company and its rejection by the Foundation Board.

If that is true I would pose the question why the Foundation Board even considers still accepting any kinds of donations from the Grünenthal Company.

If that is true I would pose the question why the Foundation Board still sticks to the contracts with the Grünenthal Company, which are of no economic value to the Contergan victims because the Federal Government has to pay for these costs anyway.

### **Inspection of Board minutes**

Mr Schucht asserts that I could have made notes at my appointments to inspect the Board minutes, and of course I am very happy to hear that.

I will make suitable appointments for that with the office of the Foundation next week and will make notes about and copies of the minutes of the Board meetings.

This will make the work of inspecting the minutes much more efficient and I will not need as many appointments to inspect the Board minutes as before. This will make it easier for me, the office and my assistants.

If you have further questions I will naturally be available to answer them.

Best regards

(signature)  
Andreas Meyer."

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