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### VICTIM INFORMATION FORM

Firstly I wish to make it clear that I am a pacifist. I have no desire for revenge. However, most human beings, and indeed, most nations, have a need for accountability should they, or their loved ones, suffer. This process is essential for individuals to begin the process of healing and for shattered countries to start to reconstruct a healthy nation.

#### Part B

##### Description of crimes (Part B question 1)

- 1.1 On the 13/08/1978, the 28-foot yacht *Foxy Lady* was anchored and taking shelter in one of the bays of Koh Tang island. The skipper and co-owner of the yacht was my brother Kerry George Hamill. The other co-owner was Canadian Stuart Glass. A third person on board was a paying passenger, Englishman John Dewhurst.
- 1.2 That evening, without warning, shots were fired upon the *Foxy Lady* and her crew. Stuart Glass, who was on deck, was shot. Kerry, who was also on deck, managed to get Stuart into a lifebuoy.
- 1.3 John Dewhurst, who had been below deck at the time of the shots, emerged from below and took refuge with Kerry, climbing overboard into the water.
- 1.4 The gunboat then picked up the two men.
- 1.5 Stuart Glass died and was buried at sea.
- 1.6 As suggested in the Division 164 report, Meas Mutt was in ultimate charge of the Khmer Rouge gunboat that captured the two innocent men and murdered Stuart Glass.
- 1.7 The men were shackled and blindfolded then taken to a cinema in Sihanoukville where they were held before being taken to Tuol Sleng prison (S21) in Phnom Penh.
- 1.8 At Tuol Sleng both men were subjected to interrogation and torture including electric shock administration, most probably at the hands of the Chief Interrogator Comrade Chan. Eventually both men were forced to sign confessions stating that they were CIA agents.
- 1.9 In his fictitious confession Kerry stated that Colonel Sanders (of Kentucky Fried Chicken fame) was one of his superiors. He used our home telephone number (8708) as his CIA operative number and mentioned several family friends as supposed members of the CIA who helped train him in CIA surveillance etc.
- 1.10 Approximately three weeks after his capture, John Dewhurst had signed a confession and was murdered.
- 1.11 Approximately two months after his capture, my brother, Kerry Hamill, had signed a confession and was murdered.
- 1.12 It is evident from both confessions that they were obtained under torture. The men wove the fact that they had had "CIA training" into real facts about their life. Their claim to have had CIA training was patently untrue and can be readily refuted.
- 1.13 The exact method of Kerry's execution is unknown but it may have been that my brother was blind folded, taken out of the S21 compound to a pre-dug trench, made to kneel down beside it, hit over the head with a metal bar, his throat slit, then buried. That's if he was lucky!
- 1.14 There were accounts of two foreigners put into car tyres which were then covered in petrol and set ablaze.

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- 1.15 It was speculated by Chung Mey in an interview we conducted that Him Huy and Comrade Soer played a part in the killings.

**Who was responsible? (Part B Question2)**

2.1 For my brothers death I hold Guek Eav Kaing (aka Duch), Commandant of S21, directly responsible. He was the person who oversaw Kerry's torture and he was the one who gave the order to have him killed. Irrespective of the implications to him. He also had the power to let Kerry go free, power that he did not exercise.

2.2 Although I see Guek Eav Kaing as the immediate authority responsible for the killing of my brother, ultimately the responsibility lies with the top-ranking leadership of the Khmer Rouge. Those who were in power at the time who were in 'cabinet' (to coin a western democratic term) should be made accountable for the tragic events that occurred in the late 70's in Cambodia.

2.3 They behaved like genocidal maniacs in a way not dissimilar to that of Adolf Hitler during World War II.

2.4 Just as it took one person (namely Pol Pot) to create the 'team' of Brothers, likewise it would have only taken one person to undermine it.

2.5 I am sure that any one of those leaders could have exerted influence upon the others (with subtlety and assertiveness where appropriate) and could have altered the course of history. Hundreds of thousands, perhaps millions of lives could have been saved. And the life of my brother and his friends.

2.6 It is clear from historical record that some of the leaders had doubts, but none chose the more difficult course and did the 'right' thing. Instead, like a river, they chose the path of least resistance. Shame on them. Shame on them all for their gutless, cowardly acts of savagery.

2.7 Those leaders or 'Brothers' as they were known are named as follows:

- 1 Pol Pot (deceased)
- 2 Nuon Chea
- 3 Ieng Sary
- 4 Khieu Samphan
- 5 Ta Mok (deceased)
- 6 Ieng Thirth
- 7 Son Sen (deceased)
- 8 Yun Yat (deceased)
- 9 Ke Pauk (deceased)

2.8 However, those following and enacting orders and enacting such violence must also be called to account. Although some may have been threatened had they not obeyed, most could have listened to their fundamental moral code and indeed the precepts of Buddhism and challenged the genocidal orders.

2.9 Where there was a will any one of the individuals acting out the massacre could have, if they had chosen to, exerted influence for the greater good.

2.10 Given such a brutal system would always been unstable, there would have always been an opportunity to organize rebellion and civil disobedience at the lower levels. That opportunity was not taken by any member of the Khmer leadership.

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**PART C – APPLICATION TO BE JOINED AS A CIVIL PARTY****1. I wish to be heard in the proceedings in Case File #1****2. Injury, loss or harm**

- 2.1 Kerry Hamill was eldest of five children in our family including John, Peter, Sue and the youngest, Robert (me).
- 2.2 In 1978, the year Kerry was killed, back home in Whakatane, New Zealand, we had no idea what had happened. Some weeks passed without any communication from Kerry. The weeks turned to months still with no contact from Kerry whom had been a frequent letter writer.
- 2.3 Our family home was positioned at the mouth of the Whakatane River. Towards the end of the year my mother, Esther Hamill, would sometimes gaze out to sea and pronounce to whomever was nearby, "It's ok, he'll turn up for Christmas to surprise us." We half expected the yacht to appear over the horizon at any moment. There was a desperate sense of hope in our household.
- 2.4 The Christmas of 1978 came and went, as did the New Year and there was still no news.
- 2.5 As time went by my parents became more and more anxious. Still we hoped for a positive outcome but deep down we were all thinking the same thing; that something terrible had happened to my brother.
- 2.6 My father, Miles Hamill, wrote multiple letters to ports in Singapore, Malaysia and Thailand requesting any information to the whereabouts of the *Foxy Lady* and possible sightings. He also wrote to the Minister of Foreign Affairs trying to establish if any ship wrecks had been reported in the area or whether any unusual occurrences has taken place that might be of significance.
- 2.7 Nearly a year after Kerry's capture the news came through that Kerry had been captured, tortured and killed at the hands of Pol Pot's Khmer Rouge regime.
- 2.8 We found out the fate of my brother through the news on the radio and reading the newspaper. Nobody in the New Zealand Government had taken the time to contact my parents with the news.
- 2.9 I recall first hearing about it from reading the front page of a local newspaper. A neighbour had rung us suggesting we go and get a copy.
- 2.10 We were devastated.
- 2.11 I remember standing in the kitchen hugging my father, both of us crying, for what seemed like a long time.
- 2.12 In the absence of Kerry's body, a memorial service was held.
- 2.13 Formal documents eventually came through from Interpol with Kerry's confession confirming what had happened.
- 2.14 The previous year of waiting and hoping yet fearing the worst had been a terrible time for our family. In some ways it would be been better to know what had happened at the time of Kerry's murder.
- 2.15 The following year was worse. For the next 12 months my parents tried to ascertain the detail of what had happened and find out why the New Zealand

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Government still supported Pol Pot's regime. At the same time they tried to sustain their business and hold off bankruptcy.

- 2.16 Family life disintegrated. During this time I took solace in alcohol and was inebriated many nights of the week despite being only 15. My parents were dealing with their grief in their own way and either didn't notice my antics or felt powerless to do anything. In effect I lost Kerry and my parents.
- 2.17 When I was home I was often having enormous arguments with my second eldest brother John who had been diagnosed with a mental illness. I believe the loss of his closest sibling had a massive impact on him.
- 2.18 Almost two years to the day after Kerry was captured, John committed suicide, throwing himself off a cliff near our family home.
- 2.19 Both Kerry and John died at the age of 28.
- 2.20 The effect these devastating losses had on our family simply cannot be measured. They were massive and incomprehensible.
- 2.21 I often think how much better things might have been had Kerry's life had not been taken. It's impossible to say.
- 2.22 I also feel a sense of empathy for the Cambodian people who lost loved ones. In many cases it was several family members. I cannot really understand the pain and suffering they have gone through and the state of helpless anger and fear they must have lived with. My love goes out to them all.
- 2.23 Finally, my brother was a wonderful person who is dearly missed. I wish he could have had the opportunity to meet my wife and children and them him.
- 2.24 A friend of Kerry's recently described him to me as "a gorgeous, beautiful man".

#### PLEASE NOTE

This submission has been based on personal experience, research conducted by myself, James Bellamy and the Documentation Centre of Cambodia (DCCam).

Information was also sought from people who had conducted their own research including other victims' family members and journalists. Contact was made with close friends, former partners and family members of John Dewhurst and Stuart Glass in Australia, Canada and England. We spoke with the tourists who had been on board *Foxy Lady* with Kerry on the last charter before John Dewhurst came aboard.

Our biggest source of documentation including confessions was sourced from DCCam and interviews were conducted with five ex Khmer Rouge cadre in Phnom Penh that worked at the prison during 1978: Him Huy, Comrade Seour, Comrade Pouv, Comrade Suti and Nhem Em. Tuol Sleng prison survivors Vannak, and Chung Mey were also interviewed.