

news you're not supposed to know

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nonewweek

98
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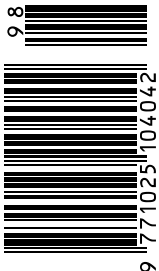
Fedbond & Sharemax

Wolves at the door



Investment in
property finance
is **NOT** as
safe as houses

Battle of Hermanus Sleuths without a clue | **I shopped the sheriff**
Absa leaves abused kids in tears | **The lying, thieving senior magistrate**



A bottle of Jack Daniel's Old No. 7 Tennessee Whiskey is the central focus. The bottle is partially obscured by a large, white, torn paper effect that peels away from the bottom and sides, revealing a message underneath. The background is black with a repeating pattern of small, white Jack Daniel's logos. The bottle's neck label reads "JACK DANIEL'S Old No. 7 Tennessee WHISKEY". The main label features the brand name in a large, stylized font, with "OLD TIME" above it and "Old No. 7 BRAND" in a circular emblem. Below that, it says "QUALITY Tennessee Whiskey".

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Wolves at the door

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SUBSCRIBE to noseweek and SAVE R82 on the retail price: see PAGE 29

Giving it to the Big Shots

Thanks for a great mag. Your investigative journalism has put fear into many a Big Shot. At my age your exposés are better than sex.

J Katz

Kimberley

What age is that? – Ed

The altar which alters not

The world at large has been subjected to a torrent of bad news affecting the global economy as a consequence of the so-called sub prime loan debacle created by errant banks and mortgage

it on to other institutions – no doubt of similarly low moral standing – to ultimately impact on financial institutions around the world, destroying the lifetime investments of anyone with the misfortune to be within range.

Performance rewards for executives have their place, but not to the extent where business quality is sacrificed on the altar of greed and power. The most depressing part is the sterile response by the authorities and the impotence with which the

believe that similar conditions and behaviour did not exist in South Africa. The content of material from your readers is testimony to banking and insurance institutions in South Africa displaying similar disdain for their clients, and I commend your activities in calling to task those who create such misery for others. Thanks for the many long and tedious hours of research and argument which undoubtedly precedes every outcome.

MPS

Bryanston

Discovery.

Only when pressed, the medical call centre, which is supposed to be “independent”, came up with a story that we had originally been overpaid and that over the year “adjustments” had been made. Without telling the affected members? It seems more likely to me that members are being fleeced by stealth.

Cyril Flint

Bryanston

O, but we did!

I’m surprised that when investigating the practices of our official town developer (“Unhappy in Hermanus”, *nose97*), you did not discover a few more scandals involving the same people: e.g. the sale of the station, a prime CBD site, for a ridiculously low amount (R3m instead of R30m) to Checkers for a new shopping mall that will attract still more cars to the town centre which is already gridlocked with traffic.

Widespread public opposition is simply ignored by the council.

Willy van der Hoeven

Hermanus

You underestimate us. See page 14. – Ed.

Unhappier in Hermanus

Hermanus is fast becoming a corrupt and unhappy town.

Guy Winchester-Gould

Hermanus

And it’s run by the DA! – Ed.

Lies and Damelin lies

Still enraged by your exposé of how hard-pressed parents seeking the best education for their children are unscrupulously exploited by Educor, I then learn that my son’s government school still promotes Educor’s Damelin colleges to pupils as a prospect for further education – in terms of a directive from the Western Cape Education Department! Thanks for being the beavers that you are.

MR

Cape Town

Greenpoint hits rock bottom

Your coverage of the Greenpoint stadium was spot on (*nose94*). Word has

At my age, your exposés are better than sex

institutions in the US – who seem able to operate beyond regulatory control.

Everyone has been affected by the machinations of these “whizz kids”. What incredible insight could possibly be required to realise that lending to someone who is without adequate means of repayment can have only one outcome? What is especially sickening is the scale on which these frauds have been perpetrated, and the audacity of the perpetrators in parcelling up their waste product and passing

victims must endure their fate.

These miscreants will probably walk away with hefty financial packages and re-emerge someplace else. In the longer term their institutions will likely benefit greatly when the tide eventually turns and the potential profit value of properties repossessed are later realised. You can be sure that the market cannot absorb the many properties that will come on line and these institutions will pick them up for a song.

One would be naive to

Gus



“I want to learn to play as if I’ve never had a lesson”

it that bedrock has now been found which may see the building rise a further four storeys. Too bad for the City's fallback plan of an underground parking facility. Anyone for golf?

MJ
Claremont

if a passenger had simply got on another flight – or left the airport?

It's time that maltreated passengers sue airlines and airports for millions to stop the greed.

Marie-France Ralfe
Saxonwold

SAA detains passengers

Another SAA tale, this one about flight SA272, scheduled to take off from OR Tambo at 19h45 on Friday 26 October for Paris.

At 21h15, my Parisian brother, who had boarded the flight on time, phoned to say he was still in Joburg, still on board.

The plane had a computer problem. Could we fetch him if the flight was cancelled? We heard nothing more and assumed they had finally left – until the next phone call at about 8am on Saturday, saying they were still there, that they had disembarked at 12h15, were put in the Business Class lounge (where only some of the passengers got a seat). They were served non-alcoholic drinks, chips and peanuts as a form of a dinner. They were not allowed to leave because of luggage on board.

At 06h00, it was announced they would leave at 10h00. They only left at 11h00 because they were waiting for transfer passengers! A breakfast was served at midday and dinner only at 20h00, shortly before arriving in Paris at 21h00. The last time passengers had a proper meal was presumably lunch time on Friday the 26th.

How legal is it to detain clients against their will? What would SAA have done

Watch that Beemer

What to do about the driver of a big dark BMW who drives like a doos? Chances are that he/she will wipe out, taking an innocent family along with him. Readers beware if they see ND 366-477 on the road, or they may become a statistic.

Len Palmer
By email

Laughing in bars

Men who don't read women's magazines smoke unfiltered cigarettes, drink vodka, beer and twelve sugared cups of coffee every day, gross out without remorse on buttered rolls, hamburgers, fried chicken, wors, slap salted chips, eisbein, ice cream and hot chocolate sauce. Reckless and mortal their blood pressure, sugar and cholesterol levels are as wildly high as their ecstatic heights of serotonin.

Gus Ferguson



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In the spirits of peace and profit

THIS IS *noseweek's* Christmas/Hanukkah/holiday issue, so in the spirit of peace and profit appropriate to the season, the planned follow-ups on FirstRand, Discovery, Omnia Fertilizer and Judge President John Hlophe have been postponed till January. A Merry Christmas to them all!



OVER THE PAST YEAR, various witnesses have been summoned to appear before the Master of the High Court in Pietermaritzburg to be questioned – behind closed doors – about their (often curious) financial dealings with Scottburgh attorney Pierre Grové, who early last year was found to have a R5m-or-thereabouts hole in his trust bank account.

Some say the hole is much bigger than that.

Grové is a bald, slightly built and generally well-spoken man in his mid-50s, who always wears brown slacks and an open-necked shirt – never a suit – to work. He was the sole surviving partner in the old law practice Havemann Ferguson at 130 Scott Street, and an associate of the much better-known Pietermaritzburg firm Geysers Liebetrau – until February 2006, when the Natal Law Society applied for his suspension. Shortly after that he had himself declared insolvent.

Officially it had to do with a secretary in Grové's office being found to have stolen from his trust account, with the unfortunate result that he was unable to furnish the Law Society with the required annual audit certificate.

Unofficially, and never mentioned out loud in small-town KwaZulu-Natal – or, shockingly, in any of the court proceedings – it had a lot more to do with the fact that Grové is a fallabout, unrehabilitated alcoholic who is more often to be seen at the bar of Sharks Alley or the Scottburgh Country Club than in court, and, judging by the payments from his bank accounts, has for years been the Scottburgh Bottle Store's most regular client.

Staff members recount how he often arrived at work with such a serious case of the DTs that he had first to pop over the road for a beer before he was able sign his name on a cheque or document.

To any honest observer, Grové has been unfit for professional practice for some years.

As extraordinary is the fact that the secret enquiry into Grové's affairs is being run by his old friend, practice associate and "pro bono" attorney, Andries Geysers. "He offered to do it out of the kindness of his heart," says Grové's official trustee, attorney Kevin Morris. While this might save the estate money, the obvious conflict of interest raises the legitimate question: is the enquiry directed at establishing what really happened in Grové's trust account, possibly as a result of his professional negligence and susceptibility, or might it be directed at getting an old friend (and his friends) off the hook?

But that is not why *noseweek* has paid a visit to Scottburgh. The real reason is the subject of our lead stories on pages 7–10.

The Editor



Mark Gribberg

"I think I preferred it before he became an equal-opportunity employer."

How safe *are* houses?

Fedbond has been breaking the law and ripping off its investors, mostly pensioners, for years

FOUR years ago the Financial Services Board launched a major investigation into the illegal activities of Fedbond, a registered financial institution that solicits investments from the public in participation mortgage bonds. The FSB went as far as applying to court to have Fedbond's licence withdrawn, and, when this failed, announced it was taking its case to the Appeal Court. Last month, days before the case was to be heard, Finance Minister Trevor Manuel ordered the FSB to withdraw its appeal, freeing Fedbond to reopen for business. It's done so with a vengeance, offering investors "millionaire" rates of interest.

Now, unexpectedly, an insolvency enquiry into the affairs of a drunken KwaZulu-Natal South Coast lawyer has offered us an insight into the sort of activities that Fedbond has been up to, that so upset the FSB.

An examination of Scottburgh attorney Pierre Grové's bank records reveals that it was not only the odd employee who was able to take advantage of Grové's invariably drunken state to dip into his trust bank account. (See editorial, page 6.)

Several local businessmen, too, appear to have taken advantage of the

situation to use his trust account for money laundering and other curious off-the-record financial dealings that had nothing to do with legal practice.

We do not know whether any of them have been questioned at the secret enquiry being held before the Master of the Pietermaritzburg High Court – why is it that we suspect not? – but Grové's bank records of the past few years make for fascinating reading.

And provide an insight into the shady modus operandi of Fedbond MD John Field's closest collaborator, property developer George Craig Rennie, usually known simply as Craig Rennie.

From very modest beginnings as a less-than-successful country attorney just scraping by with a secondhand motorcar, things suddenly took off for Grové in 2003. For reasons then less than obvious, he was suddenly headed for the big time, with millions, rather than the usual tens of thousands, flowing through his trust account.

A few details from those accounts that caught our eye:

■ Fred Durandt, owner of Umkomaas Forestry, was not a client of Havemann Ferguson (Grové's law firm), yet millions belonging to Durandt, his forestry business and a trust that bears his name now passed through Grové's attorney's trust account. And when you tot up the sums, Durandt got R1m more out of Grové's account than he put in to it.

■ DT Davies, a wealthy Scottburgh businessman, got Grové trust cheques for R170 000-odd – unrelated to any legal matter being handled by the unfortunate attorney.

■ Hein van Niekerk of Delta Mining in Johannesburg (he's also said to have mining interests in central Africa), in 2005 got pay-

ments from Grové's trust account totalling more than R1m. He had paid in only R10 000.

■ In the same year Congolese businessman Miko Rwayitare instructed Investec to deposit R16,5m into Grové's trust account on behalf of his niece, Scholastique Mpinganzima of Trio Technologies in Johannesburg. Within days all the money was disbursed in twenty different directions – none of it as directed by Ms Mpinganzima.

■ Pick n Pay was paid R52 954 out of Grové's trust account – yes, for groceries.

■ One case where Grové *was* performing legal work is worth noting: Grové was the executor of the estate of Mr MPA Radloff who died in November 2003. In 2005, in the course of his administration of the estate, Grové sold two of Radloff's properties. The net proceeds, totalling R1,95m, were deposited into Grové's trust account, from where the money disappeared, never to be seen by Mr Radloff's heirs. (They are now claiming the money from the Attorneys' Fidelity Fund.)

■ Though attorneys may not draw cash cheques on their trust accounts, and banks are not supposed to honour them, Grové signed many such cash cheques, often for R50 000 at a time – and ABSA paid them out.

■ In November a trust cheque for R5m was issued to "Fedbond". Just three months later, in January 2006, with the Law Society closing in on him, Grové wrote a desperate letter to



Finance Minister Trevor Manuel

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OR HAD ANY DEALINGS WITH**
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In Scottburgh:

Craig Park
Sea Horse

Detentor 106 (Pty) Ltd
Shargreen (Pty) Ltd
Shagreen Property Projects
(Pty) Ltd

In North Durban:

Classic Business Park
Kozir Property Holdings cc
Wilbat 108 (Pty)
GC Rennie B Associates Pty
Lot 367 Mount Edgecombe
Mount Edgecombe Plaza
Mount Edgecombe
Waterfront

Should you have been
disappointed in any way with
your investments or dealing with
any of the above, contact

031 767 0252

for a strictly confidential chat.

Quote reference: MELTDOWN



Influencing people: Craig Rennie (right) winning friends at the country club

Fedbond demanding the money back. Within 24 hours Fedbond MD John Field had returned the full amount without so much as a murmur.

In a curious way, it is this last item that provides a clue to unravelling all the others.

What these matters all have in common is that they all relate, somehow or another, to Pierre Grové's star client, the one who singlehandedly brought about the change in his fortunes in 2003: Field's friend Craig Rennie.

So influential did the notorious property developer become in Grové's practice, and so ruthless in his exploitation of the attorney's alcohol addiction, that he was able to use Grové's trust account as if it were his own.

All those people making curious deposits or receiving those unexplained payments through Grové's trust account were not the unfortunate attorney's clients: they were Craig Rennie's business mates!

If there was money – anyone's money – in Grové's trust account, Rennie could order Grové and his staff to issue cheques – to meet Rennie's own needs – even to pay his Pick n Pay grocery bills.

In this context, the fact that Rennie bought control of Grové's favourite watering hole, the Scottburgh Country Club, with cheques drawn on the trust account becomes hugely symbolic.

But hidden behind it all is Rennie's relationship with John Field, MD, owner and mastermind of Fedbond, which despite the Financial Services Board's best efforts since 2003, continues to operate as a registered financial institution while breaking the law at every turn.

For 10 years at least, Craig Rennie has effectively operated as Field's frontrunner and stooge in several disreputable property developments, using funds Fedbond solicited from (generally elderly) members of the

public. In projects initiated by Rennie and funded by Fedbond that we have examined, investors invariably lose money – and Field's privately owned management company ends up the owner of the property at a knockdown price.

Field then resells the property at a vast profit to himself, facilitating the sale by offering the buyer a fresh participation bond from his investors! Scottburgh shopping mall is one such case.

Of the half dozen Fedbond-funded projects on the KwaZulu-Natal coast involving Rennie that we have investigated, not one complies with the applicable laws. All have been dishonestly managed by both Rennie and Field to their own personal advantage.

All have ended up costing builders, professional consultants and investors money – prompting the advertisement that appears on this page.

Several businessmen who have embarked on property deals with Rennie and/or Field, on learning of their unsavoury history, have chosen to pull out of the deals as fast as they possibly could, happily paying the odd million or three in penalties to escape. (The buyer who bought Scottburgh shopping mall earlier this year soon thereafter paid Field a R3m fee to cancel his Fedbond mortgage, and replaced it with a bond from Absa – simply in an attempt to put distance between itself and Field.)

Scottburgh Shopping Mall also presents itself as a particularly shocking example of how Field and Rennie have been able to compromise municipal planning departments, to the extent that the Scottburgh authorities are unable to assure the public that the shopping mall is structurally sound – putting the safety of the general public seriously at risk. Not to speak of the fact that for the past eight years the mall's fire hydrants have been for show only – they have not been connected to the necessary water supply. More will be revealed in our next issue.

Meanwhile, see the facing page for an update on developments at Sharemax. ■



Between dreams and reality

Louise Kennedy nails Sharemax for selling her a property investment under false pretences

LOUISE KENNEDY of Bloemfontein invested in Oxford Gate Holdings – a Sharemax controlled property syndicate – in November 2005.

By early this year she was decidedly unhappy with the performance of her shares, and raised her concerns with Sharemax, but was given the cold shoulder. After sitting back for a couple of weeks, she decided to do her own research.

The result was an eight-page letter to Sharemax stating her case in no uncertain terms – but again Sharemax wasn't interested. MD Willie Botha told her he "didn't agree with her viewpoint", but that his director of compliance, Gert Goosen, would meet with her.

Ms Kennedy was not impressed, and in early November she told Sharemax:

"Considering the fact that I have given you a fair opportunity to solve this problem, I will wait until the close of business today for your counter-proposal **IN WRITING** to my proposal as outlined in my earlier letter. I will **CONSIDER** your counter-proposal. If no such proposal is submitted within the time-limit, or if such a proposal is unacceptable, I will proceed immediately to deal with this matter in the forum of my choice."

Within 24 hours, in a private share deal, a mysterious investor pitched in and bought her shares. Says a relieved Kennedy: "I am extremely grateful that Sharemax has finally responded in a positive manner. However, it is only fair that all investors should be privy to the same information and have the same opportunity to realise their investment at fair terms."

Kennedy's letter could well serve as a template to other Oxford Gate and Sharemax investors experiencing similar problems. It reads almost exactly like the report filed at Pretoria high court in October 2006 by forensic investigator André Prakke – but writ large. What Kennedy has to say

is a vindication of the concerns of the forensic accountant, and supports what investigative journalist Deon Basson has been saying for years.

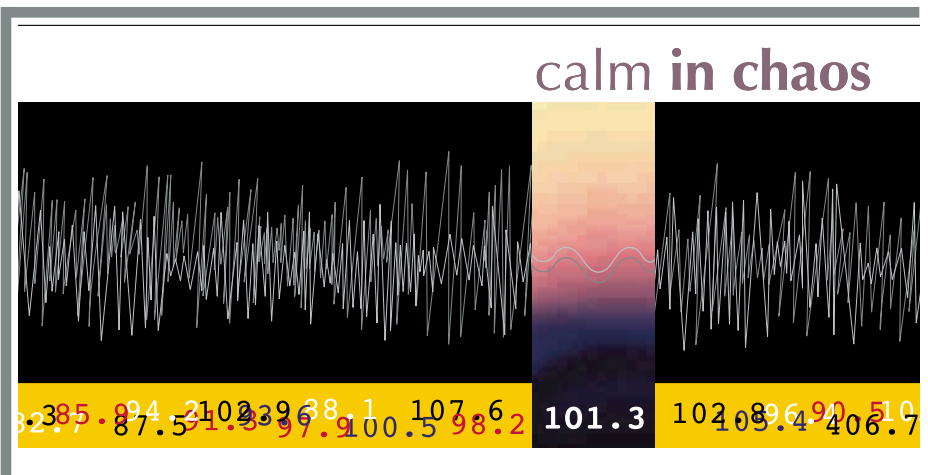
Kennedy begins by describing how Bloemfontein broker Dennis Oliphant persuaded her to invest in Sharemax's Oxford Gate project.

"Mr Oliphant told me that the investment, being in property, was safe and sound, and there was no risk

that I would suffer a capital loss in future. Sharemax was a well established company," she writes.

Oliphant assured her she would earn an initial interest rate of 10,5% a year. The broker also told her that the interest rate would increase every year as the property's rental income grew and that the sale of underlying property would generate additional revenue.

On the strength of this recommenda-



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tion, Kennedy bought 120 linked units of Oxford Gate Holdings at R1 230.71 a unit, a total investment of R147 685.20. What she didn't know, and has only recently found out, was that this interest was calculated on a nominal value of R1 000 per unit. So instead of earning 10,5% interest, she was earning less than 10%. Even when the rate went up in December 2006, her returns were lower than the promised 10,5%.

"Rationally I could not have considered an investment offering less than 10,5% interest as I was funding the investment with a bond on my own property," she writes.

Worse was to come. Kennedy's research revealed that in May this year, Oxford Gate director André Brand sent a newsletter to consultants and accredited brokers, telling them that the interest rate on Oxford Gate and other companies had been reduced by 0,67%. Kennedy's actual interest was now down to 9,83%.

All this contrasts sharply with the rosy projections which first attracted Kennedy, in a Sharemax marketing brochure published in 2002 when the Oxford Gate units were first put up for sale.

According to the sales pitch, investors could expect their money to earn 12,3% in 2005, 13,64% in 2006, 15,15% this year and 16,78% in 2008.

As Kennedy observes: "The subsequent actual performance shows that the optimism was ill-founded and

"I believe I was grossly misled by Oliphant and Sharemax"

— Louise Kennedy

not based on reality. In fact, the gap between reality and dreams is so big that I believe investors were deliberately misled."

What had happened to the capital value of her investment was of even greater concern.

"Here I believe I was grossly misled by Oliphant and Sharemax."

The initial value of the 28 000 Oxford Gate shares, issued at a price of R1 230.71 a unit, should have totalled R34,5 million.

She had no way of checking this figure when she bought her shares because the company had not yet filed its statements for the previous financial year. When she finally got hold of the 2005 statements, she discovered that the value of the funds amounted to just R25,7m or R917.85 a unit.

"This meant that I paid a premium of 34% without the actual intrinsic balance sheet value having been disclosed to me by Oliphant and Sharemax."

The balance sheet valued the underlying property at just R26,6 million.

Yet the following year, Sharemax valued the property – in a list of properties it proposed selling to SA Retail – first at R46,2m and, a few months later, at R44,7m.

Kennedy says she was not informed about the proposed sale, which later fell through when the property failed SA Retail's due diligence test.

"My research shows that this was hardly surprising. Oxford Gate's 'annual report' for the 18 months to August 2006 reflected a profit of just R4,33m, while interest totalling R5m had been paid to investors. The difference between the interest payment and the 'profit' had to be subsidised or borrowed. The actual annualised interest rate backed by profits was 10,3% as opposed to 12,1% paid to investors. Trying to sell the property for R44,7m appears to have been a bit rich under the circumstances, as the historic yield backed by profits would only have been 6,5%."

A few months ago, Kennedy learned that the property was once again to be sold – now for a more modest R31m. After deductions, the net value amounted to just R28 908 824, or R1 032.46 per unit.

If this transaction had gone through, Kennedy writes, she would have lost 16,11% of her capital, or R23 792. She was never told why the would-be purchasers, Crystal Capital, pulled out.

"My information is that the vacancy level of the property is high, making it unattractive for serious investors," she writes.

"It is now clear to me that I was lured into an investment where the relevant information had not been honestly disclosed to me at the outset."

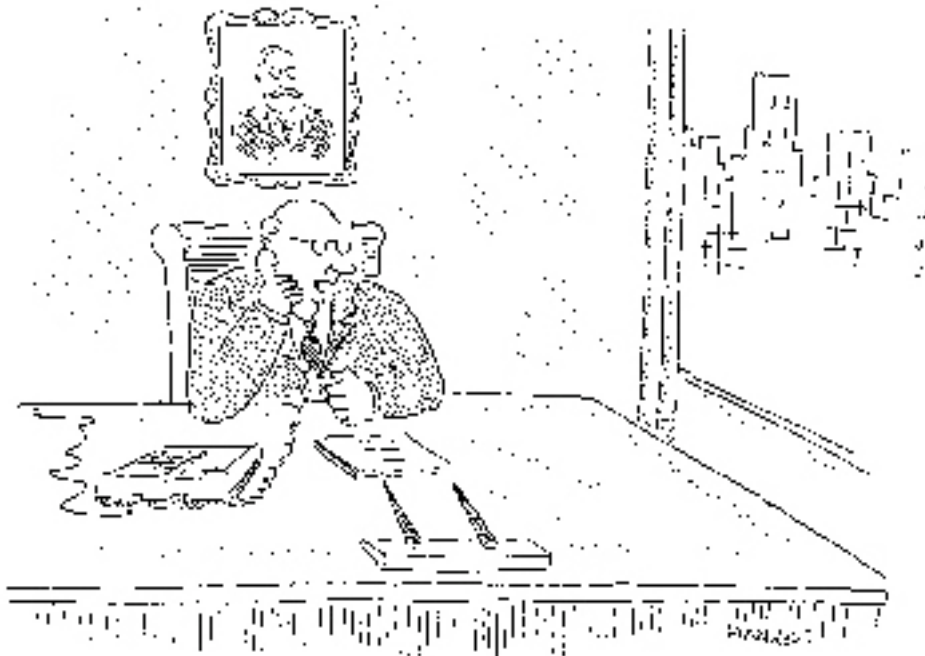
Kennedy ends her letter by setting out what she describes as "a fair outcome".

Not only does she insist that Sharemax, its directors and Oliphant buy her shares back for a total of R132 856.80, but that they compensate her for the amount she overpaid in the first place, and interest on that amount.

That would give her a payout of R170 399 plus interest.

She also claims more than R7 000 in "ex gratia interest payments" based on the projections in the marketing brochure issued by Oxford Gate in 2002.

Our guess is she got all she asked for. ■



"A billion is a thousand million? Why wasn't I informed of this?"

Sticky little fingers

THERE'S SOME MOST extraordinary news on the Standard Wank front! Who can forget our story (*nose40*, August 2002) of how Standard Bank had a sense of humour failure when they saw Justin Nurse's Standard Wank parody T-shirt which read "Standard Wank, Simpler, Better, Faster"?

You will remember that the bank hired no fewer than six teams of Department of Trade and Industry inspectors, armed with warrants obtained by Spoor & Fisher Attorneys in terms of the Counterfeit Goods Act, to raid some of Gauteng's Big Blue boutique stores which carried the "counterfeit" T-shirts.

Of course the T-shirts were not counterfeit – neither by dictionary nor by statutory definition. *Chambers 20th Century Dictionary* (New Edition) describes "counterfeit" as "to imitate; to copy without authority; to forge. Something false ... that pretends to be true and original".

The Counterfeit Goods Act, 1997, is even clearer. It describes counterfeiting as the unlawful imitation or copying of something in which someone else has an intellectual property right – in this case a registered trademark belonging to Standard Bank – to such a degree that the copy is substantially identical to the owner's original, and where the copy is calculated to be confused with or to be taken as the original.

It boggled the mind that trained judicial minds could be persuaded that a T-shirt carrying the outline of a hand on an erect penis was in fact a sly attempt to mislead the unwitting public who actually wished to buy a T-shirt with a Standard Bank logo (a flagstaff with flag). But the eminent lawyers at Spoor and Fisher, senior officials in the DTI and Magistrate Chauke had all applied themselves to the subject and come to the same conclusion.

The warrant had clearly been improperly obtained by attorney Mohamed Khader of Spoor & Fisher, who somehow persuaded Pretoria senior criminal court Magistrate Musa Chauke to issue it. We say "somehow", because we have been unable to trace a court file which

Magistrate in Standard Bank T-shirt case is guilty of theft

records the matter, and Magistrate Chauke merely laughed at the recollection of it when we approached him for comment.

noseweek also wrote to the DTI for an explanation regarding the abuse of taxpayers' money for this frolic. "The seeking of such a search and seizure warrant and the intervention of your department on their behalf using the Counterfeit Goods Act was *prima facie*, unprofessional and an abuse of the law," we told the DTI's Director of Monitoring and Complaints, Amanda Lotheringen. "Hence the need to know how Standard Bank and their attorneys motivated their application for the warrant, and on what grounds they sought to justify your department's urgent intervention, and on such a scale. We deem publication of the facts to be in the general public interest, as well as in the interest of transparent administration."

noseweek asked Lotheringen to provide us with a copy of Standard Bank/ Spoor and Fisher's application for the raid warrant, together with supporting affidavits; a copy of all correspondence between Spoor and Fisher and the DTI pertaining to the application and the subsequent raids conducted by inspectors of her department. We also asked who at the DTI had authorised the application to court for the warrant, and when, and, if it was done in writing, to supply us with a copy.

Lotheringen's lackey Fanfan Gaba responded with a laborious regurgitation of the Counterfeit Goods Act and all the steps the DTI should have taken – and then refused to give us any of the evidence we had actually asked for.

Gaba did confirm that the suspicion on which a complaint is based must

appear (to the DTI) to be "reasonable in the circumstances", and claimed the DTI would not have accepted a complaint unless ... "the inspector was fully satisfied there was enough *prima facie* evidence of an offence in terms of the act".

Fine words, but where was the proof? He suggested we approach Spoor and Fisher attorneys to obtain a copy of the complaint affidavit. No, no, said Spoor and Fisher, that information was confidential to their client.

So, with all that evasiveness about a very public judicial act, we were left wondering... Surely one couldn't buy off a magistrate? The wicked thought slid to the back of our minds...

... until Friday 16 November 2007, when the *Pretoria News* reported that "a senior Pretoria magistrate, his wife and their son were yesterday sentenced to a year in jail after being found guilty of receiving stolen goods." The senior magistrate in question was none other than our amused and amusing Musa Kenneth Chauke!

Chauke (41), his wife Lally (39), a senior personnel officer at the Limpopo Department of Health, and their son Shaun (22), an IT student, were charged with stealing BioSlim products worth R25 000 in 2003. Magistrate Dawie Jacobs of the Specialised Commercial Crimes Court found that the three accused had lied, and had contradicted themselves and each other in their evidence. Their sentences were suspended for five years.

Magistrate Chauke has been suspended from his judicial office pending an appeal which the Chaukes plan to pursue.

Surely Standard Bank should hasten to allay unhappy suspicions by instructing their attorneys to produce the full record of exactly what they did to persuade the DTI and magistrate Chauke to authorise that extraordinary "Standard Wank" raid in 2002? ■





Mr Nose puts it about

Cell C: Dumb and Hummer

CELL C AND THEIR AD AGENCY Net#work BBDO are wearing their “Dummerfaces” after launching an ill-conceived ad campaign that promotes General Motors Hummer range – globally synonymous with road-killed Iraqi children and the insecure driver who covers up sexual failures with a hip-high front grille instead of caring about the planet.

The Hummer is GM’s name for their civilian 4x4 derived from the Humvee, the troop-transporter that was the pride and joy of the US military – until they realised that having no armour made the vehicle a prime target for that famous Baghdadian welcome gift, the roadside bomb. GM is now making Hummers in SA, for local sale and export, presumably to make up for lost military orders on the range.

Cell C is giving away six Hummer H3s to subscribers who send pictures of their own “Hummerfaces” to www.hummerville.co.za, the competition’s website. Your “Hummerface” is the face you’ll be wearing when you hear you’ve won one of the six Kleinmannetjemoobiles on offer.

So far, the expressions submitted range from clinically insane to constipated. Not one of them shows any understanding that driving a 3,7 litre mini-tank to the supermarket means you’re contributing a ridiculous amount of greenhouse gas to the atmosphere, just to affirm publicly that you’re a car-carrying wanker of the highest order.

Cell C is majority owned by a Saudi company, Saudi Oger Ltd. It’s thus hardly surprising that they want us to consume more oil.

However, the fact that Abdulla Miya, MD of Net#work BBDO, claims to have no concept of the problems with Hummers is surprising. Ad agencies are paid to have their hairy fingers on the pulse of current events, to connect with what’s going down in the public domain.

When Mr Nose called Miya to ask how the Cell C Hummerville campaign squared with the eco-friendly image that they’re trying to build for another major client, Nedbank (the “green” bank), he said it was the first time anyone had given him the faintest idea that there were any issues with the Hummer, and, as



Present day
A huge consignment is on route to Cell C Headquarters...
...destined to be the prize for lucky Cell C subscribers...

continue



far as he was concerned there was no problem because the vehicle was “legally marketable”. He’s clearly never gone to www.blackle.com and searched “anti-Hummer”.

Ad execs are always trying to convince clients of the massive sway their campaigns have on consumers. But Miya, rather originally, tried to convince Mr Nose that his agency had next to no influence on the public. Asked if he would consider withdrawing Hummerville in the light of his new knowledge of the considerable negatives of the Hummer brand, he put on his “please don’t hit me” face and opined that Net#work BBDO was “small fry”.

“Why are you asking us? We’re only giving six of them away,” he said. “Why don’t you ask GM why they make the things?”

Cell C marketing chief Simon Camerer stepped right into the slippery stuff. He says that Cell C “shares GM’s commitment to the environment”, because the Hummer H3s they’re giving away are more fuel-efficient than the even more monstrous H2 model, sublimely unaware that GM’s commitment to the environment

has been soundly negative. GM has long lobbied against increases in fuel-efficiency standards in the US, and the company killed its first electric car, the EV1, because prototypes received such rave reviews that it was set to threaten GM investment in petrol vehicles.

The H3 is a five-cylinder SUV, not a V8, Camerer assured us, as if it’s utterly reasonable, even desirable, to have such a massive motor for a family car (as a classic SUV the H3 is built for showily ferrying a few people, not for work). Toyota has now overtaken GM in virtually every market because its cars are, overall, more fuel-efficient than GM’s.

Gareth Gordon-Davis, also of Cell C marketing, tells Mr Nose he has no idea who won the latest Nobel Peace Prize (Al Gore and the Intergovernmental Panel on Climate Change, for their work on global warming). But, says Gareth, he definitely takes climate change seriously. And it’s the first time he’s heard that large-engined vehicles have anything to do with the problem. Oops.

So, on to Cell C PR chief Shenanda Janse van

Well done! You’ve made it through the first leg.

Take a break and we’ll be in touch on 12 December 2007 for the next leg of this exciting competition.

Remember, that 6 HUMMERS are looking for homes, and you could be a lucky winner.

Rensburg, who says she's no expert on cars, but according to her info from GM the Hummer is an "environmentally-friendly vehicle". She says Cell C has no intention to promote the Hummer by using its US military link. Perhaps she hasn't visited their own competition website, which shows Hummers "being transported to Cell C headquarters" by camouflage-painted military helicopters. Another oops.

If Mr Nose could show up almost the entire Cell C marketing and PR machine this easily, what are they going to do when the Greens get onto them? After making light of conservation with their "Save the Buck" ad campaign, Cell C – according to Janse van Rensburg's knowledge – have never donated a cent to green causes in South Africa. Jawellnofine.

Yolan Friedman, CEO of the Endangered Wildlife Trust, told Mr Nose that she was disappointed that companies still felt the need to promote large SUVs for city use when the whole world (*barring Jackie Selebi* – Ed.) was turning away from them.

Peet du Plooy of the WWF asks: "How many lightbulbs does it take to unscrew a Hummer? Years spent convincing people to change to low-energy lightbulbs can be quickly negated by marketing directed in the opposite direction, that encourages conspicuous consumption of the kind that the Hummer represents."

And Mark Botha of the Botanical Society is wondering how Cell C's winners would afford to fill a Hummer's tank.

Mr Nose wonders: will Cell C and Net#work BBDO eat some green humble pie, or is it a case of Cell C for yourself – and eff the rest?

What's potting at CPU?

IT'S A YEAR AND A HALF since Mr Nose first raised the alarm over wheeling and dealing at the Cape Peninsula University of Technology (*noses* 81, 82 and 83), and, finally, a forensic report into the goings-on at that unhappy institution has been completed.

But, can you believe it, neither Mr Nose nor our readers is allowed to see what it says!

What to do about it other than to amble down to the Comrades Arms in Bellville to chat up the brus and sisters who invariably have a story to tell after a pint or three. And so it was. With many a hefty pat on the back, they assured Mr Nose that auditors Deloitte and Touche have agreed with him on almost every point!

Ja, they say, the auditors looked really skeef at the councillors being awarded campus contracts worth millions of rands without having to participate in bothersome and time-wasting tender procedures.

Patrick Parring? Ja he's there, just like he was fingered in these very pages for scoring three juicy pieces of business from his Pentech council colleagues.

And his friend Aunty

Pat Gorvalla, owner of Pat's Transport, who was awarded a R2,5 million Pentech contract while serving on the council. But, Mr Nose's fast growing circle of drinking mates assure him, Aunty Pat has stopped all her nonsense now. Her daughter's driving the bus.

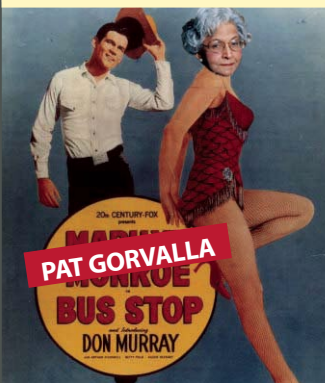
But the bar-brus are silent on what the auditors made of the involvement of former Pentech Chancellor Judge John Hlophe and former Vice Chancellor Brian Figaji in appointing the Oasis investment group as a portfolio manager for the institution's huge retirement fund. Pity.

And the mysterious appointment as CPU vice chancellor of the under-qualified but well-connected and otherwise quite charming Lineo Tanga? From what Mr Nose has been told, the auditors were scathing about the selection process, which caused outrage on campus and was described as "rigged" by *noseweek's* sources at the time.

But, say the brus, everyone has learned their lesson now, and she can maar stay.

And, they say, the auditors were very understanding of the many people they interviewed who were unwilling to tell the whole truth for fear of losing their jobs. The auditors also experienced difficulty and delays in trying to get hold of documents, so in the end they did more like a survey than an audit.

By this time depression had driven Mr Nose into his fifth pint, so he can't remember anything more – if there was any more said. You'll just have to wait until the report is made public – if it ever is!



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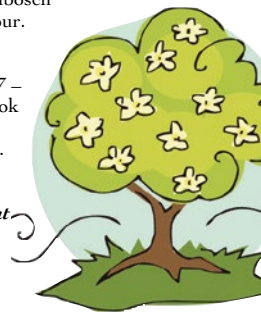
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Tiananmen Square? No, Checkers

SHOPRITE CHECKERS CEO Whitey Basson had to quietly flee the scene of a ceremonial handover of land in Hermanus last month. Jeering protesters – many of them furious pensioners – let the mayor and his friends know what they thought of having a Checkers branch in their midst. Basson headed out in his Lexus only minutes after his arrival, when a front-end loader had repeatedly “charged” the angry residents. A sod-turning with a difference!

The new Checkers complex, which many residents have good reason to believe has been sited in completely the wrong part of town, is presently under construction, but a legal challenge may yet interrupt this “refurbishment” of the old Hermanus station site.

There has been widespread public unhappiness, from the outset, about building a large Checkers complex here: if Hermanus does need a Checkers, it should be sited to the west of the town, where most residents live – not to the east among the B&Bs and holiday homes, where, beside other problems involved, it would seriously exacerbate already chronic traffic problems. Many also believe that the station site should rather be developed to enhance the town’s tourism potential.

There have also been some rather snobbish objections – “We lived in

Fatcats and citizens square up for Battle of Hermanus

Sandton or Constantia before retiring here you know, and we’ve never been to a Checkers before”. This despite assurances of an upmarket, real-Karoo-lamb-type Checkers. Others feel that any mall on the site should be far smaller.

And then there are aesthetic and environmental objections – plonking a huge supermarket complex with flats and parking right in front of the Hoy’s Koppie area is hardly appealing. If an Environmental Impact Assessment has been done, no one’s seen it, though the Shoprite Checkers website makes a big fuss about always doing an EIA and always trying to take into account the wishes of affected parties.

But it’s really the role of a certain “development facilitation” agency in the sale of the land that’s at issue, and which makes one wonder what power elected municipal councils have, or don’t have, over their own employees, who seem to facilitate deals that don’t appear to be in the municipality’s best interests.

The roots of the drama lie back in the 1940s, when, with a railway station already in place, Sir William Hoy, general manager of South African Railways, saw to it that the Cape Town line stopped 20km short of Hermanus, in nearby Bot Rivier – his way of ensuring that the Cape Town *hoi polloi* didn’t invade his favourite seaside village.

Viljoen claimed that noseweek's questions were 'blatantly biased' and not worthy of reply

So this is a station that's never seen a train – perhaps an interesting tourism fact in itself... Hoy's mortal remains now rest on a hillside just above the station, where they no doubt restlessly turn each weekend as CA cars clog the burgeoning tourist town.

In the 1990s the Hermanus municipality bought the station, the large vacant stand behind it, and some railway cottages alongside. After talk of a cultural centre, or a hotel, in 1999 the municipality appointed a crowd called Rabcav – a joint venture between property company Rabie and a company called Cavcor – to “unlock the value” of their assets, and handed over to them the sale of municipal land, including the station site and what is now the Fernkloof Golf Estate.

But if you imagine that a municipality outsourcing the selling of its crown jewels would sensibly retain a modicum of control over the process, you'd be dead wrong – Rabcav pretty much gets to direct the entire property disposal process, from concept to price, to completion. In fact, the Hermanus municipality seems more or less forced to accept any proposal which Rabcav comes up with. Though local residents may comment on proposals, there is no obligation to accept their views; Rabcav does the financial viability report; Rabcav gets project management fees, estate agent's commission and development facilitation fees; if the council upholds an objection to a rezoning application, it must make other municipal land available for sale by Rabcav, or pay facilitation fees. The words “over” and “barrel” spring to mind, as do “vice” and “balls”.

In July 2001 Rabcav put the station site out for tender – with virtually no advertising. Leslie Viljoen, head honcho of Cavcor, and Rabcav man involved in the station site development,

including the marketing of the tender, claims to have saved the council millions in advertising expenditure by getting newspapers to publicise the station site by way of editorials.

However, Viljoen claimed that *noseweek's* questions were “blatantly biased” and not worthy of reply. No answers, then, to: “In which newspapers did the editorials appear?”, or “Why was a tender-response period of only one month given?” Also: no comment on why 22 tender documents were uplifted, but only two tenders were submitted.

One of these was a R3m tender from the “Hermanus Station Site Group”, for a shopping centre. The other was from Shoprite Checkers, for R3,05m – which seems a rather remarkable coincidence. Also a bit odd that neither group appears on the list of those who uplifted tender documents.

Shoprite Checkers had already looked closely at a site to the west of town, now known as the Gateway Centre – a plan dated 29 August 2000 shows Checkers as the major tenant. But curiously, in December 2000, *some eight months before the station site was put out to tender*, Shoprite Checkers commissioned a financial viability report on the station site – and this report recommended the station site over Gateway, subject to there being enough parking.

Did someone give Shoprite Checkers a hint of what was to come? Apparently Leslie Viljoen and Whitey Basson are friendly, and have already worked together on a number of projects.

The price accepted for the site has undoubtedly become the biggest issue in the whole business: even in 2001, R3m was an absurdly low price to pay for the site, with some claiming the true value was more like R10m – and that it's now worth at least R30m. The deal also lacks the usual price-escalation provisions, to cater for delays caused by objections and rezoning.

Objectors, many being pensioners for whom rates and taxes are a major expense, feel the town could have got a much better deal. They argue the sale contravenes the Municipal Finance Act, which specifies that a municipality must receive “fair value” in selling an asset, and the disposal must be “fair, equitable, transparent and competitive”. This act was not in force in 2001 when the original deal was done, but it certainly was in 2004, when a new deal was quietly negotiated in which Checkers *would get the land for free!* (More of this later.)

Overstrand municipal manager Jan Koekemoer (see box on page 16) also

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wouldn't talk to *noseweek*. So we have no official comment on why such a low tender price was accepted when so many people think the value was much greater. The reasons given in correspondence – only two offers, and R3,05m was better than R3m – really don't wash. If neither offer was acceptable, surely the municipality should have left the whole thing for another day?

The valuation to be found in the municipality files was given by Niel Warmenhoven, and he says there that he was instructed to prepare the valuation by Rabcav, and that the "raw land value" at August 2001 was R3m. This expression appears in the agreement with Rabcav, and means the value based on the land when designated as public open space. The municipality and Rabcav would probably use this document to justify the price – but, rather oddly, it's undated.

Warmenhoven was surprisingly chatty, and told *noseweek* that he did the valuation about 10 years ago, not for Rabcav, but on the direct instructions of the municipality itself. When we expressed surprise, he said he'd check his documents and that we could phone him after the weekend. That was the last time Warmenhoven answered his phone. Neither did he respond to messages left at his office. So we don't know if an old valuation was altered, or if the valuation was in fact done in 2001.

The municipality accepted the Shoprite Checkers proposal in February 2002 – on the recommendation of municipal town planner Riaan Kuchar (for more about this gentleman, who on 17 Nov 2007 participated in the Walker Bay Classic golf tournament in Hermanus as a member of the Rabcav team, see *nose97*). Pretty quickly, however, another deal was on the cards, because Checkers discovered they wouldn't be able to knock down the station building itself – being over 60 years old it's a heritage building. And this severely restricts the space available for parking.

Don't worry, said the municipality (or Rabcav?), you can build underground parking. There's an awful lot of rock, replied Checkers, that needs to be blasted away (30 000 tonnes of rock outcrop), and that's going to cost us plenty. Oh, returned the municipality (or Rabcav?), tell you what – we'll scrap the purchase price completely, and give you a five-year tax holiday.

Yes folks, the land would now be given away! Shoprite Checkers eagerly accepted, confirming the deal in a letter to the municipality on 4 August 2004.

Now, beside the fact that giving away prime real estate seems pretty criminal in any circumstances, there's another very good reason why the Hermanus municipality shouldn't have agreed to Rabcav's new deal (or even to the R3,05m one). In 2004 a resident,



Picture: images24.co.za / Rapport / Nasief Mantie

In the woodpile: Whitey Basson

a Mrs van den Berg, took Rabcav to court over the other big Rabcav deal in Hermanus, the Fernkloof Golf Estate. Mrs van den Berg, represented by her senior counsel husband, alleged that the agreement between Rabcav and the municipality was invalid, as it totally fettered the municipality's discretion. The matter was apparently settled, with Rabcav paying Van den Berg's costs.

Although that payment was probably made without admission of liability, wouldn't a prudent municipal council have looked into whether it was in fact bound by the Rabcav agreement, rather than agreeing to this quite absurd deal? But this is no ordinary municipality – if talk in the town is to be believed, at least two of its employees profited rather handsomely from the Fernkloof Golf Estate development, one to the tune of some R2m.

The cost to the municipality is also weighted by the further issue of roads and traffic. Each morning sees a five-kilometre line of Toyotas crawling into town, so for years there's been talk of a relief road to ease the traffic, which would go straight past the station site. Again, it's unfortunate that municipal manager Jan "Income Tax se Moer" Koekemoer [see box for more about *that*] chose not to talk to us to clarify the situation, but it seems that if the Checkers development does go ahead, this relief road would have to be built. And the municipality will probably have to pay for it – Checkers isn't paying and neither is the province.

So not only is Hermanus getting a lousy R3,05m for land now worth R30m (newsflash: the "It's all yours for free" offer and the tax holiday have been withdrawn), but it must also fund a road, which some say will cost as much as R30m.

Local residents were not at all happy, and various appeals against the

Jan Koekemoer: one sharp dude

OVERSTRAND MUNICIPAL MANAGER advocate Jan "*noseweek se moer*" Koekemoer (see *nose97*), whose contract runs until 2013, is now working his notice, having resigned for reasons described, in the *Hermanus Times*, by Hermanus mayor and ex-SADF general Theo Beyleveldt, as being related to stress and not to anything untoward.

The mayor's memory is slipping: Koekemoer's resignation was in fact not unrelated to a pending income tax case arising out of some large bonuses the man received on top of his R1m-plus package – some R250 000 in 2003/4 and R160 000 in 2005/6. Koekemoer put these sums into his pension fund, but SARS claims they formed part of his gross income. Koekemoer is defending the case – he's apparently been through three firms of attorneys and at least one advocate. Which is fine, except that his legal bills are apparently being paid by the

municipality. This dude is so sharp that his employment contract states that were he ever to face a disciplinary hearing, he and the mayor would themselves decide who would adjudicate the matter – and the municipality would pay Koekemoer's legal fees.

Wasting ratepayers' money hasn't been of great concern to Koekemoer: he's apparently managed to get rid of at least three senior staff members, including a town engineer and a financial director, who claim that their only offence was asking too many questions about Koekemoer's tax scheme, or Rabcav. Two of these employees were paid severance packages linked to confidentiality agreements. We wonder what package Koekemoer has negotiated for himself – there's talk that he has "leave credit" in excess of R1m, and that he'll be back at his desk soon as a consultant.

Panic gripped the high command, with a military style operation swinging into action

development were lodged. In November 2005 the matter went to the Western Cape Department of Environmental Affairs, where it was considered by the head of the department, one Theo Tolmay. In a report prepared between 28 September and 10 October 2006 Tolmay decided that, with public unhappiness swelling, the development was undesirable, and he recommended that the appeal be upheld and rezoning refused.

But suddenly, another coincidence: on 12 October 2006, two days after Tolmay had actually finished his report, though before he'd signed it, Whitey Basson phoned Western Cape Premier Ebrahim Rasool (yes, a whitey – if he's Whitey, *can* still get straight through to a leading politician) to complain that the process was taking far too long. Send me a letter, said Rasool. Which Basson did, and in it, along with with predictable brown-nosing, he complained about how the delays were putting a strain on Checkers' budget, and promised massive employment if the development went ahead.

It's to Rasool's credit that he did at least answer *noseweek's* queries. No, he didn't meet Basson, nor was there further correspondence, but he did send the Basson letter on to Tasneem Essop, Western Cape Minister for Environment, Planning and Economic Development. According to Essop she met with the officials in her department and concluded that the rezoning refusal was not based on town-planning criteria but rather on the number of objections, which wasn't relevant.

Essop and her officials did a site inspection, and the officials then presented her with a new recommendation dismissing the appeals. Essop is quite adamant that she was not swayed by Shoprite Checkers' alleged budgetary problems, nor taken in by the promise of employment. Neither did she ever meet

with Whitey Basson or anyone else from Shoprite Checkers. The rezoning was granted subject to certain conditions – the station building must be retained and some “gap housing” (low-income housing) must be created on the site. She believes that the station site is indeed the best place for such a development in the town.

But those stropky residents were still at it, or at least some of them were. The Hermanus Ratepayers' Association (HRA), which has opposed the development from the outset, called a meeting on 4 October to vote on whether or not to persist with its objections. Somewhat surprisingly, those present voted to drop opposition, which led a smug mayor Theo Beyleveldt to report to a meeting of the DA-run council that “We won't hear any more from that lot”.

But with a great deal of dissatisfaction about the HRA meeting, and with some claiming they were browbeaten into dropping their opposition, a new residents' body was quickly formed, the Greater Hermanus Environmental Action Group, or GHEAG. This group immediately undertook a legal



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challenge, on the basis that Minister Essop's decision could be reviewed up to 21 November.

Panic gripped the high command, with a military style operation swinging into action. First it was "Hearts and Minds": the *Hermanus Times*, in a crass editorial, sent a stark message to those who can't handle a Checkers on their stoep – *vat jou goed en trek Ferreira!* Then it was "Secure the Position at All Costs", presumably so that the "It's Too Late to Undo Anything Now" defence can be raised if the matter goes to court.

Signs were erected on the site. Tenants of municipal houses on the site were told to leave, and clearing work began. A ceremonial handover of the site was announced for 1 November (though when the municipality learned there would be a public protest at the event, staff were instructed to say they didn't know when the handover date was).

Well, come 1 November, a crowd of over 70 protesters pitches up – it's a workday and many are pensioners. This is a very un-South African protest – many are white; no one's toyi-toying; no one's singing; not a rubber bullet in sight. There's grumbling about the DA being every bit as corrupt as the ANC.

Whitey Basson pitches up in a big chauffeur-driven Lexus and the crowd jeers

Protesters with enough strength wave banners saying "R30m not R3m"; "*DA Gee Ons Grond Weg*"; and "DA Take Note This Fight Is Not Over". (The DA were asked to comment on the story but chose not to do so.)

The police warn this scary mob to stay off the site. Champagne and drinks have been laid on for the dignitaries. Whitey Basson pitches up in a big chauffeur-driven Lexus, and the crowd jeers. He stands around with the mayor and some other fatcats, looking stupid;

this isn't the photo opportunity he'd envisioned.

Suddenly a front-end loader charges the protesters and dumps a load of dirt right in front of them. The protesters are outraged. The mayor and the police look on unconcerned. The driver does it again, and one elderly protester stands defiantly in front of the vehicle, like a West Bank settler confronting Israeli tanks. A protester asks the driver who told him to do this and he points to the fat cats. Basson's seen enough and makes a beeline for his Lexus, taking a route out of the site that avoids the protesters. Developer types are heard to mutter about getting "this project moving fucking quickly". Mayor Beyleveldt shuffles off with his entourage.

Back at his office Beyleveldt seems to realise he may have fought them (bloody nearly) on the beaches, but this was by no means his finest hour, and issues a statement that the front-end loader charge had nothing to do with Checkers, or the municipality. He promises a full investigation. Nothing comes of it.

As far as we know, an application for a review was to be filed on or before 21 November 2007. For the moment, the construction work goes on. **■**

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Where does Fund's R19m-a-day income go?

Court challenge may lead to payout of billions

TENS OF THOUSANDS of road accident victims, most of them poverty-stricken, are being cheated of long-term medical and hospital treatment because of a policy adopted by the state's Road Accident Fund.

Now this policy is being challenged in court. If the curator acting for 56-year-old brain-damaged Walter Mkhize succeeds in having the fund's interpretation of Section 17(4)(a) of the Road Accident Fund Act declared unconstitutional, the RAF may be forced to stump up billions to claimants who have been unable to get the medical treatment they are entitled to.

The Road Accident Fund was set up by the government to compensate the victims of road accidents, and a sizeable portion of claims is for victims' future medical and hospital costs, as determined by medical experts and actuaries, and ordered by the courts.

Initially, this future medical cost segment was paid to claimants upfront, in cash. But since 1998 the RAF's policy has given only "undertakings" to meet these future costs.

Because it's always been a nightmare getting payment out of the fund, when doctors and hospital administrators are presented with the fund's certificate guaranteeing payment, they are wary. So doctors and hospitals require hapless accident victims to pay for their treatment – and then themselves to claim reimbursement from the RAF. But since a poor victim needing a hip replacement isn't likely to come up with R100 000, there's no way they can have the operation – and the RAF escapes its obligation.

In the many cases like Walter Mkhize's, the situation is a nightmare. A father of three, employed for more than 20 years by a Malvern, Johannesburg, engineering company, where he worked as a grinder, Mkhize was seriously injured as he crossed the

road on his way home from work on 7 May 2004. He suffered severe head and brain injuries and is confined to a wheelchair, swaddled in nappies; nobody knows if he can hear or if he understands what has happened to him. His only movement is a flapping right hand that drums the armrest of his wheelchair, and he needs professional institutional care for the rest of his life.

Because Mkhize did not use a pedestrian crossing, it was accepted that he was 50% to blame for the accident. His future medical costs have been assessed at R3,9m, but first he must

meet 50% of any costs up to R1 954 500 – out of his own pocket. The RAF won't pay out its R1,9m portion in cash; it will pay half the costs as they are incurred.

Mkhize's curator *ad litem*, Johannesburg advocate Eric Myhill, holds R425 391 received from the RAF in a pre-trial settlement for 50% of general damages and loss of earnings. And there's a monthly disability pension of R2615 from Mkhize's former employer, Batis Engineering. But, argue his lawyers, these funds would soon be swallowed up meeting his 50% of the RAF's apportioned undertaking, leaving his wife indigent.

Thousands of accident victims who have apportioned undertakings are in the same boat. The RAF will only shell out its share after the victim has raised their own portion. And, of course, the victim almost always has to stump up 100% of the cost anyway, in view of the mistrust of the RAF's Certificates "guaranteeing" payment.

Section 17(4)(a) of the Road Accident Fund Act states, conveniently, that the fund may give an undertaking to compensate victims for future medical costs "after the costs have been incurred and on proof thereof". Apportionment is not mentioned in the challenged section. But up to now, the RAF has got away with apportioned undertakings due to a 1996 judgement of the then Appellate division (*Mutual & Federal Insurance Co v Ndebele*) which found, by applying the common law rules of interpretation, that an apportioned undertaking was permissible.

Mkhize's advocate, Bernard Ancer SC, maintains in his argument that the Appeal Court did not consider the issue of apportioned undertakings in the light of the Constitution, which says that "when interpreting any legislation ... every court, tribunal and forum must promote the spirit, purport and object of the Bill of Rights".

Ancer claims that apportioned under-



No respite: Brain-damaged Walter Mkhize

takings are in conflict with the right to equality, the right to have health-care services, the right to life and the right to dignity – and that the practice of dealing with all future medical expenses through undertakings “in fact deprives the plaintiff of any medical treatment or care whatsoever”.

An apportioned undertaking, says Ancer, has to be seen against the background of the practical effect that it has on individuals and in particular upon poor claimants.

“The impact upon the plaintiff (Mkhize), and those similarly situated, of this interpretation of the statute, is effectively to deny them access to an entitlement granted by a statute: an apportioned undertaking in fact has no value to the plaintiff whatsoever.”

Walter Mkhize’s legal team seeks a ruling that the Appellate Division’s interpretation of Section 17(4)(a) is in violation of the Constitution, and to disallow all apportioned undertakings in future. Mkhize’s curator should either receive the RAF’s portion (R1,9m) upfront in cash, or the fund should



Picture: Mark Wesells. © Sunday Times

Review: Deputy Judge President Phineas Mojapelo

guarantee payment of 100% of his future medical costs as they arise, up to the agreed maximum of R1,9m.

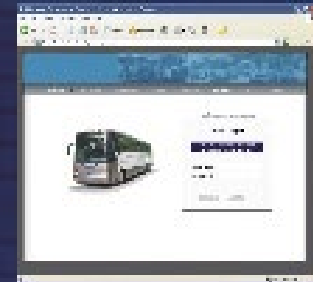
Deputy Judge President Phineas Mojapelo clearly sees the enormous implications of Mkhize’s application. He

decided that the matter should be heard by three judges in the Johannesburg High Court – Judges Percy Blieden, Mohamed Jajbhay and himself as Presiding Judge. On 9 October the judges found the documents filed by the RAF sorely wanting. They ordered the fund to supply a full outline regarding the administration of undertakings furnished in terms of Section 17(4)(a) over a three-year period, specifying:

- The number of undertakings issued
 - The number of undertakings utilised and the percentage to which they have been utilised
 - The number of undertakings not utilised
 - The response of service providers to “the undertakings in general and the apportioned undertakings in particular”
 - The amount of money spent in the last three years in respect of the RAF’s obligations in terms of Section 17(4)(a).
- Giving a clear indication of the court’s feelings, the RAF was also ordered to pay 100% of Mkhize’s future medical costs and hospital expenses up to R1m,

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monthly as the costs are incurred, pending finalisation of his claim. In other words, throwing the fund's undertakings and apportioned undertakings out of the window – for the moment.

The RAF has responded by replacing attorney Percy Mngomezulu with experienced lawyer Trevor Fagri as attorney of record, and top constitutional advocate Gilbert Marcus SC has been briefed in place of advocate Fezile Memani.

The Fund missed the court's 6 November deadline. Trevor Fagri has written to Deputy Judge President Mojaelo saying the process of compiling the statistics and information required was "an extremely substantial one"; he has requested an extension to 6 December. Since the High Court closes for Christmas recess the following day, the RAF is clearly playing for time, delaying a resumed hearing of the case until next year.

noseweek approached the office of RAF chief executive officer Jacob Modise (whose incentive bonus of R1,2m brought his total remuneration for the year to 31 March 2007 to R3,6m) for comment on the fund's policy of undertakings and apportioned undertakings. From Modise's office, staff attorney Lindsay Steele requested our questions in writing, which were duly emailed on 12 November – two days later Steele said the email had only arrived that morning and Mr Modise therefore couldn't supply answers before our deadline.

Meanwhile it's possible, from the RAF's annual report, to get an idea of the scale of issued undertakings to 31 March, when the fund reported a deficit for the year of R1,9bn. On that date, of a total outstanding claims liability of R23,9bn, there was an "undertakings claims liability" of R2,6bn, with 80 912 undertakings outstanding (almost doubled from 42 878 in 2003/4). It's not stated how many of these were apportioned.

In 2002 the Satchwell Commission of Inquiry into the RAF found that at 30 April 2001, of 7949 issued undertakings, 83,1% were "dormant" – a percentage that increased to 85,2% the following year.

"Initially, the RAF was unable to explain the non-utilisation of undertakings," reads the Commission's report. Subsequent visits by the Fund to 270 claimants who had been issued with undertakings but not used them, revealed that 63,70% of them did not even know about the undertaking; 18,15% knew about the undertaking but had no knowledge about how it

was administered; 3,7% of the sample said they had no money to augment the apportionment and no money to pay for services upfront, and then claim back half from the RAF.

Mkhize's attorney, personal accident specialist Anthony Millar of Norman Berger Inc, says: "If the RAF's undertaking is limited to 50% because a person is 50% to blame for the accident, and the victim doesn't have 50% to contribute, it effectively results in him receiving no treatment.

"This interpretation by the RAF of Section 17(4)(a) is being used by the fund as a mechanism to deprive accident victims of their future medical and hospital expenses," says Millar. "The fund's apportionment policy is a plot to wriggle out of their commitments. It's a cynical ploy to avoid paying for medical treatment.

"They state R2,6bn in the accounts as an undertakings' claims liability. But we know from the Satchwell Commission's report that more than 80% of undertakings are dormant; up to 90% of the people aren't receiving their money. What's happening to the money? How can the deficit grow every year when the amount that's been provided for medical expenses is reducing?"

Millar concluded: "It's wicked. No one who's on the board of the RAF, or its management, sees, as I do, clients weeping because their life has been devastated by the consequences of a motor vehicle accident. They move the victims around like pawns on a chessboard, not realising that these are human beings who are affected by the policies that they make and the things that they do."

As for Walter Mkhize, who isn't even aware that a courtroom victory for him may bring financial relief to tens of thousands of road accident victims – he's living in his brother's house in Alexandra, cared for by his wife Maureen Makwe, while medical experts search for an institution that will accommodate him for the rest of his life.

"Walter used to maintain us, but now he can't work or even walk," says Mrs Makwe. "At home in Qwa Qwa [Eastern Free State] we had goats, sheep, cattle and chickens. Now I'm looking after Walter in Johannesburg and our cattle have been stolen."

■ The Road Accident Fund receives its income from a fuel levy; for every litre of petrol bought by motorists, 41,5c goes to the fund. Income from the levy in the last financial year totalled R7bn – and the money keeps flowing in at the rate of more than R19m every day of the year. ■

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Sleuths without a clue

Forensics get the blame, but maybe it's all the cops' fault

ARE THE SAPS Forensic Laboratory Services (FLS) in disarray due to a lack of skilled and experienced staff? Such seems to be the public perception, created in large part by stories of state prosecutors repeatedly seeking adjournments while waiting for forensic reports to arrive.

In Parliament in June, responding to questions posed by the DA, Safety and Security Minister Charles Nqakula detailed the expected waiting periods for results from FLS: ballistics 40 days; biology 102 days; chemistry 56 days; questioned documents 35 days; scientific analysis 35 days. Minister Nqakula also revealed that there were a total of 6086 cases pending.

Although shortage of skilled staff is a key factor behind such delays the problem is much bigger. Forensic examinations are only one (though often crucial) aspect of the gathering and processing of evidence – it's the placing of evidence in an appropriate framework of reasoning that truly counts. Even were our forensic services functioning optimally, without sufficient skilled detectives, administrators and prosecutors, good forensics would be a waste of time.

Indeed the public probably starts out



Safety and Security Minister Charles Nqakula



with a skewed idea of the role of forensic science in solving cases. Contrary to what happens in popular television programmes, which often inflate the role of forensics in general crime detection – an example being CSI (Crime Scene Investigation) – forensic laboratories very seldom, if ever, solve crimes in a hurry.

Forensic services seem to be beset by two problems: insufficient facilities (there are only four across the country) and lack of experienced staff. But delays in processing of evidence also arise for other reasons – for example because the detective services themselves are not doing their work properly. Forensic scientists allege, for example, that detectives all too often send through everything they could find at a crime scene, hoping that FLS will do the appropriate sifting.

In fact problems in the forensic services are closely echoed by similar problems in the detective services. And of course the whole situation must be viewed against the background of

extraordinarily high levels of crime, which demand an expansion not only of the forensic services, but of the whole policing system itself – and especially of our detective services. Taking a global view, there appears to be a lack of proper central co-ordination in the general organisation of investigations and processing of evidence.

There are currently four forensic laboratories, situated in Pretoria, Cape Town, Port Elizabeth and Durban, with only the first two capable of handling biology-related examinations. The FLS received R211m and R233,8m, respectively, for the financial years 2005 and 2006. (A large number of the FLS's top people are actually paid their salaries from grants by European donors, including the European Union.)

Many of the total workforce of 1369 personnel are newly recruited, in compliance with transformation requirements, and have little or no experience. With experienced staff often bypassed in promotions, there's been an exodus of skills. And where new recruits are

If the media picks up your case, forensic examination is likely to happen much faster

taken on in a kind of apprenticeship system, experienced staff find themselves conducting on-the-job training, adding substantially to their workload, which seems to have led to further loss of experienced staff.

Attempts to recruit forensic scientists have failed miserably. Politics demands a percentage of recruited scientists to be from previously disadvantaged groupings – but black science graduates are in demand by private corporations which also need to comply with transformation requirements.

According to the Department of Safety and Security, in 2005 and 2006, 85 and 117 personnel were trained for the FLS while an additional 138 are currently under training. In the 2007/2008 financial year, a mere R1,8m has been allocated for FLS training.

Despite repeated assurances by Safety and Security that everything is under control, the FLS seems to have been pushed to the wall.

The delays described by Minister Nqakula constitute only the “normal” waiting period: some kinds of cases are “fast tracked” – the public is only

too aware of how quickly certain prominent cases have been processed; Jacob Zuma’s alleged rape lab results being available within days is but one example. It is also clear that forensic services concentrate on cases where a suspect has already been identified, so if one hasn’t been, the case is likely to take a lot longer than where police already “have their man”.

With the forensic laboratories clogged with cases, the FLS has resorted to depending on prosecutors to alert them as to the priority of cases, rather than using a chronological system. Various NPA regional prosecutors explained to *noseweek* that the prioritisation of cases depends on the publicity attached to individual cases, the number of previous adjournments, threats by judges or magistrates to release suspects and, most importantly, the social status of the victims or suspects.

“If the media covered all the crimes equally,” one regional control prosecutor told us, “the prosecutorial pressure would be evenly distributed. It’s typical – if you know that someone is watching you, you work extra hard.”

In short, if the media pick up your case, forensic examination is likely to happen much faster.

Dr Johan Burger, senior researcher at the Institute of Security Studies, comments: “It’s natural for highly publicised cases to get special treatment from the police and prosecutors. It may not be right, but it’s a universal thing that will be hard to get rid of.”

As a senior NPA official based in Cape Town told *noseweek*: “One’s social status alone is enough to have the lab results pushed to the top of the pile. The equipment could be there, but there aren’t enough scientists to handle the high volumes they receive nearly every day.”

This was echoed by a scientist at



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the Pretoria laboratory who said they are sometimes expected to work magic: "You can imagine a case like we have now of a judge's [Nkola Motata] drunken test being demanded to be pushed up the pile while we have various most atrocious crimes like murders being pushed further down." He said he was thinking of quitting the forensic services, adding, "When it comes to administration of justice, not all are equal".

In the bigger picture, the shortage of experienced forensic personnel is no more grievous than the shortage of skilled and experienced detectives. Anyone who thinks "Ah, Sherlock Holmes" when meeting the detective who has been assigned to handling their case, is very likely to be in for the wrong kind of surprise. The officer is unlikely to have received anything like the training that might lead to a

Holmes-like capacity for astute observation and razor sharp reasoning.

Unfortunately detective training appears to have taken a back seat, and it is of serious concern that in the last 10 years many experienced detectives have opted to work as private investigators, leading the Department of Safety and Security to openly decry the shortage of skilled detectives.

Considering the number of crimes, we should be seeing many more detectives being put on the job. According to the SAPS database, over the past six years "contact" and "contact-related crimes", (murder, rape, attempted murder, assault with intent to inflict grievous bodily harm, common assault, indecent assault, robbery with aggravating circumstances, common robbery, arson and malicious damage to property) have averaged 983 077 per year.

This translates to around 430 crimes per working hour (for a 44-hour week). Given that at provincial level there are apparently around 22 000 detectives (SAPS declines to provide exact data, for "security reasons"), every week each detective has at least one new case added to their list. Which is why it's not strange to find detectives investigating between 80 and 400 cases, as reported by ex-police detective Buddy Vroom on *Carte Blanche* in October.

Dr Johan Burger, himself an experienced former police officer, while agreeing that forensic science has its place, emphasises the need for more detectives. He adds that "the effects of training new detectives would take at least three years to be felt".

In the 2005/2006 financial year, the national budget allocation for Detective Services was R4,9bn out of the R28,4 allocated to the police department while in the 2006/2007 financial year, out of R32,5bn, Detective Services got R5,4bn. It's not clear how much is spent on the training of detectives.

In October, Department of Justice Director-General Menzi Simelane reported to the Parliamentary Justice Portfolio Committee that of the 1 055 971 cases enrolled in the country's magistrates' courts by March 2007, 720 354 had been withdrawn – mostly due to lack of sufficient evidence, where there was little or no prospect of successful prosecution.

Another NPA regional prosecutor told *noseweek*: "There's no way you can explain a situation where just less than a quarter of crimes reported are currently being prosecuted. There is something really wrong with the Detective Services. How do we explain to our neighbours why so few cases are brought for prosecution?"

A senior police forensic scientist described to *noseweek* some of the frustrations they experience when detectives collect almost everything and anything they find at a crime scene and dump them at the lab for analysis: "The crime-scene management is a great letdown. Some specimens are delivered already contaminated."

Dr Johan Burger also decries the compromised state of crime scene handlings: "The main problem is actually with the uniformed officers who are often the first at any scene of crime. They are not conversant with crime-scene management protocols. By the time detectives arrive, so much could have gone wrong."

But neither is any government department ready to take responsibility

Just obeying orders

A NUMBER OF RECENT CASES where forensic reports have been discredited in court suggest either that the Forensic Laboratory Services, or the police, are not doing their work to acceptable standards.

There are two worrying aspects to such a situation: guilty suspects with good defence may be acquitted while innocent suspects who can't afford adequate defence get jailed for crimes they never committed.

In May 2007 the Cape High Court found Dina Rodrigues guilty of the murder of six-month-old Jordan-Leigh Norton. There were attempts to discredit several aspects of the crime lab results and the prosecution had to rely greatly on the confessions of some of the suspects.

In the trial of Fred van der Vyver, accused of murdering his Stellenbosch University girlfriend, Inge Lotz, the state was wrong-footed when international forensic scientists proved that fingerprints, claimed by the state to have been lifted from a DVD, were actually taken from a drinking glass.

US expert Pat Wertheim, hired by Van der Vyver's family, submitted: "It is my firm scientific conclusion that lift number one [the fingerprint] did not come from a DVD case but from a drinking glass. We can only conclude that the presentation of lift number one as having come from a DVD case is an intentional fabrication of evidence."

The state later decided to omit the controversial set of fingerprints from the case.

In the East London High Court in November, Judge Elna Revelas acquitted Andries and Gerhardus Krauze of murdering their mother's lodger, Johannes Janse van Rensburg, and burying his remains in their backyard.

Janse van Rensburg's badly decomposed body was exhumed, seven months after the murder, from the Krauzes' backyard, after Andries told a relative he and his mother had buried a body there.

The brothers argued that they were drunk at the time of the assault and simply obeying orders from Christina Krauze (now deceased). Judge Revelas dismissed their defence, but sentenced the duo to an effective one-year jail term for assault.

Apparently, police hadn't bothered to conduct a proper forensic examination because they believed they had a strong enough case without it. Had they done their forensic work the case could have turned out completely differently.

Prosecution should realise by now that confessions alone are never enough, but cases like this are all too typical.

And finally, as yet, the SAPS claims to have failed to find any suspects for the 2006 Somali killings in the Western Cape, and the forensic evidence is still at the laboratories. Again, not an untypical case.

ity for court cases that fail due to poor forensics reports. When the Safety and Security minister was asked in Parliament to provide figures of forensic laboratories' results that had been rejected by courts, he responded: "The Forensic Laboratory does not keep statistics in this regard."

The question was later transferred to the Justice and Constitutional Affairs minister, who replied: "The information requested by the honourable member is not available." The minister went on to inform Parliament that computer software capable of capturing such information would, at some time, be adopted by the courts.

This underscores the more general point being made here, that there is a lack of overall co-ordination, at every level, in the gathering, processing and administrative recording of evidence. No piecemeal response will clear the backlog in forensic processing – this is simply one aspect of a wider breakdown in policing in the country. The state obviously needs to adopt a global strategy for dealing with the situation. **17**



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Fort Beaufort's not-so-blonde sheriff

IN NOSE97 WE REPORTED how a Fort Beaufort sheriff misled the courts and aided Standard Bank lawyers in wrongfully dispossessing Arrie Johannes of his modest home.

Well the sheriff has come out breathing fire, in the form of an email: "*Unless their (sic) is a full retraction from yourselves in the next edition of nose-week you will be faced with a lawsuit from not only myself, Hanesworth and Nienaber and Wheeldon Rushmere and Cole. Instead of writing what is told to you by one person, it would be advisable to get both sides of the story, and print the correct facts.*"

Sheriff Herman was of course offered numerous opportunities to explain herself, but instead referred us to lawyer Owen Huxtable, who also acted for Standard Bank.

We shall, however, say we're doubly sorry. Firstly we apologise to the Registrar of the Grahamstown High Court. When we called the court in May, we spoke to someone we believed was the Registrar, but it later turned out was



I shopped the sheriff: Barbara-Jean Herman

in fact one of the Registrar's clerks. She asked us to put our concerns in writing, which we did, but the Registrar's office didn't reply. So the statement we attributed to the Registrar was in fact not her own. And a "very sorry" to Arrie himself. Visiting the town again in November we found him sharing a tiny house in Newtown Location, with nine others. Sorry Arrie that you have to live like that, after years as a proud house-owner.

Now that Sheriff Herman seems to be claiming a mandate to threaten *noseweek* with legal action, perhaps readers would like to know a bit more about her doings in this historic town. Various people have come forward with cases where Returns of Services were filed but never served.

Our first example is of a teacher, who swears he was never served with the summons, as alleged by Sheriff Herman. Magistrate Johan Jaquire wouldn't believe him and committed the teacher to jail for contempt, or a R300 fine.

Then there's Dalixolo Soci, of Hilltown Police Station, who was facing a jail term for contempt of court, but who was bit luckier. Magistrate Jaquire decided to check the Return of Service, and found the summons was allegedly received by Sgt K Memani at Fort Beaufort Station, and not by Soci. Instead of calling Herman in to explain, Jaquire let officer Soci off the hook.

Sgt Memani was shocked to learn that she had been listed as recipient of Soci's summons: "I never received any summons on Dalixolo's behalf. If she has filed her returns claiming that I received the summons, then she has lied to court."

She said, however, that there have been instances in the past where court summonses were dropped off at her office when she was away. "Court summons must be signed for, especially when you are receiving them on behalf of someone else. I never received any summons for anybody."

Then there's the curious tale told by the sheriff's former gardener, who claims to have been instructed by the sheriff on various occasions to serve summonses for her. "She would give me a car and the papers to serve."

But anyone serving court papers must be sworn to comply with all requirements, and be listed with the Board of Sheriffs – which the gardener wasn't. Presently there is also a MM Hiti running around town serving court papers on behalf of Sheriff Herman. *noseweek* has at least two summonses served by Mr Hiti, who is yet to be sworn in.

So, Sheriff Barbara-Jean Herman, you have not proved to us that you complied fully with Rule 46 of the High Court Act and the Sheriff's Code of Conduct. And *noseweek* rests its case. **■**

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Professor Lorna Jacklin with a patient at Parktown's Teddy Bear Clinic

Mean Absa abuses children's charity

ABSA IS REFUSING to hand over the R50 000 it promised a children's charity more than a year ago because it doesn't believe it's getting enough mileage out of the deal.

The donation, to the Teddy Bear Clinic for abused kids in Parktown, Johannesburg, was negotiated by the Medical Students' Council at Wits as part of the preparations for its annual charity ball.

According to former MSC president Donovan Govender, the bank agreed to donate the money in return for the right to brand the ball. Posters and leaflets advertising the function carried the Absa logo and publicised its generous donation. Couples had their formal pictures taken against an Absa-branded backdrop. The bank was allocated a full table for 10 of its people and given the opportunity to make two speeches extolling its corporate virtues and charitable deeds to hundreds of young doctors-to-be.

But none of this seems to have been enough.

According to Govender, the bank now claims the students agreed to the installation of an Absa ATM on campus and to allow Absa to brand the students' council office.

"We promised no such thing. Absa wanted a greater footing on campus. We had numerous meetings and discussed a number of proposals with one of their people, a guy called Caleb Smith. But there was no formal agreement. The only thing that was agreed in principle was the R50 000 donation.

"It's been over a year now and they have failed to deliver."

Govender said the bank's parsimony had caused "huge embarrassment" to the student council and damaged its reputation in the community.

"It doesn't reflect very well on the bank either. If they weren't happy with the arrangement, why did they send their people to our ball and make speeches and allow their logo to be used?"

He said that the situation had been complicated by the fact that Caleb Smith had now left the bank, and no-one seemed willing to take responsibility for commitments he had made.

"It's surprising that a major corporation can let an agreement like this fall apart just because an individual employee has left," he said. "It's particularly upsetting because the money was supposed to benefit children who have been victims of sexual abuse."

A member of both the Teddy Bear Clinic board and the Wits medical faculty, Professor Lorna Jacklin, said her organisation was "really disappointed".

"We desperately need the money. It could have paid a year's salary for one of our support staff. I can't believe the bank stood there at the ball boasting about its donation and then came up with all these excuses about why it wouldn't pay."

noseweek's attempts to elicit a response from Absa were met with the usual "please e-mail your questions", which we duly did. So far, we have yet to receive a response. **Z**

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THE LAST TIME I WAS in the Convention Centre's Ballroom it was full of Cape Town Jazz Festival fans indulging in outlandish middle-aged versions of the boogie. Tonight the decibels are lower, the only person indulging in outlandish stuff is Essop Pahad behind the mike, and what we're celebrating is a global honour awarded to the man without whose financial support the Cape Town Jazz Festival might have gone belly up.

Dr Iqbal Survé has always seen himself as a man with a calling. As a GP in Lansdowne he had big dreams; wanted to make an impact on the world. As he'll tell anyone who'll listen, he gave up medicine when he realised business was the one area in which he could dominate the world "for the good of the people".

He created the investment company Sekunjalo and kept chasing his global dream. In pursuit of his global dream, he got himself appointed by Bill Clinton to the advisory board of the Clinton Global Initiative, and went to Davos to attend the World Economic Forum's annual meeting last year. It all paid off. At the Forum's last gathering in Dalian in China, Sekunjalo was made a founding member of the WEF "Top 125 New World Champions", the only South African company in a collection who are seen to have what it takes to become global leaders.

You can't blame this son of a corner café owner for wanting to celebrate, especially since three years after he

It's a random collection of Iqbal's colleagues and mates: the struggle fraternity headed by Allan and Elna Boesak, both surprisingly chirpy



Allan and Elna Boesak with Fay Kajee and her husband Sekunjalo CEO, Mo Kajee



Dr Iqbal Survé

launched Sekunjalo, it was blown out of the water by the collapse of the Health and Racquet company, LeisureNet (Iqbal was a director), losing R160m. After that came typically curious deals with Brett Kebble... How Sekunjalo climbed back to having assets worth over R2bn is one of those miracles the terminally innumerate like me can only marvel at. [*Becoming Siemens' BEE partner, enabling that company to get mega-billions in state and parastatal contracts had just the teeniest bit to do with it.* – Ed.]

About 500 guests are seated at these elaborately decorated tables, co-hosted by Western Cape Premier Ebrahim Rasool. With the premier and Iqbal

Bites and

at the main table are Leonard Ramatlakane, MEC for Community Safety, Membathisi Mdladlana, Western Cape Minister of Labour, Siemens boss for Southern Africa, Siegbert Proebstl, and, of course, Haiko Alfeld, Africa Director of the WEF.

For the rest, not quite the usual Who's Who of the networking business world. It's a more random collection of Iqbal's colleagues and mates: the struggle fraternity headed by Allan and Elna Boesak, both surprisingly chirpy; the jazz festival honchos – Rashid Lombard in signature black kufi, and Sekunjalo's media boff who handles the festival, former *Cape Times* editor Ryland Fisher; philanthropy activist Shelagh Gastrow who's targeting new tycoons like our Iqbal; men's fashion designer Shakur Olla; and a dynamic brigade of the relentlessly upbeat, led by Guy Lundy, founder of SA Rocks, and KPMG's Tim Bashall, chairman of Lundy's *Accelerate Cape Town* business initiative.

I'm seated close to Rasool's giant bodyguard, and I'm hoping for a juicy titbit. But he rarely takes his hooded, haunted eyes off the gesticulating shoulders of his boss at the next table, in case one of the MECs surrounding



him should pull a fast one.

Equally inscrutable is Frank Horwitz on the other side. All he will reveal is that the UCT Graduate School of Business, of which he's director, has been ranked 12th in the world by the *Economist* for its executive education.

Redi Direko, as spunky in the flesh as on Cape Talk, introduces five speakers, including Lawrence Khoza of Business Unity South Africa and Sekunjalo's new CEO Mo Kajee, who wax eloquent about the virtues of

with the twiddly chocolate structures on our plates.

A week later I'm celebrating another triumph for a Capetonian.

The party is in a new drinking hole called Neighbourhood overlooking Long Street,

following the premiere of Ross Garland's funny movie *Big Fellas*.

It's a silly-buggers road trip that showcases the Western Cape, going as a BEE satire, and it stars all the usual suspects too. The only actors I spot at the party are M-Net Idols fast-talking heartthrob Colin Moss, who proves he can also play nerds, and crazy Cokey Falcow, who's hilarious as a schizo serial killer deluded into thinking he's a black albino. Pity he's about to head

pieces

Sekunjalo for an hour and a quarter.

Ebrahim

Rasool proves yet again he's a terrific orator

no matter what you might think of his views, and Essop Pahad launches into an eccentric bit of elder statesman stand-up that includes his customary promo for the president, whose best man he was long ago in Surrey.

After the speeches everyone at the front tables rushes around hugging each other, while the rest of us play



Thelma Adams, Patricia Gorvalla and Sekunjalo executive director Zenariah Barends



Iqbal Survé with Essop Pahad

for Hollywood, like the Nigerian-born Brit with the trademark grin who plays the film's villain, Hakeem Kae-Kazim. He hotfooted it there after the success of *Hotel Rwanda* and got himself into *Pirates of the Caribbean*.

Garland wrote and produced the film, and acts in it. Though he created a part for himself as the idiotic movie producer – and doesn't do a bad job at being comically dopey – there's nothing dumb about this dimpled Durban dynamo who studied law as a Rhodes scholar at Oxford and whose later investment bank clients at Lehman Brothers in New York included AOL Warner, Sony and Disney.

He now has a slate of quirky low-budget local movies. Next on screen is Rayda Jacob's Muslim melodrama *Confessions of a Gambler*, followed much later by the schoolboy romp *Spud* which deals not with potatoes but puny adolescent genitalia. **W**

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A little green in the Big Apple

A forgotten corner of New York is home to one of the oldest trees in the metropolis

FEW PEOPLE THINK “nature” when they think of New York City. Even fewer New Yorkers do; after all, it’s they who’ve chosen to live in or clustered around that extraordinary vaulting, expensive, artificial superorganism that is Manhattan.

New Yorker David Burg seems to think of nothing but nature. Where other naturalists wouldn’t bother looking, he finds sanctuaries for small patches of wildflowers, fractions of once-grand beaches, and rare birds in the scattered cut-offs of unbuilt land that somehow survive in this most famous of large cities.

Today he’s pulling his dented old van, dusty inside and out, into a parking lot on the edge of the Bronx. He barely glances at the neat SUVs that have just delivered large squads of shiny-helmeted, shoulder-padded young boys to the nearby American Football field, and ambles off northward along a wide path through an unremarkable woodland.

Unremarkable, that is, because there’s nothing here to tell us how special it really is. No signs, no tour-guides, no gobsmacking vistas. Trees are trees, and the northeastern US – beyond the cities at least – has zillions of them. Some of these are fairly nice, granted, but the ground beneath them is heavily littered with all sorts of nasty little things like needles, used condoms, and shreds of surgical rubber gloves stained with what looks from a safe distance like faeces. The narrow footworn paths that Burg goes down don’t lead to streams or grazing meadows, but link large nesting hollows constructed in the undergrowth by now-absent homeless people. Every few hundred yards silent, solitary men stand at strategic intersections, barely making eye contact as we pass. The excited yelps of the middle class sports-moms are a long way off.

Burg seems not to notice any of this.

He’s looking up for birds. A Common Yellowthroat flits through the undergrowth, a Catbird scolds, but otherwise it’s pretty quiet today. He strikes out into the shrubbery, pointing out particular trees. “These are the last remnants of the savanna that covered this area before European settlers arrived”, he says. Look closely, and you notice that the trees he’s singling out are, in fact, very much older than most of the forest. Imagine away the young trees and crowds of saplings that fill every available space, you start to see how Burg thinks this area once was; scat-

seldom that we forget their power to evoke deep archetypal emotions. Even if you’ve never seen a jaguar, wolf or lion, you will feel one watching you while standing here.

The reason this treasure still stands is that, prior to becoming a public park, it was enclosed in the estate of a rich family during the age of American industrial expansion. With the economy exploding – much as China’s is today – wood for construction and fuel was in demand, and anyone who needed cash cut down all the trees they could. The east coast of the US lost almost 97% of its forest (thus, most of what you see today is second-growth). Moneyed landlords kept trees as status symbols, the value of which rose with every other man’s tree consumed in their factories.

After the rich folks moved on, the Granny Tree lucked out again, as the land became a public park. In recent decades, as the park’s management budget has gone south, lack of maintenance has allowed walls of saplings to grow up and hide the large trees from public view and public care (naturally, fire and large herbivores would have kept the meadows open). The Granny Tree’s lower limbs started dying back as the young trees crowded in. Another nearby large tree almost died when homeless people made fires in its base. But fortune is shining a third time on this corner of Pelham Bay Park. Burg and a team of enthusiastic volunteers from the organisation he founded, WildMetro, have begun to clear the area around the Granny Tree of stifling smaller trees. They’ve shored up her burned neighbour with rocks to prevent further fires. And they’re now working with the authorities to restore a small patch of savanna around these branched monuments to the nature that existed before the city came.

What’s the point of all this effort for a few old trees in fewer neglected hectares in the arse-end of polluted

We encounter large, old trees so seldom that we forget their power to evoke deep archetypal emotions

tered copses of large trees within rolling grasslands filled with wildflowers and grazed by bison and giant elk.

Moving deeper into a denser part of the park (“the cops don’t really come here”) Burg says that the best is yet to come. He stops next to a pile of cut branches, and gestures to the crown jewel of Pelham Bay Park – a huge, four-century-old White Oak known, tritely for such a massive being, as the Granny Tree. It takes a while to fully appreciate this amazing arboreal creature. We encounter large, old trees so



David Burg and New York's Granny Tree

New York, you ask? Isn't it merely self-indulgent pissing in the wind while the Amazon burns? Why write about it in a South African magazine?

Little fragments of nature in cities are like the birth certificates of great-grandparents. They give us a genealogy of place, reminding us that before we built our grand, sparkling cities there wasn't "nothing" there. How often do residents of the newer suburbs of Joburg say "oh yes, there was nothing here when we built our house, just veld", with not the vaguest idea that 150 years ago that "just" veld was teeming with zebra and lion, and, even after they were shot out, hundreds of smaller and no less wonderful species? Who remembers that, until the 1980s, kingfishers bred next to a centuries-old wild olive tree where bored families now play putt-putt in Pretoria's Brooklyn Mall (the centre's developers bulldozed it after the city conveniently forgot their promises to make a nature trail in the area)? Who remembers the rare plants flattened and buried by Century City's developers a month before new environmental legislation came in that would have slowed them down (a development financed by our favourite "green" bank, Nedbank)? You get the idea.

Without awareness of what was in our place before us, we struggle to understand just how completely the human species is now able to destroy ecosystems. We comfort ourselves that, even though the Amazon is burning, there's lots of it left over for the cute monkeys and pretty parrots and things to live in. Our cities show that no, we can actually wreck most of it. Perhaps the whole lot.

But this is the Christmas issue, and we should end on an encouraging note.

The truth is, David Burg and his crew of energetic co-workers are not alone. All over the world – in South Africa, *nogal* – people are rediscovering the little remnants of what once was in their urban and suburban areas. They're finding patches of veld in abandoned lots, rocky outcrops filled with amazing plants and lizards, polluted streams and littered wetlands, and turning them into better places for wild things. More than that, they're enlarging these little fragments, realising that gardens and parks, if planted and looked after correctly, can provide homes and playgrounds for wild species *and* people; we're not obligated to wreck the whole lot. Even more than that, we can fix some of what we've broken.

That's something to celebrate. ■

TOYOTA LANDCRUISER. Six years old. Mint condition, one previous owner. R448 000 with RWC, warranty and full finance. Market Toyota, Tokai.

To Cape Town businessman, Jean-Claude Allegrucci, it sounded like an excellent deal. Having all the confidence that comes from dealing with a reputable dealership which prides itself on customer service, he did little but kick the tyres and take the beast for a spin, before signing on all the requisite dotted lines.

And for a year, he was very happy with his purchase. Until last July, when he decided to trade the Landcruiser in for something smaller for the wife and kids.

"I went to see my good friend Keith Brown at Table Bay Motors and he had a Volvo XE90 on his showroom floor, which is a nice family car. Keith settled my outstanding balance with Toyota Finance, and took the Landcruiser. I arranged new finance for the Volvo, took delivery, and gave it to my wife.

"About a month later Keith arrives at my office and brings my Landcruiser back. He says he doesn't want the car."

Being in the trade, Brown had, as a matter of course, checked the vehicle's chassis number against the licence and registration documents and discovered they did not match.

"It's probably just a mistake," he says. "But sorting these things out is a long story. This Landcruiser is a grey import, so if there is a problem with the paperwork, the police will attach it and refer it to Customs so they can trace the original bill of entry. It once took me five years to get an import cleared. In the meantime, I'm stuck with the thing."

He said he was not surprised Allegrucci had failed to discover the inconsistency. "No customer goes and checks the chassis number. It doesn't work like that."

Nevertheless, as far as he is concerned, it's Allegrucci's problem. "I told him the deal was off. Wesbank (which runs Toyota Finance) gave me my cheque back. I never took ownership."

Suddenly Allegrucci found himself having to pay for a car he didn't want and couldn't sell, as well as for the new Volvo. He immediately called the dealer principal at Market Toyota Tokai, Ryk van Renen, to tell him he was bringing the Landcruiser back and expected a refund.

The response was a letter from Market Toyota's attorneys, Bothma and Nothnagel, which reads "it is our instruction to inform you that our



Jean-Claude Allegrucci and the troublesome Toyota Landcruiser he can't shed

Car trouble

What might have been a tiny mistake at the vehicle licensing department has become a giant nightmare for a Cape Town businessman

client is not at liberty at this stage to make payments of any amounts whatsoever..."

The writer, Andre Nothnagel, makes the bizarre suggestion that Table Bay Motors sue Allegrucci, in which case Allegrucci is "welcome to join us as a co-respondent/defendant at which instance we will join Mr MJ McGrath [who sold the Landcruiser to Market Toyota before Allegrucci bought it] who again can join whoever he purchased the vehicle from".

Apart from the fact that Table Bay Motors has no reason to sue anyone, this Byzantine solution has little appeal for Allegrucci.

"I don't want to get involved in a legal battle. I'm not interested in that, it's not my problem."

In Allegrucci's opinion, the problem lies squarely with Market Toyota, which failed to ensure the paperwork was in order before selling him the car.

He also believes the bank must take some responsibility for financing a vehicle without checking its documentation.

The only people who did bother to examine the Landcruiser's chassis number are the staff at the Retreat Roadworthy Centre, where Market Toyota sent the car before selling it to Allegrucci. They spotted the discrepancy immediately and, as required by law, referred the vehicle to the police Clearance Office in Stikland. Unusually, considering the experience of people like Keith Brown, the vehicle was given the nod the very next day.

Certainly Market Toyota must have been delighted to have the matter resolved so swiftly. The only problem is that the clearance official completely overlooked the very reason the car had been sent to the police in the first place, and wrote the same wrong number on the certificate.

Brown says he finds that "strange",

but doesn't want to "point any fingers".

The signature on the certificate appears to read "Heunis". We called the clearance office in Stikland, and were told that an Inspector Heunis did indeed work there. But when we stated our business, we were told to submit any questions in writing through the official channels, aka the SAPS Western Cape Media Centre.

Showing an admirable sense of urgency, Senior Superintendent Billy Jones emailed us a reply the very next day. His unedited message reads:

"These allegations has not been reported to police at all. We cannot confirm or assume that there has been irregularity in the procedure and are not going to allow any person to be implicated as human error is also element that cannot be excluded. We will therefore investigate the matter and on completion this investigation make the necessary decision on the matter and provide you with the relevant response."

Shortly afterwards, a much more friendly policeman telephoned *noseweek* from the Vehicle Theft branch and said said he would like to help Allegrucci. We agreed not to identify him as he is not authorised to speak to the media.

"If the vehicle is not illegal, if it's just a mistake it is easy to draw up a new police clearance form and put the right numbers down," he said.

He gave us his cell number to pass on to Allegrucci and said he was sure the matter could be cleared up in a matter of days.

Allegrucci has confirmed that an inspector did indeed call, and asked him to fax through all the vehicle's documents. He had heard nothing further by the time of going to print.

As far as Market Toyota is concerned, the fact that something "strange" happened in Stikland absolves them of all responsibility.

"We are in the clear," Van Renen told *noseweek*. "We got police clearance. The police made a mistake."

In spite of washing his hands of the whole thing, Van Renen has been doing his own sleuthing, according to the Landcruiser's original owner, Mike McGrath.

"Van Renen has called me a couple of times in the last few months. I told him it was the first I knew of any problem," says McGrath.

"I bought the car brand new from Investment Cars in Johannesburg in 1999. I've sent Market Toyota all the paperwork, including my original invoice and contact numbers for the dealers.

"As far as I am concerned Market Toyota made a fuck-up. I have told them they must fix it. I don't want any drama."

No doubt Van Renen is under pressure from Wesbank, which has also been quick to deny any culpability.

Derrick de Vries from the Luxury Vehicle division, who had no problem reversing Keith Brown's deal, doesn't believe Allegrucci deserves the same consideration.

"As far as we are concerned, Mr Allegrucci is the owner of the car. If he has a problem he must take it up with the dealer. If they can't come to an agreement, he must consult a lawyer."

The bank's Western Cape manager, Carl Niehaus, who counts Allegrucci as a long-time friend, is of the same mind.

"We are not the owners. Neither is Keith Brown. When he pointed out the mistake to the authorities, they wouldn't register the vehicle in his name. I said to Jean-Claude, it's your car."

Nevertheless, Niehaus agrees with Brown that clearing a numerically blighted vehicle is a lengthy process.

"Once the authorities spot something wrong with a car's registration, they impound the car while they do an investigation. It can take a couple of years."

No wonder no-one wants to touch the Landcruiser with a barge pole. Particularly Allegrucci, who has left the vehicle at Wesbank's storage depot and discontinued his payments. We await the bank's response with interest.

■ It's not clear when the mix-up with the Landcruiser's numbers first crept into the vehicle registration system.

According to Keith Brown of Table Bay Motors, the number recorded on eNatis as the chassis number, or Vehicle Identification Number (VIN) is actually the manufacturer's code, which records the engine size, colour, upholstery and other details. It seems more than likely that someone merely entered the wrong number, possibly when the vehicle was first registered and no-one picked it up through two subsequent changes of ownership.

noseweek called the Retreat Roadworthy Centre to find out how often they have to send cars for police clearance because of problems with the VIN.

"Oh it happens every day," said an employee who did not want to be identified.

"It's so easy to make a mistake. We often find four or five vehicles registered with the same VIN. Or, with Fiat Palios, they leave out some of the noughts, and with Opels they sometimes put a V instead of an F."

In each case – even with an obvious slip of the finger – the eNatis code can only be corrected after the vehicle has been cleared by the SAPS. And if the chain back to the original owner is long, or broken, that could take some time.

To avoid this happening to you, check under the bonnet before you buy. You should find the VIN plate bolted to the body inside the engine compartment, usually behind the firewall. If you can't find it, ask someone who knows. Then check it against the VIN number on the registration or licence form. If they don't match, be very afraid. **W**

The advertisement features four bottles of Ken Forrester wine and a glass of white wine. The bottles are arranged in a row, with two dark bottles on the left and two light green bottles on the right. The glass is filled with white wine. The background is a soft-focus image of a vineyard. The Ken Forrester logo, a stylized 'KF' inside a shield, is prominently displayed in the center. Below the logo, the text 'KEN FORRESTER VINEYARDS' is written. Contact information is provided at the bottom of the advertisement.

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BMW: Bavarian Motoring Whingers

THE DIRE THREAT that affordable car parts could become easily available was recently dealt a blow by the Supreme Court of Appeal in the recent case of BMW v Commercial Auto Glass (CAG).

BMW saw no reason to change a long habit of complaint when it discovered CAG selling replacement (unauthorised) BMW windscreens. Although BMW accepted that CAG was entitled to sell the windscreens (magnanimous or what?), it complained on trademark grounds – although there was a reference to the CAG name, the windscreens were primarily being sold under the registered marks BMW, BM and 3 Series, as well as the unregistered marks E30, E36 and E46 (appar-

ently sub-species of the genus BMW).

CAG's windscreen prices (from R355 to R490) were as interesting as its defence:

This was constitutionally guaranteed commercial free speech (a favourite defence since the Laugh-It-Off case).

There was no actual trademark use of the BMW marks.

It was complying with section 34(2)(b) of the Trade Marks Act, which allows *bona fide* use of a mark where this indicates the intended purpose of the goods, such as spare parts and accessories – and this was consistent with fair practice.

The court rejected all these arguments. It ruled firstly that CAG was using misleading commercial speech,

which is not protected by the Constitution. Furthermore, a significant number of people would mistakenly believe that these were genuine BMW goods; ie, CAG was using the BMW marks as trademarks. And this use was neither *bona fide* nor consistent with fair practice, but designed to confuse – in order to be *bona fide*, the user must “unequivocally make it clear” that the goods are not connected with the brand owner, and “the overall presentation of the product” will be taken into account.

Does this mean that replacement parts distributors can't use manufacturers' trademarks? Nope, but you'd better be very careful how you go about it, and you'd do well to get legal advice. ☐

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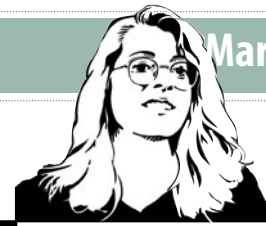
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A Christmas epiphany

IT'S TIME TO FACE FACTS. Choosing appropriate gifts for employed adults can be a drag.

Last Christmas I bought a number of Christmas presents with little or no enthusiasm whatsoever, and fell into a familiar trap... and the retailer's delight. Searching for hours for the "perfect" gift for everyone on my list, I found myself buying more and more expensive items. After all, if the gift itself misses the mark, the price will still impress, right?

Mission accomplished. Obligation met. Budget blown.

Last week I had what might be called a Christmas epiphany... or what shopaholics might call a "moment of clarity". I saw the expensive gilded kumquat I bought my mother-in-law last year sitting in her linen closet.

That's what happens when you buy gifts to satisfy a social obligation.

I had identified the problem, but typically had no solution. A few days later, I had another lucid moment – I suddenly realised that I had to remove economics from the equation entirely.

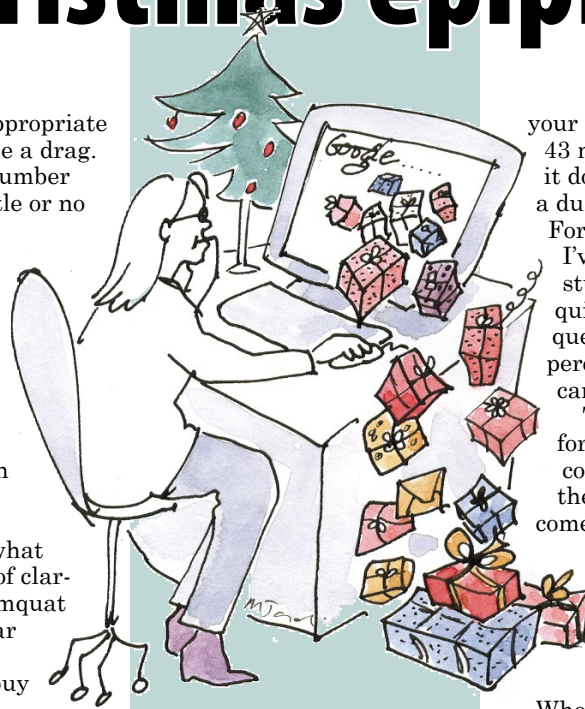
So this Christmas, I'm starting a new tradition. Instead of buying presents, I'm sending all my friends a link to an appropriate website. Think about it. Instead of deepening your debt or raiding your kids' piggybanks, you can send a personalised gift without spending anything but time.

Why not? They say the Internet has something for everyone, but who says they'll ever find it?

I got down to some serious googling.

For Uncle Ted of the hackneyed jokes, I'm sending Laugh Lab (www.laughlab.co.uk/), which was created by an honest-to-goodness scientist interested in what people find funny. This site supposedly contains the world's best jokes as rated by an international sampling of online users. After I send Uncle Ted this link, I'll know he has the material. Then I can judge his delivery.

For my friends stuck in the corporate world, I'll send Demotivators (www.despair.com), a site that provides a welcome antidote to corporate motivational slogans which promise that through hope, faith and teamwork you can achieve the impossible. Yeah right. I prefer "demotivators". The theory behind demotivators is that you can increase your rate of success by lowering



The Stupid Tester is a good site to send those over-confident friends and colleagues who mistakenly consider themselves intellectually gifted

your expectations. My favourite: "It takes 43 muscles to frown and 17 to smile, but it doesn't take any to just sit there with a dumb look on your face."

For my intellectually insecure friends, I've chosen the Stupid Tester (www.stupidtester.com). This is a fun little quiz for everyone who enjoys trick questions. It also lets you know what percentage of stupid you are. Anyone can use that information.

The Stupid Tester is also a good site for those over-confident friends and colleagues who mistakenly consider themselves intellectually gifted. It may come as a blow that they had a higher percentage of stupid in them than they thought. In that case, send them the Demotivators as well, so they can come to terms with it.

For my unassertive friends, I found Insults (www.insults.net).

Who doesn't need a fresh arsenal of insults now and again? People who have mourned lost opportunities will really appreciate this site. One can memorise insults for future opportune moments, or have a rich inner life just thinking them. Personally I regularly take comfort in thinking "I'd like to see things from your point of view but I can't seem to get my head that far up my ass" when confronted by climate change denialists or used car salesmen.

If, on the other hand, you have friends with a masochistic bent, who enjoy being on the receiving end of an insult, send them the Random Insult Generator (www.insults.net/html/odd/random.html). You take a little quiz, press a button and voila! – you receive a personalised insult based on your gender, political views and appearance. I tried it myself and am proud to say I'm a "pinko-liberal pseudo-genius vain bitch". It felt good, too.

Lastly, don't think I have forgotten the erudite and worldly *noseweek* reader. For you, an invaluable screed on the contemporary human condition: George Carlin – The Modern Man (www.youtube.com/watch?v=4anA3Lv_rec).

My Christmas list is taken care of, and it didn't cost this Scrooge a cent. And if you want to get in on the game you can send me gifts at ekiram1501@yahoo.co.uk. It don't cost nothin'. If I have my way, "bah, humbug" will disappear from the vernacular entirely.

Happy Christmas and a hearty ho ho ho. **W**



Handsome in pink

IF DAVID BECKHAM WERE A WINE, there's a good chance he'd be a rosé. Not one of those sweetish concoctions that still dominate the supermarket shelves and many people's shuddering memories – no, rather one of the dry, firmly delicate, deliciously scented but food-friendly kind that have been so fashionable in Europe for the last few years. In liquid pink guise, our Dave might well have a screwcap too – somehow the trivial tinkle made by a twisted-off metal cap seems particularly appropriate for the lightheartedness of rosé.

For rosé's image is changing – and, just in time fortunately, so are many rosés. I don't think that any of those winemaking Springboks in Stellenbosch, in their short trousers, long socks and Cape Dutch mansions, are producing any yet, but they soon will: it's certainly time to forget the erst-while girlie image of pink wine.

It's always been a variable cultural thing, of course – in Spain, for example, real men have always drunk vast amounts of rosado, as a way of avoiding white wine, which is apparently what gives off dubious signals there. Especially in Basque country, they simply pretend that it's just slightly pale red wine. Now we're all liberated, of course, and proper men (and proper women too) can unabashedly drink pink.

It's a valuable liberation, in fact: a lightly chilled, fragrant rosé is a wonderfully sensible choice to go with lunch in the delicious shade of a hot day, or to sip on a warm African evening, with the sky tinged the same delicately lurid, copper-tinged pink as the cool liquid in your glass... it seems absurd that it's taken the pale Europeans to remind us of rosé's pleasures.

The best rosés are intended as such from the time they are hard little berries on the vines. The worst are just concoctions of a cellar's left-over white wines and unviable reds, mixed together, cynically sweet. To make the finest, pick ripe black grapes, crush them and let the colourless juice be delicate tintured from the grapeskins before whisking away the skins and making the wine in the way most light white wines are made. Rosé has no ambitions to mature for years in barrel or bottle: simple crisp, fresh pleasure is enough for what I'm rather afraid it might choose to call its "mission statement".

Another production method has become common in recent years. With the fashion for deeply-coloured red wines, many

Calling Graham Beck's Brut Rosé 'pink' is like calling Beckham a soccer-player – unarguable, but hardly adequate

producers "bleed off" some juice at an early stage from their grandest red wine, leaving an increased proportion of skin to juice, and so a darker wine. Waste, not, want not – the bled wine can be sold, like Buitenverwachting's very nice version, as Blanc de Noir ("white from black"). Effectively that name means the same as rosé, but a mix of white and red wines cannot legally be called a blanc de noir.

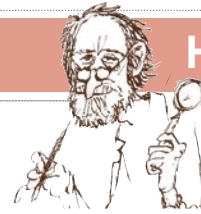
It's difficult telling the decent stuff from the rubbish just by label, but it's often a good sign if there's a grape variety mentioned. And if you think you don't care for pinotage, try some of the pinotage rosés – at the risk of assassination by patriots convinced that pinotage is God's Chosen Grape, I'd suggest that often it does best as a simple red or rosé, with unpretentiously charming strawberry aromas. Good examples of these are from Graham Beck and Beyerskloof – you should expect to pay around R35 for a good rosé like these, I fear. Flagstone's reliably good Semaphore, with an ingratiating but unobtrusive edge of fruity sweetness, also usually has a good whack of pinotage

The Jordan Chameleon version is made from cabernet and merlot, though; one of the most delightful rosés I've had for ages is very clearly cab. It comes from a newish winery in Elgin called South Hill Vineyards, and could well serve as a very light red. Maybe the best local rosé of all is from another fairly young winery, Solms-Delta in Franschoek. Lekkerwijn it's called, and it is a bit more serious and characterful, but still wonderfully easy to enjoy.

The luxury end of the rosé business is, of course, pink bubbly. It tends to be associated with Valentine's Day, but doesn't need sentimentality as an excuse when it's as delicious as Pierre Jourdan Belle Rose or Villiera, say. Graham Beck's Brut Rosé has perhaps even more charm, but contemplating the subtle gold-tinged beauty of its colour is joy enough – calling it pink is like calling Beckham a soccer-player – unarguable, but hardly adequate to the magic. **TJ**



Illustration: Meg Jardi



Never put salt

FISHING WITH OTHER ANGLERS is always better. Sometimes you can get a concentration of bait or a flashing of lures fit to drive the shad into a state of frenzy, you see.

Not always a feeding frenzy, mind you, just so excited sometimes they even start slashing at one another, and that's when you must take your first one and slice him up in nice fillets, says Sonny, and put one of them on a five-oh hook and it's every cast a bull's eye. My grempa taught me this thing, says Sonny. Aah, say I by way of conversation whilst doing it, and who is your grandfather, then? Meaning what is his employ, status, all that. My grempa Mister Supershad, says Sonny. I don't believe it! I exclaim. He made it up! No no, says Sonny Supershad, an old family name, that, you can look it up in the phone book. It occurs to me I might get a name for myself in the book easily enough. Von Schädmeister, hey, how's that?

I never saw you here before, says he. No, I'm down from Durbs for my birthday. What! says Sonny, your birthday on the first day of the shad season? You bring good luck, man! and at that my rod goes down WHAM! as if to endorse his superstition, only this isn't any old shad, this thing is a bloody U-boat, jong, and it has me struggling up and down the beach for twenty minutes. More. My tackle is the lightest, almost trout tackle, my line is but 3kg breaking strain, and what I have here is a 4kg fish at very least and pure feral energy. But finally it's flailing about in the shallow white water and Sonny nips in and grips it firmly by the tail and hauls it up on the sand. This is the best stumpnose I've ever caught. Or Sonny. We gape at it. I remember eating wonderfully spiced stumpie in an Indian home and say to him Sonny, how do I cook this fish? Ubs, says he. Yes, say I, but what do I do with the herbs? Put it, says Sonny, and I realise however expert he may be in the catching of fish he's never done his stint in the kitchen.



What you need is a stumpie still wriggling, more or less, fried with chips or roti

He takes me and the stumpie to his grandmother ensconced in a dim leafy cave in the coastal bush, cool wild strelitzias all round against sun and wind, and a good all-day braai going in the middle. Women with babies sit about, bigger kids hop around in the surf. An exceedingly wrinkly old bloke seems to be stoker of the braai, but only that; clearly Granny is in charge round here. Various pans and things hang from branches in the undergrowth, and a breyani pot the size of a family jacuzzi stands waiting, waiting... Grenny, says Sonny, how do you cook this fish?

Never put salt, says Grenny. Hey Grenny, man! he cries, tell why you never put salt! You never put salt, she explains, because a fish cooked straight from the sea has a very special delicate taste, and texture, which even a touch of salt will change, chemically. So you can give it a mere dash when it's done, because then the salt will stay outside. But best put no salt. Put lemon instead, afterwards. If you use a grill, one minute before it is done you can put thin thin slices of tomato and onion and slices of mild white cheese cut with a potato peeler, for garnish, but that doesn't change the taste of the flesh. She examines the stumpie. No, she declares, never breyani beautiful fresh stumpnoses. Snicker snick, filleted in ten minutes straight, for frying. Nobody invited her to, but what the hell.

A greasy English Breakfast, explains Grenny Supershad, is for Staffordshire dogs. For breakfast what you need is a stumpie still wriggling, more or less, fried, with chips or roti. Chips you can put salt. But I notice as she speaks that she's doing roti on a big flat iron disc. A suitably white-haired old gent appears over the beach, Grempa Supershad I presume, who equipped Sonny with his wisdom. On his shoulder is an ancient scuffed rod with an old-time wooden centrepin reel. No fish whatever. He silently eyes the breakfast sizzling away in the pan. Grenny flings a final dash of seawater on the flesh with her fingers, for salt, midst a great seethe of steam. Grempa politely clears his throat and speaks up. He explains how hunger makes for a better huntsman, one's perceptions are enhanced by the urgency of the belly. You should never have breakfast before fishing, he declares, it makes you lazy, dulls the mind and unfocuses the eyes. What you speaking, you? says Grenny. If that stumpnose see you looking looking with sharp eye he rrrush away same time. If you relax he relax also.

Got no brain, that fellow, says Grenny, gesturing over her shoulder with her thumb. **W**

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