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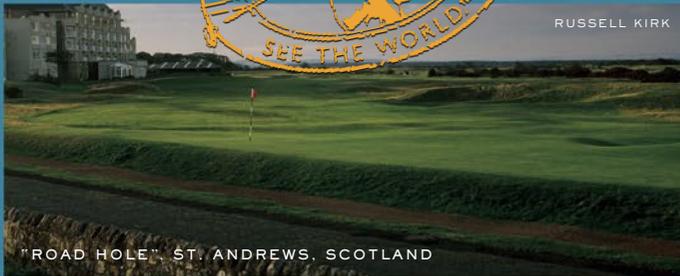
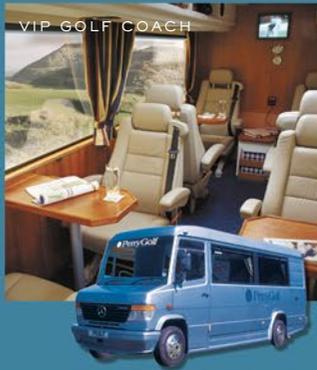
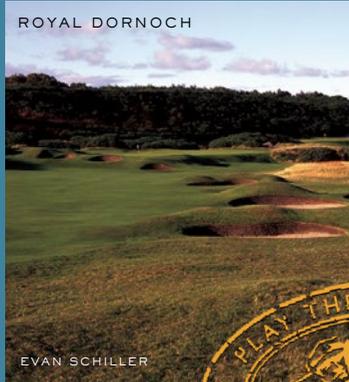
102

APRIL 2008

Investec's multi-billion rand pension rip-off



Life, love and death at the R100m mansion Rhythm Methodists
rent asunder Hemp: wear it, eat it – but don't smoke it



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ISSUE 102



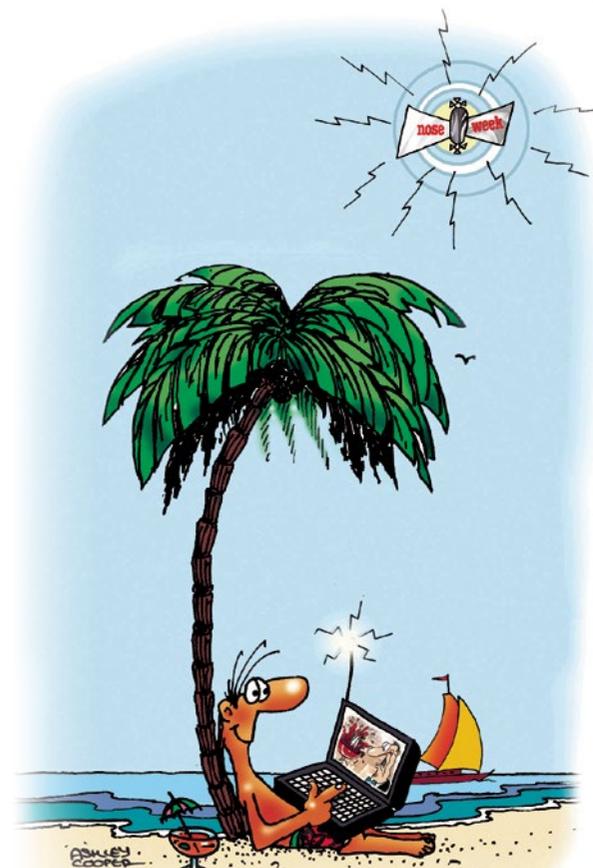
**Investec's multi-billion
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page 8**

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- 4 **Letters** Here for the duration ■ Tito's fast talk ■ Riebeek recant ■ Poison pen ■ Wylie old fox ■ Welkom by Helkom ■ Private schools ■ Fidentia and Trevor Manuel's lawyer ■ Casino cash-in ■ Strachan's midnight wake-up call ■ Zorgvliet: putting the record straight ■ Figaji at Nedbank ■ Beware Sarkozy's cosy deals
- 7 **Dear Reader** Investec's immoral earnings ■ French kisses and corruption
- 12 **Who's screwing who?** One lonely whistleblower – Eliot Spitzer – stood in the way of the banking predators
- 14 **The Philip Morris dance** When is a tobacco advert just a 'communication'?
- 16 **Justice delayed** An acting judge has taken his time in sorting out his trust account commitments
- 18 **Microsoft boxes clever** The computer giant is so busy gargling with greenwash that its environmental pronouncements are difficult to understand
- 20 **Sailing close to the wind** A simple guide to snatching your partner's business
- 23 **A family and its plastic money are soon parted** A tale of business intrigue in which father is pitted against sons
- 24 **Moves at the mansion** Surprise! The R100m Sandton palace sale may be cancelled
- 26 **Behind closed doors** Life, love and death at the Sandhurst palace
- 28 **Rhythm Methodists** Allegations of sexual misconduct by a lay preacher have rent a Cape Town congregation asunder
- 30 **Moral fibre** It's called hemp and it's used in clothing, cosmetics, food products and building materials. The only thing it isn't good for is smoking. So why's it banned?
- 32 **Notes and Updates** Checkers checked in Hermanus ■ Inquest backlog mounts
- 34 **Blame the messenger** The University of the Western Cape shows more interest in nailing a whistleblower than in mending its ways
- 36 **NoseArk** Crisis? What crisis?
- 38 **Bites and pieces** Hilary Prendini Toffoli at the Fleur du Cap
- 40 **Web Dreams** Life at the Big Top
- 41 **Wine** Casting pearls
- 42 **Last Word** Pale mothers



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Here for the duration

Congratulations on issue 100. It was a delight reading those congratulatory articles by the Friends of *noseweek*, and I for one reject with contempt the rumour that they have been rewarded with free subscriptions. I know that Mr Nose gives little for free.

In 1979 [1984 actually – Ed.] I subscribed to a broadsheet [A4 sheet actually] called *Nose*, which subscription required

heartfelt thanks, a reduced subscription “in the future”. To date nothing. [Except the great value-for-money magazines you paid for.]

I feel I deserve an honourable mention for my endurance and blind faith. A cap or T-shirt (large) with the *noseweek* logo might also be an appropriate gesture of thanks for such amazing loyalty. The T-shirt slogan should read “Stuff

Conduct unbefitting

Despite his communist background and intolerant attitude towards the media, I have, until now, been a staunch Tito Mboweni fan. I was stunned to read (*nose101*) that, like many of his comrades, the Reserve Bank governor resorts to intellectually bankrupt racial stereotyping when he has no coherent argument.

D Wolpert
Rivonia

a wine-growing valley 13 years ago and suffer all the spraying as well. If it were to get too much for me I feel it's up to me to move. If more people like Mr Schirmacher move into the country and get their way, we'll have a beautiful countryside with no produce to eat.

Kobus

Stellenbosch winelands

The law and common sense dictate that even necessary poisons must not be applied recklessly. Honesty and some care and consideration also help. – Ed.

BJAC responds

Parts of your latest article on the St Francis Bay beach saga (*nose101*) are just not true.

■ The Beach Joint Action Committee (BJAC) are supportive of the investigation of the PEM system – we offered to contribute towards the cost of bringing out the Danes.

■ We would much prefer a cheaper system to restore the beach, especially if it means no levies.

■ The original agreement referred to became redundant a long time ago.

■ I was at the meeting where Neil Brent gave a presentation. Everyone, including the Kouga Municipality is aware that BJAC fully supports the investigation.

■ Your statement that we are running around waving the agreement is ridiculous and totally untrue. Vernon Stuurman at the Kouga Municipality will confirm this.

Please stop printing blatant lies; it does not help our objective of fixing the beach and does nothing for your magazine's credibility.

Mike Wylie

St Francis

What's the old adage Mr Wylie – Running with the foxes and hunting with the hounds? – Ed.

Warning: Beach Un-Trust

Thank you for your latest, most informative article on the beach saga in St Francis Bay (*nose101*). Your previous articles exposing the underhand dealings of Mike Wylie, his Gauteng-based cronies and his St Francis Bay acolytes

I deserve a T-shirt with the slogan: Stuff my lawyer – I'm talking to noseweek

me to first prove that I was not a member of the Broederbond, BOSS or the Cabinet, and that I had never sued anyone whose name began with a “W”. [Sounds about right.]

After receiving a few copies, I was informed by *Nose* that it was in dire financial straits and asked to waive the balance of my sub, for which I would receive heartfelt thanks. [Thank you Mr Emdin!] Some years later, the same circumstances arose again [Not true.], and again I waived my pre-paid rights [you did not], although, as I recall, this time I was promised, in addition to the

my lawyer – I'm talking to *noseweek*”.

I look forward to soon receiving a small parcel!

Congratulations once again - and remember those who helped in the Dark Days!

Richard Emdin

(30 years of unconditional support)

Sea Point

Unconditional? Anyway, we have patented your great T-shirt idea and are negotiating with the Chinese government for a mass production deal. Watch the media for our marketing campaign. For every million we sell, we'll send you a free t-shirt (large). – Ed.

Forgive me for hearsay

I wish to apologise for my letter [*nose101*] written in response to your article about Riebeeek Kasteel being poisoned. My letter contained allegations for which I myself have no proof. I stated that Mr Johan Vlok sprayed water on his grapes, and the next day he received a letter from Mr Shirmacher stating that he sprayed poison. That was hearsay and I must add that what I wrote was my opinion, and mine alone.

My apologies for any inconvenience caused.

Marené Wentzel

Riebeeek Kasteel

To go into battle for a friend is brave. When you face defeat, to concede graciously is wise and, well, gracious. Hope Mr Shirmacher thinks so too. - Ed.

No poisons, no food?

As a new subscriber I enjoyed reading about your struggles in the early years (*nose101*). Through adversity you have distilled quite a mag, and I am glad to have my small financial part in your food chain.

Just a comment about the Riebeeek Kasteel saga: do remember that in today's political climate farmers are the underdog, although we all rely on them to provide us with produce. If they could get by without poisons, in our incorrect practice of monoculture, I'm sure they would. I moved into

Gus



STOCKBROKER AT REST

have been a significant factor in bringing about the current much-improved position.

Were it not for your exposé, we, the ratepayers of St Francis Bay, could easily have found ourselves saddled with a financial and marine disaster. We also owe Joe Oosthuizen a vote of thanks for originally exposing this sham.

How Wylie, the CEO of a listed company, could have become involved in something so blatantly fraudulent, is a question that his company's shareholders should be asking. It is now obvious that very little, if any, research was done.

At more than one public meeting which he chaired, I asked Wylie whether we, the ratepayers, had been lied to when we were told, by Tonkin, that the agreement with the municipality was in place and that the dredger had been ordered and that we would be levied. He replied that he had no knowledge of any agreement and that the dredger had most definitely not been ordered.

It now transpires that there was in fact an agreement, and, for him to deny that he was aware of it, is asking just a little too much. Was the dredger in fact ordered? And if so, who guaranteed the payment?

It is interesting to note that Mr Wylie is now approaching the St Francis Bay Residents' Association asking whether we would consider meeting the debts of the Beach Trust.

We haven't heard the last of this matter.

"They" are not about to give up and pay the debts of the Beach Trust out of their own pockets.

Basil & Eleanor Carides
St Francis Bay

Ebotse info please

I am a matric pupil at CBC Boksburg and I'm doing a project on the environmental effects of Ebotse Golf and Country Estate (*nose100*). I have contacted GDACE, Ebotse, ERWAT and Benoni Municipality and nobody is willing to tell me ANYTHING about Ebotse. Could you or any of your readers help me get a copy of the EIA, or any other information?

Luke Rokebrand
By email

All lines lead to Telkom hell

From time to time the phone rings, but when I answer there is nothing but silence. I cannot make calls out because there is no dialling tone. This has been going on for months.

When the thing is working I have tried to report these faults on 10212. A ladylike voice thanks me for calling, tells me to press this or that number and when I do so says "all our operators are busy". Then there is muzak interspersed with sales pitches for various Telkom products, cyclically for... well, I gave up after the first half-hour. At 83½ life is too short to wait for Telkom.

I wonder whether other readers are experiencing the same frustration with Telkom.

Geoffrey Wiltshire
Bloemfontein

We recently experienced the same problem ourselves when our adsl line developed an on-off stutter. Calling Telkom's "hotline" led of course to the same 45 minutes of muzak and message hell, with rounds of promises to call back. All the long waits are recorded on our detailed bill. Has Telkom, like

Eskom, lost its culture of service or is it just falling apart? – Ed.

Please investigate

As a new subscriber I am not sure whether you have investigated any of these "small loans" organisations. It burns my bum to see how quickly some fellows grow very rich at the expense of those who really cannot afford it. Just take a look at some of the holiday homes on the marina in Port Alfred.

Bev Radue
By email

See next issue. – Ed.

Reddam profiting – not IEB

South African private schools appear to be a law unto themselves and there is nowhere to lodge complaints.

I have a child at one of the Reddam House Colleges, which charges parents Independent Examination Board (IEB) fees for grades 10 and 11. When I contacted the IEB, I was told that only grades 6, 9 and 12 had to pay exam fees – there are *no* exam fees for grades 10 and 11.

The college has been charging these fees for years now.

The response from the college principal is that they decided all teachers must attend IEB conferences, and used these "exam fees" to cover the teachers' travel and conference costs. According to the IEB this cost is for the school's account and usually schools would only send a handful of teachers ie, head of departments.

Reddam continues this practice without a single parent knowing the hundreds of rands do not go to the IEB.

Name withheld
By email

All in the family?

So Trevor Manuel's lawyer is Dines Gihwala. Is it only me, or is there something less than arm's length about the fact that the Finance Minister's lawyer is also the curator of Fidentia? The FSB should ultimately take the rap for the Fidentia saga (they granted a license to Mr Brown without getting valid financials from him) and their ultimate boss is Trevor Manuel. The whole thing has huge cover-up potential. Or am I too cynical?

Gregg
Cape Town

FOR THE RECORD

The sun always rises

I read with interest again the article in *nose58* about the relationship between Sun International and Western Cape politicians, and thought it worth your recording that it is proposed to amend the Western Cape regulations again, reducing the return to player for casino slot machines from the current 85% minimum, to 80% of turnover, effectively giving Sun International the right to *double* its share from 5% to 10%.

Allan Scott
By email

Never again, Harold!

Circa 1960 we lived in Cuyler Street, Port Elizabeth. One night we were awoken by an enormous bang, followed by the wail of sirens. Being inquisitive by nature, I went to investigate. In Brickmaker's Kloof there was much commotion; a man – pointing to the blackened wall of an electric substation – was heard to say: "It looks like sabotage, Sir." Only recently was I given some back copies of *noseweek* and read the piece

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MELTDOWN

by Harold Strachan recounting his part in that adventure. Kindly tell him I enjoy his column, but should he again wake me in the middle of the night I will come and bliksem him.

Henry Warren
Port Elizabeth

What has Mr Nose been smoking?

Reading Mr Nose on Zorgvliet I'm not sure whether to be amused or annoyed (*nose95*). I feel your investigative journalism is not well served by this type of slander.

First, a trivial issue: There's nothing wrong with Sasolburg – but we are not from Sasolburg. The rest of the article is on much the same level. My son Stephan has never aspired to being a winemaker; he has sound business acumen and is the CEO of the Zorgvliet wine division and farm, an effectively run and very successful business.

None of us took a "crash course" in tourism management. We have been operating Zorgvliet Portfolio, a diversified hospitality and wine business, for the past five years.

The noise case initiated by a Zorgvliet neighbour against our family tells its own story; but because the case was still in progress, my attorney advised me that it would not be appropriate for me to comment on the merits of the case. But the case was not postponed, as you reported,

due to our Jhb lawyer losing his briefcase, but because of court time not being available.

Then the golf course story – untrue! We have never even contemplated acquiring the Stellenbosch Golf Course; never negotiated or even talked with anybody in this regard. Somebody is stringing you along. The reference to Johan Naude is once again too ridiculous for comment.

Your publication is obviously being used as a springboard for a smear campaign by anonymous mischief makers. It could be worth your while to look at the integrity and motives of your informant(s).

I demand that you refrain from publishing any further untrue and slanderous statements about Zorgvliet and my family.

Mac vd Merwe
Zorgvliet

At the time we found the old money, old Stellenbosch snobbery, brought to bear in a village tiff, funny; now it seems to have been just a bit shabby. May we concede ... graciously? – Ed.

Bank on Figaji

Your readers might wish to note that your old friend Prof Figaji is now a Nedbank director. Watch this space!

John
By email

Beware Sarkozy's cosy deals

MIDWAY THROUGH HIS HONEYMOON, President Sarkozy gets on a plane to Cape Town with bunch of French nuclear salesmen and engineers who have volunteered to advise Eskom on dealing with our power crisis. Next he's kissing President Mbeki on both cheeks and patting him condescendingly on the shoulder. I smell *un rat énorme ici!* The last time a French president did that, he was ensuring that his defence industry friends got their cut of the arms deal. First it's arms and now it is nuclear power!

I was deeply disturbed by Sarkozy's visit to woo us further into nuclear power agreements. France has had a long and gory history when it comes to their love of nuclear power houses. The love affair stumbled in the early 1980's as the French public became acutely aware of the health implications of nuclear power plants as well as the diabolical dilemma of dealing with nuclear waste. Chernobyl was the cherry on the cake.

It also sickens me that we are prepared to ingratiate ourselves with a country such as France which has a history of dumping their nuclear waste on

poor African countries.

I quote from The Trade & Environment Database case studies: "The government of Benin negotiated a bilateral deal with the French government to import radioactive and industrial waste in return for \$1.6 million down payment and 30 years of economic assistance. Later, the French were forced to cancel the deal because of massive media opposition in France. Seraphin Noukpo, the commandant of the Ganvie (Benin's only merchant-marine vessel) acknowledged that he transported a shipment of nuclear waste from Le Havre in France. The shipment is reportedly buried in Saklo, also in the Abomey region." Please, let us stop this modern colonialism and exploitation of Africa.

Could we not look at Spain as a case study rather, where they have employed windmill power in Valencia and Navarre which is environmentally sound. Let us find viable solutions which are sustainable and fair to both our communities and our environment.

Samantha Martin
Bedfordview

Also see editorial opposite – Ed.

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Investec's immoral earnings

SOUTH AFRICAN BANKS, WE HAVE SAID IN THE PAST, are equally venal and self-serving – and much of a muchness when it comes to run-of-the-mill banking. It makes little difference which one you choose to run your cheque account.

True – but there is one that, despite its ads' pretensions to aesthetic and intellectual superiority, is so morally reprehensible – a bank that has so ruthlessly targeted the most vulnerable in society to secretly extort indecently huge returns for itself, that we would suggest that no right-minded person should do business with it.

The ruthless pursuit of profit has always been the hallmark of the famous Investec triumvirate: Steven Koseff, Hugh Herman and David Nurek. It's always had an ugly edge to it. Koseff's longstanding business relation-

ship with Brett Kebble, and the skill with which he exploited his insider knowledge of Kebble's criminal dealings in effect (secretly) to extort an extraordinary and hugely profitable deal out of JCI and Randgold's patently criminal directors, at the expense of their other creditors, leaves him tainted, by association, with the smell of criminality.

Read our lead story on page 8 and you will know why any trustee that invests trust or pension funds with Investec is irresponsible; why anyone who buys into an Investec pension scheme is a fool. What of investing in Investec shares? You will likely make a profit – but you will knowingly and willingly be sharing in the proceeds of an immoral enterprise.

You will be known by the friends you keep.

The Editor

Guest Editorial

French kisses and corruption

SOUTH AFRICA IS A FOUNDER MEMBER OF THE African Union (AU) and a signatory to the NEPAD conventions against corruption. Both oblige our government to ban deals with companies convicted of, or incriminated by, corruption.

The huge arms deal controversies implicate two companies, BAe and Thint, which had many such prior allegations reported against them in the European media. The British parliament's *Hansard* officially documents how Tony Blair stepped in to protect BAe's corrupt dealings from public exposure. Thint has battled all the way to our own Constitutional Court to keep the (now widely known) evidence of its corrupt dealings in South Africa out of court, because, it says, the evidence was "unfairly" obtained. (How fair, one asks, is corruption?) Yet the arms deal rolls on.

Of even greater concern to all South Africans right now is the announcement that Eskom has shortlisted French nuclear giant Areva for contracts worth anywhere between R120bn and R700bn – up to ten times the amount involved in the arms deal.

On 13 January, *City Press* reported as follows:

"The director of a weekly publication was arrested on Friday in Bangui, Central African Republic, because of an article identifying government officials who allegedly received money from the French company Areva.

"Journalist Faustin Bambou ... was

arrested following a 21 Dec article published in the *Hills of Oubangui*, which alleged that two government officials had received large sums of money from nuclear energy company Areva."

Another source claims that bribes to the two bureaucrats totalled ten million euros, equivalent to over R100m. With France's hideous colonial history in Africa, are we surprised that President Sarkozy arrives in South Africa with Areva's salesmen in his personal entourage, and then piously declares: "African civil society and public opinion wants us to be directly involved, by, for example, denouncing corruption."?

Even more unacceptable, Eskom has also shortlisted Laymeyer to design new power stations. In 2003 Laymeyer was convicted in Lesotho of paying bribes of R2,5 million to the chief executive of the Lesotho Highlands Development Authority. Consequently, in 2006, the World Bank banned Laymeyer from any new contracts for seven years (*Business Report*, 18 February).

Unless these reports are convincingly refuted, every South African needs to demand that Eskom removes forthwith those two companies from its tender short-lists, and bans deals with them. If it does not, what is the value of South Africa's signature on the AU and NEPAD conventions against corruption? Indeed what will the conventions themselves be worth?

Keith Gottschalk

University of the Western Cape

Investec's multi-billion rand pension rip-off

ELEVEN INDUSTRIAL PENSION Funds have applied to the Johannesburg High Court to stop Investec subsidiary, Investec Employee Benefits (IEB), transferring R13bn in assets to Capital Alliance. The pension funds contend in their application that, if the transfer is allowed, IEB may not have sufficient assets left to pay the massive damages that 14 pension funds are currently claiming from IEB – in separate court actions – for the mismanagement and misappropriation of their funds.

The claims, which already totalled R1,5bn in 2004, will, with interest, in all probability total many billions by the time the cases are concluded.

It is strongly implied that Investec is intentionally rushing to empty its subsidiary's coffers to stymie its victims' attempts to recover their money – that IEB will be left "a mere shell devoid of assets sufficient to satisfy execution upon any judgment obtained in favour of the interested parties against IEB". In addition to transferring funds to other fund managers, IEB

Directors
'assumed'
thousands of
elderly were dead
– so they could
grab their cash

has also declared massive dividends from its reserves, totalling R4,1bn. The sole beneficiary: Investec Holdings. (See box on page 10.)

A *noseweek* investigation has revealed that, once the evidence becomes public knowledge, the scale of the scandal will easily exceed that occasioned by the frauds in Fidentia. The case also establishes, beyond reasonable doubt, that the state has

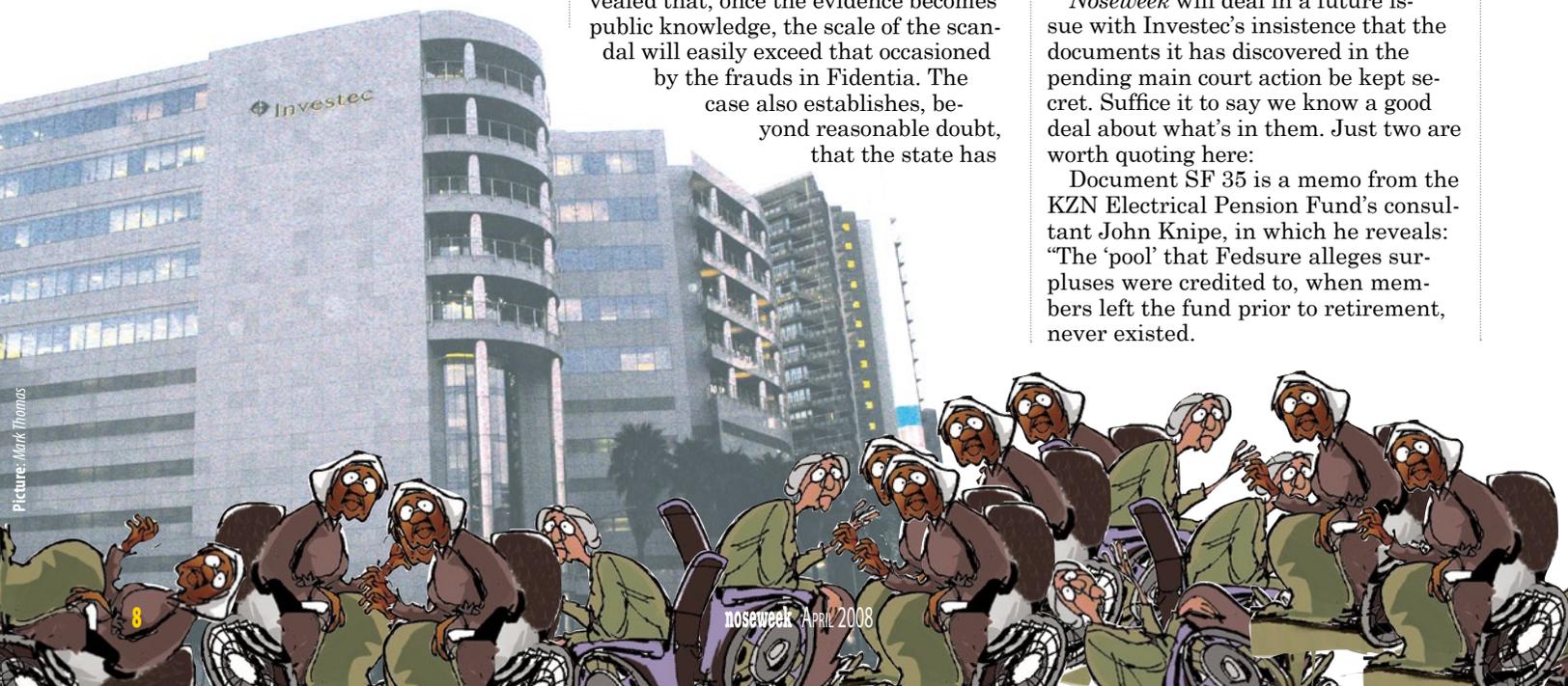
neither the ability, nor the political will, to apply the laws designed to control the financial services industry for the protection of the public.

At the insistence of Investec's attorneys, Werksmans, the court file for the application is being held under lock and key by the court registrar, to prevent the public gaining access to the documents and information contained in it. *Noseweek* has established that amongst the documents in the "closed" court file are the minutes of various IEB board meetings, as well as a due diligence report on the Fedlife takeover, prepared for Investec by risk and financial management consultants Tillinghast-Towers Perrin, in preparation for Investec's application for a listing on the London stock exchange.

In their report the consultants warned Investec that it faced significant potential liability exposure, *inter alia* because of an undertaking, given many years ago by Fedlife to the pension funds, to share certain profits with the funds in the proportion 90% to the funds, 10% to Fedlife. The consultant established that, in fact, the funds had not been paid their share for many years.

Noseweek will deal in a future issue with Investec's insistence that the documents it has discovered in the pending main court action be kept secret. Suffice it to say we know a good deal about what's in them. Just two are worth quoting here:

Document SF 35 is a memo from the KZN Electrical Pension Fund's consultant John Knipe, in which he reveals: "The 'pool' that Fedsure alleges surpluses were credited to, when members left the fund prior to retirement, never existed.



Even more interesting is Fedlife's response in a draft letter (document SF37), in which it is suggested to Knipe that the matter should go to private arbitration: "Let the problems be ventilated in private, rather than to open scrutiny by, for example, the press."

Having the court file locked away is the latest in a series of desperate moves by the banking group and its lawyers to hide from public scrutiny the appalling evidence of how it, and its predecessor in title, Fedlife, abused both the law and the public's trust, using the pension savings of millions of low-wage industrial workers to advance Fedlife/Investec shareholder interests with inappropriate investments – or by simply plundering them outright.

Inside sources say the banking group is confident that it will succeed in making the pensions funds case "go away", "simply by throwing enough lawyers – and legal fees – at the problem." It is said to have set aside a budget of R100m for legal fees in the case.

Central to Investec's strategy is simply to withhold the accounting information that its victims (the pensioners) need to prove their case, and then to drag the legal preliminaries out for as long as the law will allow – in practice for as long as there are fees to pay the lawyers. Investec has gained billions in profits, so it can easily afford to spend R100m, or even R200m, on legal fees.

On the other side, however, the pension funds have lost billions needed to meet the needs of pensioners, and can hardly afford to lose more. As every day passes, more and more of their members reach retirement age and need to be paid a pension.

The squeeze is on.

All Investec and its lawyers need do is sit back and wait for the next adjournment or interlocutory application. As the years pass, legal costs mount, the funds get poorer – and more and more pensioners die. What a treat!

Five years have

already passed since summons was issued by the pension funds. Investec's lawyers gleefully state in recent letters to the plaintiffs that they reckon the case could easily take a further ten years before it comes to trial. They have another 40-odd points to raise – one by one – in preliminary applications to court. Werksmans clearly have as little scruple as their client about the matter.

A **S GRUESOMELY** obvious as it all is, they can be confident that no judge is going to stop them. Everyone knows that for the wheels of the legal profession to glide, they need the grease that only bankers' briefs can provide.

Investec has already won one round with this strategy. The pension funds had originally sued not only the company, Investec Employee Benefits Ltd, but had also joined as defendants all the company's past directors and executives who could – and should – be held responsible for its misdeeds. They included now retired Fedlife boss Arnold Basserabie, Dr Morris Bernstein, Michael Cane Brewis (his mother couldn't spell), Andrew McGinn, Gerald Raftopoulos (Fedlife's "independent" actuary who helped make it all possible), John Barrow, David Haddon

Michell, Anthony Hart, Hugh Herman, Stephen Koseff, David Nurek, Michael Ian Sacks (yes, all the usual suspects from Investec), plus that financial star of stage and TV screen, Azar Jammie. Finally, what list of rogues would be complete without the name of Mervyn King, once more brought in to provide the sweet smell of "corporate governance" to a very smelly situation.

The trouble was that these men had in the meantime, by obvious means, become extremely rich. At the



The usual suspects: Mervyn King (left) and Stephen Koseff

first court application to amend their particulars of claim, the pension funds were opposed by several of them, each represented in court by his own senior and junior counsel, multiplying the court time required to argue the case – and the cost risk – tenfold! Justice bent its knee to expediency and the pension funds withdrew their claims against the directors and executives, leaving the company as sole defendant.

The moral depravity of the case is illustrated by a number of incidents.

Early last year a delegation of six men representing the Electrical Industry Kwazulu-Natal Pension Fund travelled to Investec's magnificent offices on Grayston Drive in Sandton – many pensioners suspect it was built with their money – in a final bid to reach a settlement of their claims. There to receive them were IEB's two directors, Ciaran Whelan and Ade Animashahun. Whelan aggressively launched in with an "introductory" speech: he wished to inform them straight away that Investec's alleged no-name fidelity insurers were driving the defence: "They're sitting in London and don't give a stuff about your claims or the pensioners. All they care about is the money. Their intention is to pay you as little as possible, as late as possible."

It soon emerged that the IEB directors' attitude was not much different from that of their mythical insurers. One of those present recalls:

"They then went on to tell us: 'We are insured. We've got time and money on our side. Our only interest is the bottom line. We will stretch it out until you're tired.'" But, because they do business in South Africa, and not in London, IEB was prepared to offer

The banking group is confident it will succeed in making the pensions fund case go away by throwing enough lawyers at the problem



a settlement: 10% of what the funds claimed they were owed.

There was no settlement.

If there was any doubt about IEB's own disregard for the needs of pensioners, how's this for depravity:

Amongst the documents relating to the Gauteng Building Industry Pension Fund – another fund suing IEB –

“discovered” (but declared secret and not suitable for public) is document numbered SF 194 – a conversion valuation showing asset values attributable to fund members – but only for those members under the age of 80. Why was IEB proposing to only pay the fund out for members under the age of

80, you ask? Well, Alexander Forbes, consultants to the building workers' pension fund, asked the same question (in document SF225 – a series of emails exchanged with IEB in March 2003).

Alexander Forbes noted that, by excluding the fund's members over 80, IEB had managed to underpay the fund R40m. IEB director Ade Animashahun, as ruthless as his colleague Ciaran Whelan when it comes to pensioners, replies that there was no mistake. He points out that IEB had originally intended only to pay the fund out for members up to the age of 70 (deducting another R50m from the fund's payout), and that they should count themselves

lucky. “Originally we wanted to assume that everybody over 70 was dead, but somehow we were persuaded that 80 was realistic.”

In document SF347 there is a breakdown of membership by age. This indicates that the over 80s whose share was kept by IEB to enhance its own profits – on the assumption that they were dead – in fact number close on 20 000 members. IEB's response? If they've got a claim, send them to us. We're sure not too many of them have made it to Investec's offices in Sandton. And, by now, five years later, many have probably died in poverty.

An important feature of the pension funds' claims is that they rely not just

The story behind the story

INVESTIGATIVE JOURNALIST (now research consultant) Deon Basson first discovered and wrote about the anomalies between what the shareholders of Investec Employee Benefits Ltd (previously Fedlife) earned and what its pension fund policyholders earned, in an article in *Finance Week* in December 2003. Shareholders were getting as much as twenty times what policyholders were getting – which was strange since the investments were made from a single, joint or “main” fund.

Investec (IEB's only shareholder) went to great lengths to prevent the story from being published, insisting Basson did not understand the complicated actuarial process. Investec directors went as far as asking the financial director of Naspers (*Finance Week's* parent company) to “lean on” the editor to ditch the story – and he did indeed call the editor repeatedly on the evening prior to publication.

Here Basson recaps on that story and brings it up to date:

In the latter part of 2003 I did research for a yearbook on banking and life insurance for *Finance Week*.

Analysing the financial statements of Investec Employee Benefits for 2003, I soon realized that policyholders had fared really badly, in contrast to IEB's shareholders. In the 27 months from January 2001 to March 2003 policyholders earned a gross annualised investment return of 5,6%. After funding the “operating” profit earned by shareholders, commis-

sions, administrative expenses etc, the net investment return for policyholders (most of them members of industrial pension funds) was a paltry 1%.

In the same 27 months, value in excess of 30% per annum had been added for Investec, the only shareholder of Investec Employee Benefits.

In 2003 policyholders earned a return of only R72m on an average portfolio of R20bn, while shareholders earned a return of R321m on an average portfolio of only R3bn.

The trend continued in years to follow, but this was not immediately apparent. When I subsequently analysed the accounts for the 2004 financial year, they showed some improvement in the fate of policyholders, with gross and net investments returns of, respectively, 14% and 9%. Shareholders again did better, with a 15% increase in value for shareholders that year. While the historic injustice was not undone, at least the division of the spoils appeared fairer.

But someone at IEB had clearly suffered an uncalled for bout of conscience, or made some other dreadful mistake. When the 2005 financial statements came out, the comparative figures for 2004 showed the 2004 figures for policyholders had been radically revised (“restated”) – downwards – and now painted a totally different picture. In fact, they showed that policyholders' gross and net investment returns for 2004 were actually only 6,2% and 1,6% respectively. How could auditors Ernst & Young have signed off the 2004 ac-

counts when, as it turns out, they were so grossly misleading with regard to the interests of policyholders?

Safely back in the old mould, in 2005 policyholders earned gross and net returns of just 4,3% and 0,8% respectively – while value of 29% was added to the golden kitty of Investec as shareholder. This included a dividend of R1,020m

Finally, in 2006 policyholders were treated somewhat better with gross and net investment returns of respectively 8,4% and 5,1%. Shareholders once again did much better with a return in excess of 20%, including a dividend of R1,4bn.

From 2004-2006 assets and corresponding policy liabilities of R2,7bn disappeared from the balance sheet without any explanation in the financial statements.

I did not have access to the financial statements for 2007, but yet another massive dividend of R1,68bn was paid to Investec subsequent to the end of the 2006 financial year. Since 2005 Investec Employee Benefits has paid Investec dividends totalling a spectacular R4,1bn.

In the years 2004, 2005 and 2006 the two executive directors of IEB, Ciaran Whelan and Ademda Anumashahun, together earned R18m, R9m and R5m respectively. The spectacular high, and then steady decline in their declared remuneration, appears strange, particularly in view of the dividends they have continued to squeeze out of IEB on behalf of Investec. But watch this space – we may yet come up with an explanation. ■



on the policies issued in each case by IEB, but upon a wider composite agreement including these policies.

They allege that the terms relating to IEB's investment duties also derive from presentations done by the company's officials to fund trustees, and the expectations created by other marketing material and letters.

These give rise to what IEB's own statutory actuary in his report calls "Policyholders' Reasonable Expectations" – expectations which, the funds allege, have not been met by a long stretch.

Long-brewing dissatisfaction with Fedlife's performance in the late 1990s was whipped to boiling point in 2001 when Investec took over the company and promptly withdrew more than R600m from the pension funds "non-vesting bonus" account – to reimburse itself for unanticipated losses it had suffered with the Fedlife takeover. Why? "Because the law allows us to."

Then for the next two years IEB did not declare the annual bonuses pensioners had received every year since the funds started in 1977. The fund trustees now gave IEB notice that they wished to cancel their deal and transfer their funds to Absa.

Investec's refusal to pay them the fair market value of their fund assets, or to account for their administration and show how they had calculated the settlement figures they were offering the funds, prompted the latter to issue summons against IEB in 2004.

The claims of the pension funds, as stated in their summonses, total R1,58bn (excluding interest which will accrue at the legal rate of 15.5% per annum from about January 2004), plus whatever further amount is owing consequent upon a proper accounting by IEB. (By 2010 the interest will exceed the capital amount claimed.)

Inter alia, IEB did not comply with its obligation to distribute 90% of the divisible surplus arising out of Fedlife's business to the policy holders. This is an express contractual obligation in many of the policy documents themselves. The effect of this failure is difficult to quantify because of the serious deficiencies in the financial information

Despite having repeatedly been asked, Investec has never identified its supposed indemnity insurer

that has been provided to the funds by IEB, but it has been possible to determine the short payment in respect of the Gauteng Building Industry Pension Fund for the year 1995. The short payment for that single fund, in 1995 alone, appears to be in excess of R13,5m.

It should be borne in mind that the 90:10 provisions applied for approximately 30 years in

some instances, and the total claim (including interest thereon) is likely to be significant.

There are many other industrial funds (not presently party to the litigation) that ought to have benefited from the 90:10 provisions. To the extent that they did not and were not aware of the consequent short payments, those claims would not have prescribed and could still be instituted against IEB. It is likely that once those funds realise the extent of the losses they have suffered they will also institute proceedings against IEB.

■ It is claimed that IEB enjoys "some sort of professional indemnity insurance" to cover the pension funds' claims, should they win the case. "Some sort" is the operative phrase: Investec has never identified its supposed indemnity insurer, or disclosed the terms or extent of the indemnity insurance it claims to have, making the assertion meaningless to any prudent opponent.

Investec officials hint – but never in writing – that their indemnity assurer is "London based". Most people might assume that it's Lloyds – but it's as likely to be the London postbox of Kazakhstan Re. Or one of Investec's own offshore "structured" insurance entities: a captive offshore insurance company set up by Investec itself to provide a "mechanism" for moving funds offshore.

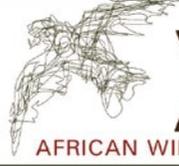
Even if the policy is with Lloyds, it might only provide for limited indemnity or for a limited amount – a maximum of ten million rands, say – inconsequential when one considers the vast amounts the pension funds are claiming. We therefore cannot know whether the claims are adequately covered by the policy, or at all. ■



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Who's screwing who?

WHILE NEW YORK GOVERNOR ELIOT Spitzer was paying an “escort” \$4300 in a hotel room in Washington, just down the road George Bush’s new Federal Reserve Board (Reserve Bank) chairman, Ben Bernanke, was secretly handing over \$200bn in a tryst with mortgage bank industry speculators.

Both acts were wanton, wicked and lewd. But there’s a *big* difference: the Governor used his own cheque book; Bernanke was using taxpayers’ money.

In March Bernanke’s Fed, for the first time in its history, loaned a select coterie of banks one-fifth of a trillion dollars to guarantee the banks’ mortgage-backed junk bonds. The deluge of public loot was an eye-popping windfall to the very banking predators who have brought two million families to the brink of foreclosure.

Up until 13 March, there was one single, lonely politician who stood in the way of this creepy little assignation at the bankers’ bordello: New York Governor Eliot Spitzer. (Earlier in March the *New York Times* was leaked a story that secret service wiretaps had picked up Spitzer hiring a VIP prostitute. They ran the story on 10 March and within days Spitzer had resigned.)

Who are they kidding? Spitzer’s lynching and the bankers’ enriching *are* intimately tied. How? Follow the money. The press has swallowed Wall Street’s line that millions of US families are about to lose their homes because they took loans too big for their wallets. Ba-LON-ey. That’s blaming the victim.

Here’s what happened. Since the

One lonely politician – Eliot Spitzer – stood in the way of the banking predators, says Greg Palast

Bush regime came to power, a new species of loan became the norm, the “sub-prime” mortgage and its variants, including loans with teeny “introductory” interest rates. From out of nowhere, a company called Countrywide became America’s top mortgage lender, accounting for one in five home loans.

Here’s how it worked: The Grinning family, with US average household income, gets a \$200 000 mortgage at 4% for two years. Their \$955 a month payment is 25% of their income. No problem. Their banker promises them a new mortgage, again at the cheap rate, in two years.

But in two years, the promise ain’t worth a can of spam. Now, the mortgage hits 9% or \$1609, plus fees to recover the “discount” they had for two years. Suddenly, payments equal 42% to 50% of pre-tax income. The Grinnings move into their Toyota.

Now, what kind of American is “sub-prime”. Here’s a hint: 73% of *high income* Black and Hispanic borrowers were given sub-prime loans, versus 17% of Whites. Dark-skinned borrowers aren’t stupid – they had no choice. They were “steered” as it’s called in the mortgage sharking business.

Giving sub-prime loans with usurious kickers and fake inducements to over-borrow – called “predatory lending” under US law – were almost completely forbidden in the olden days (Clinton administration and earlier) as nothing more than fancy loan-sharking.

But when the Bush regime took over, Countrywide and its banking brethren were told to party – it was OK now to

steer'm, fake'm, charge'm and take'm. [*Hello Trevor!* – Ed]

But there was this annoying party-pooper. The Attorney General of New York, Eliot Spitzer, who sued them. Or tried to.

Instead of regulating the banks that had run amok, Bush's regulators went on the warpath against Spitzer, and using the legal power of "federal pre-emption", ordered the states *not* to enforce their consumer protection laws. Indeed, the feds actually filed a lawsuit to block Spitzer's investigation of ugly racial mortgage steering. Bush's banking buddies were especially steamed that Spitzer hammered bank practices across the nation.

Spitzer not only took on Countrywide, he took on their predatory enablers. Behind Countrywide was the Mother Shark – its funder, the Bank of America. Others joined the sharkfest: Goldman Sachs, Merrill Lynch and Citigroup's Citibank made mortgage usury their major profit centres. They did this through a bit of financial legerdemain called "securitization".

What that means is that they took a bunch of junk mortgages, like the Grinnings' – loans about to go down the toilet – and re-packaged them into "tranches" of bonds which were stamped "AAA" (top grade) by bond rating agencies.

These gold-painted turds were sold as sparkling safe investments to US school district pension funds and town governments in Finland (really).

When the housing bubble burst, investors were left with the poop and the bankers were left with bonuses. Countrywide's top man, Angelo Mozilo, will "earn" a \$77m buy-out bonus this year on top of the \$656m he pulled in from 1998 to 2007.

But there were rumblings that the party would soon be over. Angry regulators, burned investors and the weight of millions of homes about to be boarded up were causing the sharks to sink. Countrywide's stock was down 50%, and Citigroup was off 38%, not pleasing to the Gulf sheiks who now control its biggest share blocks.

Then, on 6 March, the unthinkable happened. Carlyle Capital went bankrupt. Yes, Carlyle as in James Baker, Senior Counsel. Its partners, past and present, include George Bush, the Bin Laden family and more dictators, potentates, pirates and presidents than you can count.

The Fed had to act. Bernanke opened the vault and dumped \$200bn on the poor little suffering bankers. They got the public treasure – and got to keep the

Instead of regulating the banks that had run amok, Bush's regulators went on the warpath against Spitzer

Grinnings' house. There was no *quid* of a foreclosure moratorium for the *pro quo* of public bail-out. Not one family was saved – but not one banker was left behind.

Mozilo's Countrywide stock rose 17% in one day. The Citi sheiks saw their company's stock rise \$10bn in an afternoon.

And that very same day the bail-out was decided, the man called "The Sheriff of Wall Street" was cuffed. Spitzer was silenced.

Headlines in the financial press – one was *Wall Street Declares War on Spitzer* – had made clear to Bush's enforcers at Justice who their number one target should be. And it wasn't Bin Laden.

It was the night of 13 February when Spitzer made the bone-headed choice to order "take-out" in his Washington Hotel room. He had just finished signing these words for the *Washington Post*

about predatory loans:

"Not only did the Bush administration do nothing to protect consumers, it embarked on an aggressive and unprecedented campaign to prevent states from protecting their residents from the very problems to which the federal government was turning a blind eye."

Bush, said Spitzer right in the headline, was the "Predator Lenders' Partner in Crime". The president, said Spitzer, was a fugitive from justice. And Spitzer was in Washington to launch a campaign to take on the Bush regime and the biggest financial powers on the planet.

But now, the Administration can rest assured that the love story of Bush and his bankers will not be told by history at all – now that the Sheriff of Wall Street has fallen on his own gun.

■ Not all crimes lead to federal bust or even public exposure. It's up to something called "prosecutorial discretion".

For example, Senator David Vitter, Republican of Louisiana, paid Washington DC prostitutes to put him in diapers (ewww!), yet the Senator was not exposed by the US prosecutors busting the pimp-ring that pampered him.

Naming and shaming and ruining Spitzer – rarely done in these cases – was done at the "discretion" of Bush's Justice Department.

Greg Palast, former investigator of financial fraud, is the author of the New York Times bestsellers Armed Madhouse and The Best Democracy Money Can Buy. Listen to Palast on Clout at www.GregPalast.com

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The Philip Morris dance

When is a tobacco advert just a 'communication'?

NOT ONLY DOES multi-billion rand Swiss tobacco company Philip Morris dismiss the World Health Organisation's convention on tobacco control, it also spurns local legislation barring advertising of tobacco products.

While European Union laws on tobacco advertising have seen their Marlboro logo taken off Ferrari's Formula 1 cars, in South Africa Philip Morris has been placing Marlboro ads in some local publications – with no consequences so far.

Philip Morris declares on its website: "We do not support bans on all tobacco

advertising. On this point we disagree with the WHO and the Framework Convention on Tobacco Control. The ability for manufacturers to communicate with adult smokers and to differentiate their brands from those of competitors is fundamental to vigorous competition." Local magazine *Hotel & Restaurant* happily carries Philip Morris's legally-suspect tobacco ads. Though labelled "communication", the ads are clearly aimed at smokers – not at retailers, as both Philip Morris,

which also owns Chesterfield among other brands, and *Hotel & Restaurant* publishers Ramsay Son & Parker claim.

The Marlboro ad announces: "The same quality and taste that is offered by the No 1 selling cigarette in the world is now available in a special limited Flip-Side box."

Noseweek asked Philip Morris SA executive Ulreich Tromp to explain how a consumer-targeted cigarette ad turns into something else by appearing in a retail magazine, but he wasn't too coherent on this point. Instead he quickly began insisting that Philip Morris had written permission from the Department of Health to advertise in *Hotel & Restaurant*.

Tromp promised to provide a copy of the permission on the following day,

Philip Morris's 'communication', which appears in the November issue of *Hotel & Restaurant*

but barely an hour later (and well past 5pm – unusual for a public servant, to say the least) a call came in from Kgwiti Mahlako, deputy director of the Health Promotion Unit. "I have just been told by Mr Tromp of Philip Morris that *noseweek* has a problem with the way they communicate with their clients," declared the hard-working Mr Mahlako.

"No, we have a problem with the fact that they appear to be breaking the law: we believe Philip Morris is in violation of the Tobacco Product Control Act of 1993 and the 1999 amendment, which forbids tobacco advertisements of whatever kind."

"Oh. Uh –". Mr Mahlako had clearly not been briefed by Mr Tromp that *noseweek's* queries concerned a consumer advert placed, at a price, in a magazine which itself has a cover price and which is distributed to members of the public outside the hotel and restaurant industry – for example to journalists and news publications, *noseweek* among them.

Mr Mahlako had not heard of special permission being granted to Philip Morris to advertise Marlboro cigarettes.

Mahlako's colleague Ms Vercia Phaka affirmed that no exemptions are made to the ban on tobacco advertising. She agreed that an ad is an ad, no matter what anyone claims about it being a "communication".

Phaka said the Health Promotion Unit was not aware of the Philip Morris ads and asked for copies of them, promising to act on the matter, should there be a problem.

Andrew Moth, editor of *Hotel & Restaurant*, responded to queries as follows: "*Hotel & Restaurant* is not distributed to members of the public or aimed at them. The information in the magazine and its advertisements is aimed at owners, executives, managers and decision-makers in the hotel, restaurant and liquor trades served by *Hotel & Restaurant* for the past 73 years".

Moth continues: "As far as I recall, we have never received a complaint, apart from yours, about the advertisements, although I have had some animated

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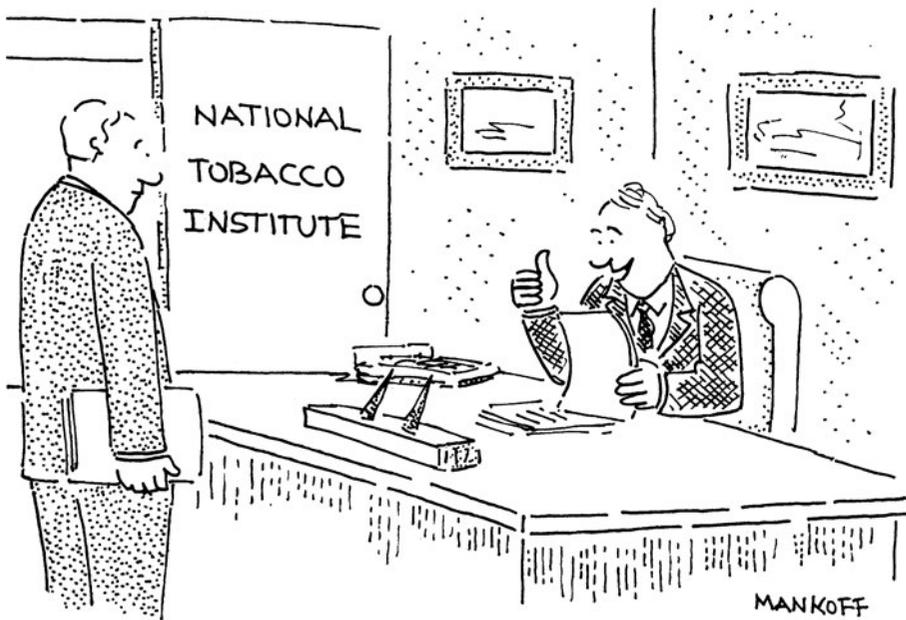
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“Love it! ‘People of smoke’ instead of ‘Smokers’.”

discussions with anti-tobacco lobbyists, who seem to think that I (a non-smoker) am a heavy smoker because I have suggested in editorial coverage that restaurateurs should be given some leeway in dealing with the smoking issue, especially as they are expected to act as enthusiastic policemen. Here, we could launch into the debate about the nanny state...”

Well Mr Moth, distractions from the issue may amuse you, but *noseweek* isn't really excited right now to join debate on “the nanny state” – the law is quite clear, and all relevant debates on the legislation were exhausted during the public hearings held before the enactment of the law.

“As editor of *Hotel & Restaurant*, I do not speak on behalf of Ramsay Son & Parker, but I'll discuss the matter with my colleagues when they are available, and if we have any more to add we may come back to you again,” said Mr Moth. Which he didn't.

British American Tobacco SA has a different understanding of the legislation. Anthea Abraham, a manager with the company, says: “The legislation is quite clear in that advertising ‘aimed at the public’ with the intention of ‘promoting smoking behaviour’ is prohibited. The only exception is that retailers of tobacco products may advertise the availability and price of these products within one metre of the sales point, provided certain regulations are met.

“The act prohibits ‘above-the-line’ tobacco brand advertising, sponsorship

and promotion.”

So what makes Philip Morris untouchable? Says Lesley Elliott, advertising consultant for *Hotel & Restaurant*: “When I first saw the ad, I was like ‘hey, why is this happening?’ But I was told that it's not a contravention of the law since it's not going to the public. It's to the trade...the hospitality industry... it goes to subscribers.”

Charles Beiles, the Audit Bureau of Circulation's general manager, says that, of the publication's 7647 copies circulated, a mere 1329 go to paying subscribers, while the rest are sent out as non-requested copies. Thus, close to 6000 or offices not necessarily related to the hospitality industry are exposed to a “communication” encouraging them to sample Philip Morris cigarettes. How many members of the public must the ad be circulated to before the law is contravened?

Hotel & Restaurant did not respond to queries concerning how many of the non-requesting “subscribers” (like *noseweek's* editor) are not part of the relevant industry, and why the magazine should be encouraging people to smoke, or trade in Philip Morris tobacco. No answer...

Philip Morris, meanwhile, affirms that it will continue placing its ads in *Hotel & Restaurant*, and in other publications which may be ready to infract the law. Further queries will be dealt with by PR firm HWB Communications. When in doubt – call the doctors of spin. **W**

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Justice delayed

UNCERTAINTY SURROUNDS the future of acting judge of the high court, and top Rugby Union disciplinary chief, Nape Dolamo. This follows a Law Society investigation into R100 000 paid into his attorney firm's trust account.

The 53-year-old attorney is one of the new breed of acting judges brought in as part of the transformation of the judiciary. Previously only senior advocates were allowed to sit on the high court bench.

At the South African Rugby Union, Dolamo chairs the panel that decides disciplinary matters involving players. So highly is he regarded there that he has also been appointed to a panel of judicial officers handling disciplinary matters at SANZAR (the combined South African, New Zealand and Australian Rugby Union).

Until now scandal has been averted, since few realise that Nape Dolamo, respected high court judge and senior rugby official, is one and the same as Mr MJ Dolamo, an attorney who runs a one-man practice in Witbank, Mpumalanga. Indeed, when the Law Society of the Northern Provinces realised that *noseweek* had made the connection, there was some swift back-peddalling by director Tinus Grobler with regard to the proposed action against the seemingly obscure country attorney.

The appointment of attorneys as high court judges is a sensitive matter. It's controversial in that, while applications for permanent judgeships go through a rigorous selection process at the Judicial Service Commission, acting judges are invited to sit by individual judge presidents; these appointments are simply rubber-stamped by Justice Minister Brigitte Mabandla.

Why the *volte-face* by the Law Society's Grobler? Perhaps he does not wish to embarrass Judge President Bernard Ngoepe, who invited Dolamo to be an acting judge in the Pretoria High Court. Certainly he would not wish to cast a pall over the enthusiastic approval of Raj Daya, chief executive officer of the Law Society of South Africa, for the appointment of attorneys as acting judges. The process, Daya said last year, would allow "potential judges – including



He was my attorney, but I just wasn't too happy about him collecting money from my clients

black and female potential judges – the opportunity to interact with serving judges and to bring fresh views and perspectives beyond those of the serving judges”.

A discussion of the events at the Witbank law firm of MJ (Mokgoatji Josiah) Dolamo will undoubtedly bring a “fresh perspective” to the usually dry conversation at the judges’ luncheon club of the Pretoria High Court.

It all started back in 1999, after Mr Kantilal Rama, owner of Witbank’s Hard Rock Bottle Store, supplied R90 000-worth of liquor to local shebeen owner Margaret Nhlapo. She sold the booze, but instead of settling her account with Rama, spent the proceeds on building a house for herself.

Rama turned to his attorney and long-standing friend MJ Dolamo, who issued summons against the shebeen owner. Judgment was obtained, as well as a court order for execution against her fixed property. Margaret Nhlapo then agreed to pay off her debt, with interest. She would make monthly instalments into the trust account of her attorneys, Erasmus, Ferreira & Ackermann; they would pass the money to the trust account of attorney MJ Dolamo, who would pass the money to Kantilal Rama.

The first payment, for R1000, was received in Dolamo’s trust account on 15 July 2004. Over the next 16 months there were 11 more payments of various amounts, totalling R84 600. Erasmus, Ferreira & Ackermann’s Willem van Zyl says that the final total paid over was around R100 000.

Since 1999, interest had been clocking up at 15.5% pa, and although Van Zyl made “many requests” to Dolamo’s office to provide a statement showing the outstanding balance, there was no response. Finally Van Zyl stopped passing on the shebeen owner’s payments; he says some R30 000 will remain in his firm’s trust account until agreement is reached over the final balance.

Kantilal Rama complains that he’s not received one cent of the R100 000. He says he used MJ Dolamo to collect outstanding monies from his liquor store clients, “But when I never had any response from him in terms of money

coming in, I had all the files taken away from him. He was my attorney, but I just wasn't too happy about him collecting money from most of my clients".

Rama says that most of his debtor files were taken to another Witbank attorney, Opie Makobe. But the R100 000-plus shebeen debt matter was passed to a tough Witbank attorney, Johan Krugel. Krugel wrote to Dolamo informing him that his mandate was terminated. He demanded the Hard Rock Bottle Store/Margaret Nhlapo file and Dolamo's final statement of account.

No response – so in April last year Krugel made formal complaint to the Law Society of the Northern Provinces. The following month Jaco Fourie, a legal officer in the society's disciplinary department, wrote informing Krugel that the council of the Law Society had resolved to "bring an application for the suspension of Mr MJ Dolamo". (This application to be heard by a judge in Acting Judge Nape Dolamo's own Pretoria high court!)

Kantilal Rama (56) has meanwhile sold the Hard Rock Bottle Store. He's now in the tobacco trade, distributing for British American Tobacco, and owns a tobacco processing plant in Potgietersrus: "I've known Mr Dolamo for a hell of a long time," he says. "Nape grew up in front of me; we were from the same township in Witbank. I know his dad very well.

"I don't want the man to be struck off the roll, I only want by all fairness to get the money that he's owing. Even if he takes some time to pay it off it's not a problem, as long as we get the money from him. Because it's not his – it's my money! Maybe I'm too soft, but even if it takes 12 months for him to pay it off I don't have a problem. I don't want to mess up his livelihood. He just needs to make the undertaking that he'll pay it off."

Last month *noseweek* entered the fray, with a call to the Law Society's Jaco Fourie for an update on the situation. Fourie confirmed that there was an application pending in Pretoria high court for Dolamo's suspension and he should have a case number within a few days. Fourie admitted with an embarrassed laugh that he was aware Dolamo was an acting judge in this same court.

When we called back three days later the situation had dramatically changed. "After we spoke I went to our director [Tinus Grobler]," said Fourie. "He told me that apparently certain audit reports and whatever came in,

which counsel found satisfactory, and it had been decided to refer the matter back to the disciplinary committee." The application for suspension would now be "held in abeyance pending the outcome of the [disciplinary committee's] inquiry".

When will the disciplinary committee sit? "We've got hundreds of pending cases, but this is obviously a matter which will receive preference," said Fourie. "It depends on our roll."

Exactly what "audit reports and whatever" have come in remains a mystery. The Law Society attorney preparing the application for Dolamo's suspension, Andre Bloem of Rooth & Wessels, did not return our calls.

Mr MJ Dolamo, or Acting Judge Nape Dolamo, tells *noseweek*: "I've been an acting judge at Pretoria high court from January 2008. But I've done some stints before. I had one in 2004."

Dolamo claims he owes nothing to Kantilal Rama. "What happened, and I've cleared this with members of the Law Society, is that I was collecting money for Mr Rama, and also doing other work for him," he says. "Our agreement was that I would deduct my fees from the monies that I collected.

"The only problem was that I did not account to him, and if there's going to be any action it will be for failing to account to him."

Of the R100 000 paid into his firm's trust account for the judgment debt, the acting judge says: "I've got accounts that exceed R100 000 for other legal work that I've done [for Rama]. I've had a long history with him. Mr Rama and I are childhood friends. He knows my father and I know his family as well. That is where the laxity in complying with the rules came in. He would say 'OK, fine, do this matter for me and we'll come back and sit down and discuss how we're going to pay each other. In the meantime you have access to the money that you're collecting'.

"I'd done a lot of other work, including representing Rama on a murder trial. He was charged with murder in the Witbank regional court and was acquitted. He's just waiting for me to account to him and this is the request I made to the Law Society: leave it in abeyance and as soon as I've finished here [Pretoria high court] I will account to him."

Kantilal Rama and his attorney Johan Krugel both reject Dolamo's claim that there was any offset agreement that allowed Dolamo to take the R100 000 as fees owing for other work – or that there were any fees owing at all. "He's taking a long shot," says attorney

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Krugel. "If there was an offset agreement, Mr Dolamo would have taken that up with me a year ago. To raise this as a possible defence all this time later is absolutely not on. Also, if I receive money on your behalf and I want to set that off against other debts, there must be proper accounting."

Nape Dolamo was due to finish his acting judge stint on 28 March and return to his Witbank law firm on 1 April.

Judge President Bernard Ngoepe was unaware that the Law Society had been proposing to apply to his court for Dolamo's suspension. "All I can say is I'm definitely not aware of it," says Ngoepe. However, the judge president remains sanguine about it all. "You can sue a permanent judge, and so, obviously, also an acting judge. The courts have a mechanism to deal with that."

There are a growing number of (mostly) previously disadvantaged attorneys sitting as high court judges (starting salary R40 000 per month). "The composition of the bench changed in 1994," explains a legal expert, "From then on we've had attorneys on the bench; first only a trickle, but now there are six or seven guys who were attorneys on the Pretoria bench and the same number, or more, in Johannesburg."

Another legal expert tells *noseweek*: "The Law Society says it's unprofessional conduct not to account to your client. It's a serious matter. Mr Dolamo might get a fine. They usually suspend when there's no proof of any wrongdoing, but the affairs of the practitioner are in chaos. They suspend him and put in a curator who goes through the books. If there's theft found, you'll be struck off. If there's no theft found they get you in order and put systems in place."

■ In April last year Nape Dolamo caused an (unreported) uproar when, sitting as a SANZAR judicial officer, he suspended Bulls flank Danie Rossouw for one week for tackling Stormers eighth man Justin Melck "in a dangerous manner", causing Rossouw to miss the Bulls Super 14 visit to Ellis Park. Racist abuse flooded the Internet – much of it uncomplimentary to Italians because the writers assumed the name was Italian.

■ Despite his laxity in accounting, Nape Dolamo has taken a vigorous stance when dispensing justice as an acting judge at the Pretoria High Court. He jailed two youths for life for the murder of Bronkhorst-pruit businessman Rudi Lanner. And a 22-year-old Westonia man got 40 years for bludgeoning a young nurse to death. ■



Microsoft boxes clever

IT IS NOT UNREASONABLE to expect the world's biggest producer of computer software to act rationally. After all, computers are logical beasts. But, we have discovered, Microsoft's environmental policy is so far removed from its environmental practice that one is left wondering which software they use to monitor their own performance. "MicroSox-Smoker" would be our first guess.

Noseweek's reporter made the mistake of buying Home & Student 2007 six months ago, and has since wasted more time trying to get some sense from Microsoft about the packaging than he had hoped to save in using the software. He plans, eventually, to ask for a refund but, in the meantime, had hoped that, as a paying customer, he would be entitled to some sort of adult response. (These notes are written on the very same software, for which Microsoft's licence allows only non-profit use; and so *noseweek* will apparently not be able to pay him for this article.)

It all started last August when our reporter rushed home with his new Home & Student 2007 in a box which is about the size and thickness of a 500-page paperback. After a couple of attempts to open it (the box, not the application), he realised that the inner was designed to swing out from the main case, the whole being moulded from a type of heavy-duty plastic reminiscent of the stuff used to make riot-shields. Inside, sat a solitary compact-

disc and a sheet of paper advertising similarly packaged Microsoft products. The customer-care department assured him that there is not supposed to be a manual inside and that the 15 gram disc is meant to be packaged alone in its 230 gram plastic box. They explained that they "don't really understand the grams and percentages" (maybe they should have tried MS Excel?) but that a ratio of 6% product to 94% plastic packaging wasn't contrary to Microsoft's environmental targets.

Noseweek readers are busy people with notoriously short attention spans, so our search for understanding is best left in summary. Victor Rangata (at Microsoft customer care) passed us to Duran Balbathur, who then sent the matter to his "escalation point", Angie Lowe, Microsoft SA's Response Management Escalation Specialist. Angie is obliged by her job-brief simply to repeat whatever nonsense Head Office tells her to, whether or not relevant to the query in hand, and so she eventually referred *noseweek* to Monique Lincoln-Burbidge whose (no doubt burdensome) role is that of Director: Customer and Partner Experience. Finding the experience less than satisfactory, we were eventually put in touch with the US head office in the person of Joan Krajewski, Microsoft Chief Environmental and Product Safety Counsel, and co-author of a scientific paper titled *New Directions for Sustainable Packaging of Electronic Products*.

Geek greenspeak sounds like Greek

🔊 Our packaging engineers are continuously looking for opportunities to reduce the 'void space' within the package, and incorporating global environmental stewardship of materials. We have plastics engineers as well as packaging engineers with years of experience engineering packaged product solutions

Angie Lowe, Response Escalation Management Specialist, Microsoft South Africa

🔊 Microsoft is very diligent about its packaging life-cycle analysis.

🔊 Our engineers have put forth a lot of effort and, quite frankly, heart towards ensuring that we minimize the impact of our packaging...

🔊 Our current software packaging solution is created

with an eye toward long-life usability and recyclables, both of which are recognised by applicable regulations as legitimate sustainability strategies.

🔊 The Microsoft packaging engineers review our products with (improvement) in mind and work with various retailers as new manufacturing technologies and materials become available."

Joan Krajewski, Microsoft Chief Environmental and Product Safety Counsel, Microsoft USA

🔊 As Microsoft's products evolve, so does our packaging.

🔊 We have developed Design for Environment protocols to take steps in integrating environmental attributes early in the development process of our packaging, enabling us to review certain design changes that can make positive impacts.

🔊 Collaboration of our Microsoft packaging teams with Suppliers and Customers as well as with internal departments such as Marketing, Purchasing, and Transportation is helping Microsoft take positive steps toward sustainability and enabling packaging designs that are good for our partners, end users, and the environment."

Scott Ballantine, Microsoft Packaging Engineering Project Manager, Microsoft USA

🔊 [Plastic waste is] a topic very dear to me and taken very seriously by Microsoft.

Warren Johnson, Enterprise Partner Group Account Technology Specialist Lead/Enterprise Partner Group Infrastructural Optimisation Lead, Microsoft South Africa

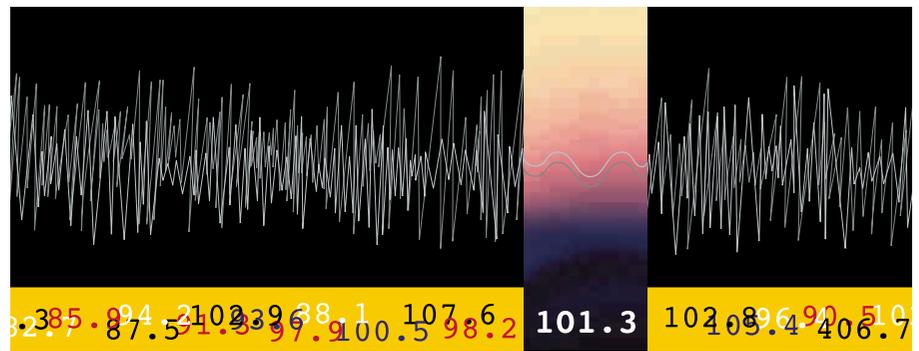
Noseweek was given a copy of the Sustainable Packaging paper which, to our surprise, mentioned Microsoft's drive to encourage retailers to accept their new Minibox CD-case, which weighs only 40 grams, against the traditional 57-gram version. The paper goes on to trumpet that the saving of 17 grams of plastic per unit will help our dying planet to the tune of 765 BTUs (British thermal Units); a worthy cause indeed. But Microsoft's targeted reduction from 57 to 40 grams begs our original question about why the discs selling in South Africa come in 230 gram plastic boxes which add a staggering 8000 BTUs each to the environmental burden. In fact a waste of 7785 BTUs more than the old box and a whacking 8550 BTUs worse than the new Minibox! To put it another way, an intended 30% environmental saving has been turned into an actual 300% environmental disaster.

Noseweek is now also in contact with Warren Johnson at Microsoft SA who, in his own words, is "passionate about this sort of thing" and has been "campaigning internally for years". Clearly to no effect, because Incredible Connection's chief software buyer, Garth Davies, says that they have never been offered the Minibox option and that Microsoft supplies its products in whichever pack Microsoft dictates. Warren (at Microsoft SA) boasts close family ties with leading South African conservationist Dr John Hanks, who also sits on Nedbank's environmental committee, and in our next issue we bring you Warren's thoughts on the toxicity of PVC and how the new box is "a gazillion times better than that". Warren's Internet research suggests that the old cases were made from PVC, though Joan Krajewski says that it is "beyond her scope" to know exactly what they were made from.

Don't know why, but after all that

(and more, see box) the word "cant" came to mind, so we looked it up in the dictionary: "...the insincere or parrot-like appeal to principles – religious, moral, political, or scientific – that the speaker does not believe in or act upon, or does not understand."

Our suspicion: Microsoft reckons unsophisticated South Africans will pay more for something that comes in a big, fat box than for something that comes in a small, thin box. And they want us to pay more; stuff the environment. 📺



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Sailing close to the wind



BUSINESS STUDIES 101 – How to create a successful business:

■ Find people who have the South African licence or agency for a successful international brand.

■ Go into business with them and create a new company.

■ Create a fictitious debt in the company's books – in favour of yourself – and apply to liquidate the company on the basis of this debt.

■ Tell the brand owner that its South African licensee or agent is about to go bust.

■ Suggest to the brand owner that it awards the licence or agency to another South African company – one you happen to own.

■ Enjoy many years of prosperity.

Executive summary of the above: If a friend owns an asset you'd like more than a piece of, schmooze him into a partnership, then, when you get real close, kick him in the balls and shove him in the gutter; finally, grab the goodies and walk off, remembering to look confident and dignified.

If you think it unlikely that anyone would actually go this route, think again: Cape Town businessman Kevin King recently borrowed the technique – and almost got away with it. Except that the pal, one Chris Bonnet, got up, dusted himself off, and fought back, opposing the application to liquidate his company. King also had the misfortune to come before a judge who saw all too clearly what a sneaky little shit he'd been.

Chris Bonnet is in his seventies and has been a yachtsman for most of his life. In 1979, when he was 43, Bonnet and his wife Libby founded the Ocean Sailing Academy in Durban, which became a roaring success – they've trained well over 25 000 yachtsmen. In the 1990s they sold the academy and formed Professional Yacht Management (PYM Durban), signing a licence agreement with UK company Sunsail, the world's largest yacht charter company, allowing the Bonnets to trade under the Sunsail name. They also signed a

dealership arrangement with French company Fountaine Pajot Catamarans, the world's largest manufacturer of sailing catamarans.

Bonnet has known Kevin King for over 20 years, since way back when King signed up with him for a basic sailing course. King, who once owned the Halyards Hotel in Port Alfred, is a property developer and wine farmer, and proud owner of the Overberg estate South Hill.

When Sunsail advised Bonnet that they wanted to move into the Cape Town market as well, Bonnet immediately thought of his friend King. Which is how it came about that in January 2004 King and Bonnet formed a new company, Professional Yacht Management Holdings ("PYM Holdings"), with Bonnet holding 51% of the shares and King 49%. The registered office was in La Lucia, Durban, with Bonnet as MD. King put in some R300 000, while Bonnet brought to the new company his considerable experience plus the Sunsail agreement (a new agreement was signed for PYM Holdings), the Fountaine Pajot Catamarans distributorship and the recently acquired sole importation rights for Beneteau Yachts, the world's largest manufacturer of mono-hulls.

PYM Holdings would hold the various licenses, and sub-licence both Bonnet's PYM in Durban, and a Cape Town-based company belonging to King, Professional Yacht Management Cape ("PYM Cape"). In effect Bonnet would be Sunsail and Beneteau in Durban; King would be Sunsail and Beneteau in Cape Town.

The deal was that PYM Cape would

A simple guide
to snatching
your partner's
business from
under him

pay 50% of the commissions which it earned on yacht sales to PYM Durban.

While King was meant to devote four days a week to PYM business, in fact he handed over much of the running to two employees who did little business – and that not very well. (Bonnet was told that one young lady whose father had paid R13 000 for her to do the Sunsail training course in Cape Town, “still cannot navigate, does not know the difference between port and starboard, does not know lights, cannot plot a position on a chart, is unaware of something called the Greenwich meridian, and does not know that the world is made up of eastern and western hemispheres”.)

So it came as no great surprise when King decided to put PYM Cape into liquidation. But Bonnet got more than a surprise when he learned, in August 2005 that King had applied to the Cape High Court to have PYM Holdings itself liquidated, claiming in court papers that PYM Holdings was “clearly insolvent”, having assets of no more than



Kevin King with Chris Bonnet

R10 000 and debts in the order of R250 000 (all of it owed to parties related to King).

In opposing the application, Bonnet denied that these debts were validly incurred by PYM Holdings and claimed that the liquidation was simply part of a scheme by King to acquire the Beneteau and Fountaine Pajot dealerships, and the Sunsail licence, for himself.

King gave remarkably little evidence of the various debts, simply stating that they were owing. This didn't impress Judge Louw – who had read the PYM Holdings shareholders' agreement, which clearly stated that the company could not incur a debt exceeding R20 000 without the consent of both shareholders.

Among the alleged debts was R54 720 for shared expenses, like rent and accountancy fees: basically King claimed that, although Bonnet was legally the managing director of PYM Holdings, he (King) was the *de facto* MD, and

the company was run from King's offices in Cape Town. That fell foul of the shareholders' agreement – Bonnet had never agreed to it. The same applied to a R105 000 debt allegedly owed to an advertising company.

King then argued that it would be “just and equitable” to liquidate PYM Holdings, because there was a complete deadlock between the two principals. This argument, too, was rejected by the judge, because the person bringing the application was himself responsible for the situation – he did not have “clean hands”.

It's obvious from the court papers that King had decided early on that he didn't need an old fart like Bonnet on the scene. And that he certainly didn't need to be paying a share of his commissions to Bonnet's company. Which is when he decided to try the kick-in-the-balls technique.

Consider the evidence:

■ In April 2005, King changed PYM Holdings' auditors from Grant Thornton in La Lucia to his own auditors,

Badenhorst Ouditeure, in, of all places, Caledon, Western Cape – without telling managing director Bonnet. A short while later, he secretly changed the registered address of the company from La Lucia to Gardens, Cape Town.

■ At some point King formed an association with a firm called Waterfront Marine Brokers CC, one of whose three members is a James Alan King – although how this King may

be related to Kevin King we haven't established. Waterfront Marine's website does list Kevin King as a salesman for the firm – something he didn't tell Bonnet either. Bonnet first got an inkling that something was up when he saw a report in the Cape Town *Boat Builder's Newsletter* of June 2005 that Beneteau SA was planning to open a retail outlet in Paarden Eiland, Cape Town. When Bonnet questioned King, King was clearly embarrassed and told him that he was negotiating with Waterfront Marine to buy a share in the firm's inflatable boat business.

■ On 11 July 2005, a company called Rex Yachting was incorporated, with the same registered address as the new registered address of PYM Holdings, and King as one of two directors. It's clear King was involved with the company from the outset – as early as 19 July 2005, Sunsail sent an invoice for the purchase of a Sunsail Blue Battle Flag to King, care of Rex Yachting.

■ On 9 August 2005, Graham Laver

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of Sunsail wrote to King and Bonnet to say that “in view of the current situation with PYM Holdings we are obliged to ask you to stop trading as Sunsail until further notice”.

■ On 18 August 2005 King launched the application to liquidate PYM Holdings.

■ On 23 August 2005, Yves Mantin of Beneteau in France wrote to PYM

ments, called Laver of Sunsail, who admitted that King had given him advance warning that PYM Holdings was going into liquidation, and that King had been “gutting” Bonnet for some time. Yves Mandin of Beneteau said King had told him he had bought Bonnet’s shares. Bonnet immediately put them both straight.

■ Despite this, on 30 August 2005

Sunsail contesting the termination of their agreement and pointing out that not only was the timing of these events quite remarkable, but that Laver had admitted to Bonnet that Sunsail had been in close contact with King for some time. Bonnet’s attorney went on to say: “Quite obviously your company has been in secret communication with King and then, together, you planned this purported termination. We are surprised at this conduct since it is well known that your company has an excellent reputation and has had a fruitful relationship with our client for eight years, during which time our client has sold over 40 yachts into your Sunsail Partnership Programme and has, effectively, put Sunsail onto the South African map.”

■ On 26 September 2005, Beneteau’s Yves Mandin wrote to King to say that its previous understanding of the matter had been that the two had agreed to liquidate the company in order to start over in a new company. Since this was not true, the letter went on to say: “It is therefore impossible for us to trade with a company in which we no longer have confidence”. It was terminating all “commercial relationships which may have existed between our two companies.”

■ At the Cape Town Boat Show in September 2005, Waterfront Marine exhibited as a Sunsail agent.

■ In December 2005 Rex Yachting began advertising itself as “an independent agent of Sunsail Worldwide Sailing Ltd”.

■ In January 2006, Waterfront Marine began advertising itself as a seller of new Beneteau Yachts, with King as contact person.

Not surprisingly, Judge Louw had little difficulty finding that King had engineered the whole thing. In the words of the judge: “The liquidation of Holdings was not sought in a genuine attempt to recover debts owed, but rather for an ulterior purpose, namely to acquire the lucrative agencies at hand.” And changing the registered address? This was probably done to ensure that the case would be heard in the Cape High Court – but if King was hoping for a home town decision, he was sorely disappointed.

Judge Louw ordered that the company should not be wound up, so it still exists. And while King, Waterfront Marine and Rex Yachting appear to be out of the yachting game, Bonnet is again trading in Durban as Sunsail and distributing for Fountaine Pajot. The Beneteau distributorship has, however, been lost. And that hurts. **[Z]**

The liquidation of Holdings was not sought in a genuine attempt to recover debts owed, but rather to acquire the lucrative agencies at hand

– Judge Louw

Holdings to say: “We are aware of the impending liquidation of the above company and hereby cancel any existing arrangements we have with the company Professional Yacht Management.”

■ At the August 2005 Johannesburg Boat Show, exhibitor Waterfront Marine claimed it was the new Beneteau agent for South Africa.

■ Bonnet, stunned by these develop-

Yves Mandin of Beneteau answered a query from a potential purchaser of a yacht in South Africa by saying: “I confirm that Waterfront Marine is our official importer for South Africa.”

■ On 14 September 2005, Sunsail UK formally terminated its agreement with PYM Holdings, apparently as a result of the company’s expected liquidation. Bonnet’s attorney wrote to

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Family falls out over plastic money

ROVETTI & SONS: That's the heart-warming way Flamingo Plastics, a modest little Pty outside Kempton Park on the East Rand, sums itself up on its website – the “dynamic family enterprise of Rovetti & Sons”.

However, the family dynamics in Rovetti & Sons are more volatile than the usual familial ups and downs. Sons Leonard and Richard Rovetti are no longer on speaking terms with their father Elio. In fact the brothers are suing their 62-year-old dad in the high court for R10m!

Flamingo Plastics was established 30-or-so years ago and supplies plastic packaging to 300 cosmetic, pharmaceutical and homecare customers here and overseas. Until the middle of last year, elder brother Leonard Rovetti, 34, had worked there for nine years. Brother Richard, 32, for seven. But last July the brothers stormed out of the business, and although Flamingo Plastics continues with Papa Elio as CEO, the “Rovetti & Sons” era is over.

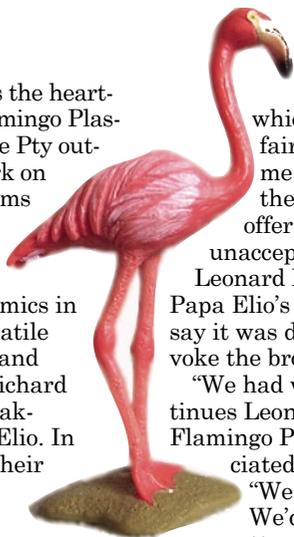
What can have caused such a calamitous fallout? “What’s that got to do with *noseweek*?” demands Papa Elio. “I’m not prepared to discuss it. It’s *sub judice*.”

Papa’s attorney, Paul Weiner of Werksmans, is marginally more forthcoming: “It’s not an application, it’s a summons on the basis that the father promised them shares; he didn’t give them the shares and the value of the shares is R10m, which they’re suing him for.”

Elder son Leonard Rovetti did his best to elaborate, despite the best efforts of brother Richard and their attorney, Robert Levine, to gag him. “My attorney says we must keep the media out of it and I must say ‘no comment’,” says Leonard. “But I’m inclined to give you the story because I’ve got nothing to hide.”

“My brother Richard and I are pretty much level-headed individuals. We left fantastic other positions [he declines to say what they were] to join a so-called family business.

“Richard and I left last July. We walked out of the business with nothing at all. The row was over equity.



Our father’s original offer, which we’d agreed upon, was fair: 25% each for Richard and me and 50% for himself. But then he came up with a new offer that was totally unfair and unacceptable.”

Leonard Rovetti declines to say what Papa Elio’s final offer was. Suffice it to say it was disappointing enough to provoke the brothers’ walk-out.

“We had worked for the equity,” continues Leonard (Richard was MD of Flamingo Plastics; Leonard MD of associated Flamingo Blowmoulding).

“We spent a lot of time there.

We’d grown a business that was pretty much insignificant.

“We tried to resolve things with our father, but it didn’t work. We’ve both got families and we’ve had no income since July. So it’s tough.”

During our earlier chat with Papa Elio he had erupted in fury when we gave Leonard’s version of why the brothers are suing him for R10m. “I don’t think you’re at liberty to print that – it’s totally defamatory!” he roared. “I’m a lawyer by profession and if you’re going to print that I can tell

you now it’s totally defamatory.”

So what was his side of the story? “My point of view will come up in court,” replied Papa. “I can’t discuss anything.”

Leonard Rovetti is not surprised when we recount his father’s response. “Well, that’s the type of character you’re dealing with. He’s always been like that.”

How does the brothers’ mother feel about the bust-up? “She’s upset, as any mom would be,” says Leonard. He adds that his father has remarried and there are new children of that union. Could it be, we ponder, that the advent of a new wife and of perhaps more favoured heirs prompted Papa Elio to change his mind over the original 25/25/50 equity split? The upcoming action in the Johannesburg High Court will doubtless reveal all.

Flamingo Plastics’ auditor and company secretary Milton Lutrin is determined not to incur Papa Elio’s wrath. “What’s happening in the family is really not my business,” he says. “I would get into a lot of trouble if I started making comments to outside people. I imagine my pants would be sued off me.”

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Suite nothing: Was the house stripped of its contents?

Moves at the mansion

NOSEWEEK HAS UNEARTHED evidence that could result in the sheriff's sale of cellphone mogul Miko Rwayitare's R100m Sandhurst mansion for just R400 000 (*nose101*) being set aside.

This will come as calamitous news to Greg Pietersen, the Johannesburg architect who acquired the mansion when he picked up the 1000 shares of Propro Investments (Pty) Ltd at the sheriff's auction last August.

Pietersen, who had obtained a judgment debt against Rwayitare for \$494 862 plus costs, instructed Deneys Reitz attorneys to attach the shares of three of the Rwandan billionaire's companies: Propro, Mikor Investment Holdings and Telecel International Pty. Propro's assets included the mansion, furniture and fittings worth R7,9m and an R11,9m investment in a new Sandton office block.

Everyone assumed that Rwayitare owned all of Propro's 1000 shares. In an affidavit the tycoon stated: "I am the sole shareholder of Mikor, Telecel and Propro and a director of each of them. I own the entire issued shares in each of these three companies."

Not so. *Noseweek* has established that before his 6 November 2004 marriage to Conso he gave his bride 500 of Propro's shares, thereby making her 50% owner of all its assets.

**Surprise!
The R100m
Sandton palace
sale may be
cancelled**

The secret Deed of Donation, executed the day before the wedding, was linked to an ante-nuptial contract which was registered in the Johannesburg deeds office some days after the wedding, on 18 November. The contract crucially records that the marriage was out of community of property, with no accrual (in other words what's mine is mine and what's yours is yours). Both documents were prepared by the couple's then attorneys, Fluxmans.

The existence of the Deed of Donation emerged when *noseweek* came into possession of a letter written three days after the wedding. From Fluxmans attorney Marie Girard, it informed Miko Rwayitare and his new bride that she had received a call from the marriage officer who had tied the knot, informing her that the couple had been previously married in 1991 (registered at the department of home affairs as a legal marriage). And that Miko married again in 1992.

"On the above facts, the department will not register the 'marriage' conducted on 6 November 2004 as it has no record of the divorce/s in respect of the first marriage in 1991 or the second marriage in 1992," wrote Girard.

This meant, she said, that the ceremony on 6 November 2004 was not valid and the Deed of Donation was of no force.

Girard added that if the earlier marriages were legally dissolved, copies of the divorce orders were to be provided to home affairs, so their records could be updated and the 2004 marriage could be registered.

Girard subsequently left Fluxmans. She says her memory of events is hazy; that she does not have the file and she does not know how the matter was resolved. "But if the marriage was registered, then the ante-nuptial contract

and Deed of Donation is valid.”

It appears that the relevant divorce papers were produced, for home affairs’ records show that the couple’s marriage on 6 November 2004 was registered and is therefore valid.

On 15 April, Rwayitare’s executors will return to the Johannesburg High Court, with an application seeking to have last year’s sheriff’s sale set aside. Greg Pietersen’s counter application, to have the shares he bought registered, will be heard at the same time.

Rwayitare’s executors are represented by attorney John Oosthuizen, who tells us that the secret deed of donation is “a crucial discovery”. He continues: “It affects the validity of the attachment and the sheriff’s sale.” Both the deed and the ante-nuptial contract will be “made known to the court” on 15 April.

“It’s relevant to the dispute in so far as the 500 shares that were donated to Conso were sold in execution [of Miko Rwayitare’s judgment debt] and Conso does have an interest in those shares.”

So why did Rwayitare’s previous attorney Angela Chatiras not point out to Pietersen’s attorney and assistant sheriff Marie de Kock that they were only entitled to sell Miko’s 50% in Propro?

And why did Miko not register the transfer of the 500 shares he gave to his bride? The executors’ attorney Oothhuizen says: “It’s a difficult thing, sometimes, for people who are not legally minded, if you’re not asked those questions. Miko was an intelligent telecommunications player, but he relied on [attorney Chatiras] who in reality didn’t check these things.

“It appears that Chatiras never consulted Conso. Miko was poorly advised by Angela Chatiras, past the point of him exhausting all appeal remedies.”

A legal expert comments: “Greg Pietersen was entitled to attach 50% of Propro’s shares, because Miko was indebted to him. But he was not entitled to attach Conso’s 50%. He’s not entitled to Conso’s shares and the sheriff’s sale must be set aside.

“It doesn’t matter that Miko never registered the transfer of the shares to her. Once he donated them, she became the beneficial shareholder. She can prove her entitlement through the deed of donation and the ante-nuptial contract.”

Meanwhile there has been a dramatic development at Miko’s mansion. Over a full week last month Key Moves remov-

al vans emptied the property of, seemingly, its entire contents. Furniture, pictures – even the children’s bicycles – were driven away. This is denied by executor Albert Gatare, who says: “Only Miko’s home office contents have been removed. It’s more convenient to have the office contents here [at Telecel’s Sandton offices in Daisy Street].”

However, Key Moves tell us: “That large move, the contents of the whole household, is coming into our storage facility for an undetermined period.”

■ Attorney John Oosthuizen has several complaints about our nose101 report on the house sale. “Miko was not a bad payer,” he maintains. And attorney Angela Chatiras did not claim R3m in legal fees – she claimed more! “She sent a letter saying she has a R3,7m claim in legal fees and that she was holding on to all the files,” says Oosthuizen. “She has, however, not submitted one shred of evidence in support of her claim – and she hasn’t filed a claim against the estate.”

Finally, says Oosthuizen: “We are not aware of any fight between the executors or within the family. And there has been no side-lining of Conso.”

Next page: Life at the Sandhurst palace

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Life, love and death at the Sandhurst palace

WHEN MIKO RWAYITARE WAS AROUND, life in his R100m Sandhurst mansion was lived at full throttle, lubricated by a steady flow of the billionaire's favourite tippie – Mont Rochelle, an oak-matured chardonnay from his Franschhoek vineyard. Although the vineyard (acquired in 2001 for R17m) also produces a memorable merlot, Miko preferred the white, served ice cold.

Despite substantial wealth, his lifestyle (see previous page) was more often than not financed with other

people's money. Many of the trappings were bought with borrowed money or came on credit, including the multi-columned mansion – Investec shouldered the R37m it cost to build and equip. And Miko was even slow to shell out to repair its leaking roof and resulting collapsed ceilings. Pay packets would arrive erratically for the staff of chefs, maids, driver, au pair and security guards – all of them subject to being fired at whim – and tradespeople such as Norman Goodfellow's bottle store and Bryanpark Flora were obliged to endure long waits

before their accounts were settled.

Miko's glamorous wife Conso would happily splash out R200 000 on La Perla underwear (panties R3000 a pair), but ignore practical necessities such as school shoes and satchels for her children Steve, 15, and Gloria, 13, both pupils at St Stithians. Concerned staff were eventually driven to lifting cash from the Woolworths/Thrupps grocery money tin to buy school shoes for the children.

On one memorable occasion a Parkhurst antique dealer stormed up to the Oxford Street mansion and removed

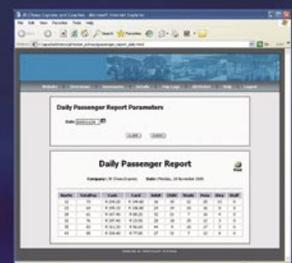
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valuable antiques that hadn't been paid for.

Was Miko's reluctance to pay just a quixotic, if annoying, eccentricity? Or could it be that he wasn't quite as wealthy as he purported to be? He reportedly sold his Telecel International to Egypt's Orascom Telecom for \$413m in 2000. But insiders say he never received this enormous sum. "He got \$8m in cash with the rest to be paid on performance-based contracts, which he was never able to fulfil and which subsequently expired," says a local Congo hand.

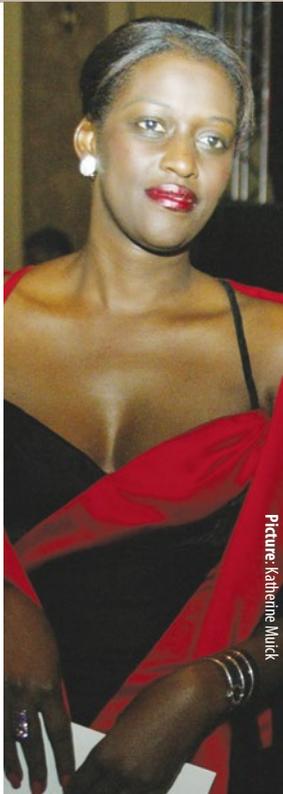
Miko, who was 65 when he died last year, was often abroad on business. He felt most at home in Brussels, where he was feted by the city's bankers and business elite. In his frequent absences Conso, now 43, found consolation by reigning over a close clique of handsome young men, headed by her nephew Abdul; in her absences Miko consoled himself with the company of his 20-something so-called "niece" Scholastique Mpinganzima. "They were quite close," says a source close to the family, with faint irony. "She's not Miko's niece, just a family friend," says the billionaire's brother, Albert Gatare, poker-faced and with no irony at all.

(Whatever the true nature of the relationship, Miko was friendly enough to advance her R17m from his Investec account, which she wagered – and lost – with shady KZN south coast developer Craig Rennie. See *noses98,99*.) What some people will do for their friends!

Such extramural friendships resulted in furious rows at the residence, which more than once resulted in Conso ordering the staff to pack her bags for an exit to a suite in the five-star Fairlawns boutique hotel and spa in Morningside Manor.

Conso was originally introduced to Miko by her sister Françoise, who had previously dated the billionaire. Even after his marriage to Conso, Miko continued to lavish gifts of cars and houses on Bryanston-based Françoise, who was cash-strapped after the foundering of her marriage to a local chef.

Perhaps closest to Miko in this bizarre menagerie was his personal chef and valet Gabi, a wraith-like Rwandan who had hovered at Miko's shoulder for



Picture: Katherine Mulick

Conso Rwayitare

decades. It fell to Gabi to bring up, virtually single-handedly, the five children of Miko's previous marriage (that fanatically-religious ex now lives in the US). "Gabi knew Miko better than anyone in the world," says a mansion source. "He was privy to a lot of things in Miko's life – and Conso hated that. She was very jealous and always tried to get Gabi into trouble."

Benign-looking, quietly-spoken and unfailingly polite through every vicissitude, there was a more sinister side to Miko Rwayitare, relating to his home country of Rwanda. Rwandan President Paul Kagame visited Miko's mansion more than once, but a more regular guest was Kagame's right hand man and director of Rwanda's infamous External Intelligence Office, Colonel Patrick Karegeya.

There was a cooling between Miko and Kagame after the president failed to pitch for a R1,5m birthday bash to celebrate Miko's 60th in December 2002. The president cancelled on the day of the party, spoiling Miko's big day.

A one-time associate of Miko's, described as a "globe-trotting money-lauderer", has suggested that Karegeya was plotting to oust President Kagame and that he planned to turn to Miko for the coup cash. Karegeya was arrested in 2005 and spent five months without trial at Mulindi military prison.

There is growing speculation that Miko Rwayitare's death in a Brussels clinic last September may have been "arranged". At a background briefing authorised by the family, we were previously led to believe that Miko, in the clinic for a routine colonoscopy, bled to death on the operating table. So this is what we reported in *nose101*. Miko's brother Albert Gatare now tells us, with some reluctance, that Miko went to the clinic at 11am, left at 1pm after the procedure and returned to his hotel. In the evening he felt unwell and returned to the clinic, where he died in the early hours of the following morning.

"The death certificate states he died of natural causes as a result of excessive vomiting," says the agent for Miko's executors, attorney John Oosthuizen. **12**

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Rhythm Methodists

LAST YEAR WAS AN *annus horribilis* at Durbanville Methodist Society. Not only was their youth pastor arrested on charges of sexual assault, but their minister was fired, and a great deal of ill feeling rankled among the brethren.

While some claim that no real damage has been done to the congregation, there is unfinished business to resolve.

In May last year, teenagers from the congregation went on a church camp, during which they discussed how far a good Christian girl could go in intimacy with the opposite sex. After the discussion, a fourteen-year-old girl approached camp leaders to confess she had strayed and indeed gone too far – with the youth pastor, Andrew McKaig.

Mr McKaig, in his late twenties, had “given thrills with his fingers”, according to one of the parishioners, who claimed that Mr McKaig had previously been warned not to watch DVDs on the couch with girls tucked in beside him. Subsequently, a second girl made allegations of an involvement with Mr McKaig when she was thirteen.

The allegations shocked senior members of the church, in particular the superintendent minister, Mike Crommelin, who summoned McKaig during a youth club meeting on a Friday night, told him he was suspended pending a disciplinary hearing, instructed him to clear his desk, and marched him out of the front door in front of the young people to whom he ministered.

Mr McKaig’s humiliation was not yet complete. Announcing the suspension from the pulpit, Rev Crommelin weighed in with a heavy sermon entitled: “What happens when good men do bad things,” drawing examples from the Bible of occasions when servants of the Lord were led astray by wily women.

“Rev Crommelin made it known to all and sundry that Andrew was a guilty sinner,” claims Garnet de la Hunt, a senior lay preacher from the congregation whose family has run brickworks in the Stellenbosch area for generations. Respected in Methodist circles as a benefactor of the church, De la Hunt is a former Chief Scout of South Africa, and recipient of the highest scouting honour, the Bronze Wolf. De la Hunt

Allegations of sexual misconduct by a lay preacher have sown the seeds of discontent in a Cape Town congregation

was a friend of McKaig’s father – also a minister – and came to the young man’s rescue, representing him personally in the disciplinary hearing, crossing swords with the fierce and hard-nosed Rev Crommelin.

Before representing him, De la Hunt had spent many evenings talking to McKaig and his wife, “testing him on the matter”. He even sent him for a lie-detector test to ensure his innocence. “The girl’s allegations are of a shot-gun nature,” he claimed, bristling, and went on to intimate that, for her age, she was fairly “mature”.

“The girl had a crush on Andrew. There came a time when he had to discipline this young lady. Straight after that, she felt compelled to open her heart,” he said. “There was no question of penetration.”

The youth pastor was found not guilty by the disciplinary hearing, and he and De la Hunt, hugely relieved, thought the matter would quietly go away. But the parents of the girl were furious, and turned from the church to the state, laying charges of sexual assault against McKaig, formerly their family friend and spiritual confidante.



To his horror, McKaig was arrested one Thursday and held in police cells at Durbanville police station for four days and nights, before appearing in court.

“He was treated like a criminal who might abscond at the airport,” says his lawyer, Norman Osborne. “Why he was arrested is beyond me. His poor wife was distraught.”

De la Hunt came to the rescue again, “bankrolling” as he puts it, the former youth pastor’s legal fight. “My job,” he says, “is to keep Andrew out of jail. I don’t accept the allegations; I want there to be fair play.”

The church at this point was under pressure, and, on the advice of the district bishop, Andrew Hefkie, the matter was put under wraps. But the official silence created conditions for a whispering campaign which fed directly into the schisms plaguing the congregation, firing up resentment.

“We were instructed not to say anything to the congregation until the Bishop thought it was right. This has resulted in all kinds of stories, rumours and false claims against the leadership of Durbanville Methodist Church,” said a beleaguered Rev Crommelin in an open letter to the church in November. Crommelin insists in that letter that he did not prejudge McKaig. “The damage done to the Church is enormous, especially to our youth work, and it will take much hard work to re-establish that ministry,” he wrote.

By then Bishop Hefkie had received anonymous complaints about Crommelin, so he decided to respond to the troubled congregation with an investigation, in the guise of a Pastoral Commission. What was actually going on?

By all accounts, Rev Crommelin is a forceful, direct man, and his assertiveness appears to have threatened the old hierarchies in the congregation. Eighty of the almost 1000 strong congregation came forward to testify at the commission. Sixty of these were critical of Crommelin, accusing him of favouritism, of having an “arrogant demeanour” and an “irritable, humiliating or rebuking manner”.

De la Hunt did not testify personally, but his wife did, specifically about the trauma experienced by the youth pastor and his wife.

Crommelin’s supporters accused his detractors of a range of bad behaviour, saying there had been a “power struggle between the minister and powerful, longstanding members”. They referred to “a pattern of challenging the authority of successive ministers at Durbanville”.

And at some point, another issue was raised with the Bishop – and it had to do with bricks, donated by De la Hunt to successive ministers and Bishop Hefkie himself. De la Hunt donated the bricks for the very first local minister to build his house, and then to two more after that. He also donated bricks to Bishop Hefkie for the building of his residence.

Rev Crommelin had bought his own house, ready made, not needing bricks from De la Hunt’s brickworks.

“Mike [Crommelin] was a bit hard-headed and dictatorial, but he was fine,” said one parishioner who spoke of the tension between the factions. “But Garnet De la Hunt likes to be in charge.”

De la Hunt counters that he did give Pastor Crommelin some paving stones for his residence, free of charge. “If they think that I use bricks to get leverage with the Bishop, that is very sad,” he says. “I must have stepped on somebody’s corns, which is a pity. But cowboys don’t cry.”

The Pastoral Commission offered Rev Crommelin options – he could leave the parish for another one, or he could stay under supervision. He vacillated, finally deciding to stay on. But it was too late: he was booted out and blocked at the pulpit from delivering his final sermon to his congregation on 16 December.

Reverend Crommelin’s replacement, Rev Neil Robinson, says the congregation is “doing fine”. However *noseweek* has in its possession a bitter resignation letter of a prominent society steward, an elder of the church, who felt that the treatment meted out to Crom-

melin was unacceptable. He says in his correspondence with Bishop Hefkie that the majority of the congregation were behind Crommelin, and that the Pastoral Commission misrepresented the divisions.

But De la Hunt says that numbers at Sunday services are up since Crommelin left. He remains defiant about the charges against McKaig. “Andrew’s life is ruined,” he says, explaining that the former youth pastor lost two job opportunities as a result of the court case. “He and his wife are gentle, a really unsophisticated, simple couple. It has destroyed him, and hurt his parents as well.”

McKaig has appeared in court numerous times since his arrest, but final charges have still to be formulated against him, owing to an ongoing police investigation. Charges of sexual assault have been reduced to a lesser charge. He has yet to plead. He refused to comment.

“I am not prepared to talk to *noseweek*, much as I appreciate some of the work that it does. This is a church matter,” said Rev Crommelin, who has quit the Methodist church after 32 years of service, and started his own fellowship in a hall in Belville. ■



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REMBER HEMP? Dagga's non-narcotic cousin, the wonder plant that was going to alleviate rural poverty, stimulate small enterprises, provide jobs, houses, textiles, paper, food and possibly even save us from global warming and the oil crisis?

Well, that's what we were told when the government launched the National Hemp Initiative back in 1998.

So where are all the fields of waving weed?

You'd have to go to the Eastern Cape to find them, and then you'd find only five little plots, adding up to about a hectare in total, each surrounded by a two-metre-high fence in case anyone is stupid enough to try and smoke the stuff.

After almost 10 years and the investment of tens of millions of rands, the government's hemp-growing project has done little but prove that hemp grows very well in South Africa.

There is a small and flourishing local hemp industry, producing everything from clothing, cosmetics and bio-friendly nappies to food products and building materials, but the hemp they use comes from elsewhere, mostly China.

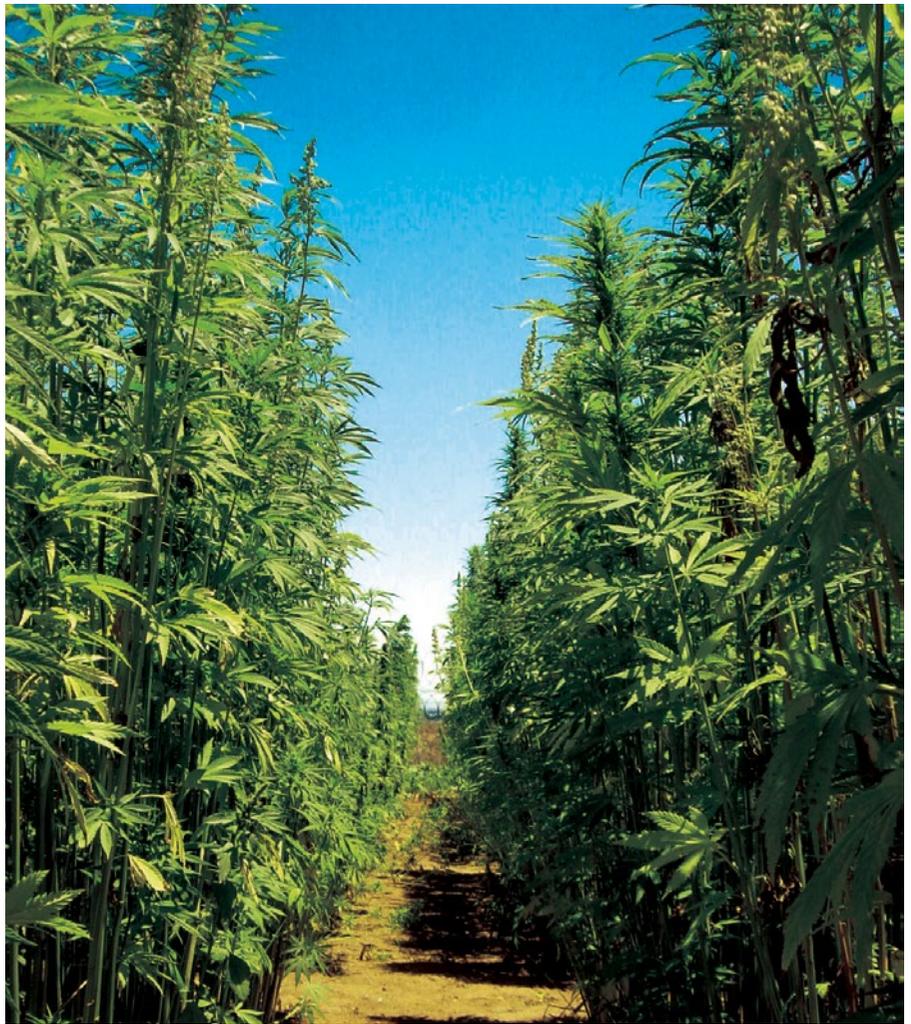
Why aren't we growing our own? The short answer is that the law still doesn't differentiate between dagga and industrial hemp.

The law, in this case certainly, is an ass. The hemp strains authorised for research in South Africa contain less than 1% of the psychoactive agent tetrahydrocannabinol (THC). To be of the slightest interest to a recreational user, the plant would have to contain at least 3% THC, and no drug dealer of any disrepute would touch anything under 7%.

More than 40 other countries have managed to make the distinction, including most of Europe, Canada, Russia, India, Thailand, South Korea and, of course, China, which produces most of the world's crop. Global hemp sales have rocketed from just \$10 million in 1996 to \$250 million in 2002, the last year for which we could find statistics. But the market is continuing to boom as the search for greener alternatives to everything becomes more urgent.

A noted absentee from the list of growers is the US, which, like South Africa,

It's called hemp and it's used in clothing, cosmetics, nappies, food products and building materials. The only thing it isn't good for is smoking



Trial hemp plantation near Stellenbosch

uses the spectre of mass drug addiction to justify its indiscriminate suppression of this incredibly useful and versatile plant (although this hasn't prevented six US states from issuing growing permits in defiance of federal law).

Where there is no reasonable explanation for government policy, it is not unreasonable to follow the money.

American corporate interests are widely blamed for the ruinous 1937 "marijuana" tax which destroyed the US hemp industry overnight. For hundreds of years before that, hemp had been an important fibre crop, used for sails, rope, clothing, paper, building

materials, fuel, food and medicine. It was so important that you could be jailed for refusing to grow it.

But the well-connected timber and cotton barons, along with the increasingly muscular petrochemicals industry, weren't willing to compete with a material that had so many uses, and which anyone could grow in their own back yard.

Could a similar conspiracy be behind South Africa's reluctance to allow even the most tightly-regulated cultivation of a commercial hemp crop?

One man who has no doubts is former advisor to the Department of Agriculture Thierry-Alban Revert.

Revert, a food technology engineer, scientist, entrepreneur and sustainable development consultant, was a key member of the governmental task team charged with redesigning South Africa's agricultural policy after 1994.

The team produced a series of policy framework documents aimed at transforming the agricultural sector by creating commercial opportunities for small farmers.

As both Revert (and any small farmer) can tell you, few of their recommendations have made it off the page. [*Small farmers mean small money for politicians. Agribiz, however ...* – Ed.] But one proposal, the National Hemp Initiative, was enthusiastically adopted by government at the time.

Even the cannabis-shy Department of Health was persuaded to grant special permission for a pilot growing project, and the first seeds were planted in 1996 at the Agricultural Research Council's testing centre in Rustenberg.

Revert, who says he knew nothing about hemp before he began his research, was so excited about the plant's potential that he joined the hemp revolution.

As a member of the officially sanctioned National Organic Produce Initiative, he joined forces with a number of other NGOs to form the Western Cape Hemp Initiative. In 2004, they partnered the provincial Agriculture Research Council in growing trials in Riversdale and Elsenberg, Stellenbosch.

The trials continued for four seasons with great success, so everyone involved was keen to move on to the next step – actually making use of the crop.

They devised a project called Grow your House which would encourage rural communities to farm their own hemp and use it as building material. One hectare of hemp can produce enough material in four months for an RDP-sized house – a much stronger and more comfortable one too. The company hoped to build between 10 000 and 20 000 such

*For hundreds of years
hemp was used in
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clothing, paper,
building materials, fuel,
food and medicine. It
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you could be jailed for
refusing to grow it*

houses over the next 10 years.

But this time, they were refused permission even to import the seeds.

Revert says they were told that the three hemp cultivars registered as industrial crops by the Department of Agriculture had "disappeared" from the register.

"It's unbelievable. After all these years ... they've spent R65 million, and we're back at the beginning."

Revert blames greed, both of the national research councils which are getting all that tax-payers' money to investigate what everyone already knows, and of hemp's competitors in the commercial world.

"And of course the research councils have long-standing relationships with these industries, so their interests are often the same."

Revert says he has spent enough time in the boardrooms of big corporations to know how they operate, and that he has no doubt that rival industries will do anything to stop hemp in its tracks.

"This is the worst form of insidious colonisation of our resources and people. The country has moved but the basic players in the first economy are the same. These guys have not transformed or changed their economic agenda."

Hemp advocates like Revert can recite the plant's competitive advantages like litany.

"It produces four times as much cellulose per hectare as a tree plantation, and it produces it in four months, while timber takes seven years.

"The pulp is almost white so you don't need to use chloride bleach like you do

with wood pulp.

"It is a more versatile fibre than cotton and more sustainable: it contains a natural pest repellent, it uses much less water and fertiliser and if you plant it properly, you don't get weeds, so you don't need herbicides. (So there is no profit in it for the agro chemicals industry? Bad idea!)

"It is also a very effective rotational crop – far better for enriching the soil than a legume.

"Bricks made from hemp and lime are seven times lighter than those made from clay or cement, provide excellent insulation and are much stronger.

"Cement uses huge amounts of fossil fuels so it is a carbon taxing industry, while hemp is a natural carbon sink (absorbs and holds carbon).

"Hemp seeds are a wonderful food. They contain more essential fatty acids than any other vegetable source and they are high in protein, B-vitamins and fibre.

"The plant has a very complex DNA so it is almost impossible to create a genetically engineered variety."

And much, much more.

"So you can see," Revert concludes, "why all these industries would be against hemp. Especially since it is so easy to grow. You don't need to be a big corporation with big plantations and machinery."

As far as he is concerned, if the government is serious about its developmental agenda, it "has a duty to promote this technology immediately".

"In almost 14 years of democracy nothing has changed. The more we delay stuff, the more people get poor ... and poorer and poorer. This is very painful for all of us.

"Climate change is another reason this is so urgent. Hemp is not only relevant as a crop, but for the health of the planet."

He says that in the coming weeks he intends "engaging" more strenuously with the Department of Agriculture in a last ditch attempt to make them see sense.

"I will try to explain why this is so urgent. If the explanation route doesn't work, we will have to consider other options. Like a public awareness campaign. Perhaps even the legal route."

In the meantime, the NGO will press on with its housing project, but it will be on a far smaller scale and will have to depend on hemp imported from more enlightened, more farsighted nations.

(Next month *noseweek* takes a closer, critical look at the reasons and explanations offered by those hampering hemp's progress.) ■

HERMANUS STATION SITE

Checkers agrees to R17m

IT'S OFFICIAL: PEOPLE MOVE TO HERMANUS for its natural beauty, not for intellectual stimulation. Final confirmation came during the recent controversy (*noses97&98*) concerning the building of a new Shoprite Checkers, when a bright spark offered the insight (in the local rag) that the objectors are all English, whereas Afrikaners want a Checkers.

This was after the same *Hermanus Times* had given residents the opportunity to peddle a story that if the Checkers deal fell through the ANC would force the council to build "homes for blacks" on the proposed site.

As reported in *nose97*, after the Hermanus Ratepayers Association surprised everyone by withdrawing its objection to the Checkers development, a splinter body called Gheag (Greater Hermanus something or another) launched a high court application to stop the sale of the proposed site. At the first court hearing, the parties agreed – pending the main review hearing scheduled for 28 May – that Shoprite Checkers would be entitled to dig but not build on the site.

Gheag is headed by retired geologist Frank Tennick, a mild-mannered man who has endured a generous portion of abuse, to the extent that retired appeal court judge (now Hermanus resident) Mark Kumleben felt constrained to write to the *Hermanus Times* reminding locals that everyone has the right to object to a development. Not a point well taken by luminaries like Overstrand Mayor Theo Beyleveldt, *Hermanus Times* editor MC Botha, and leader of the Hermanus Ratepayers Association Richmond MacIntyre. All three have tramped the dull-witted route of disingenuousness: get a grip Tennick, they declared – by forcing the municipality to defend a legal action you're wasting ratepayers' money (a whole R1m according to the *Hermanus Times*).

So Tennick was presumably chuffed to discover that in February the municipality and Shoprite Checkers had,

after some serious *ag vokking*, cobbled together a new agreement, which, though still needing ratification by a full council meeting, is generally considered a done deal.

Said the *Hermanus Times*: "Shoprite Checkers has agreed to pay R17m for the station site" – a figure which, for the benefit of the mathematically disinclined, is "Just less than R14m more than the price the retail group paid for the property during a handing over ceremony on 1 November last year, namely R3,05m". And, gushes the *Times*, "The deal further stipulates that the historical station building will be restored at a cost of R3,5m... work on the relief road should start as soon as possible ... training will be provided in order to employ local people... goods and services from local businesses should be sought first".

In a letter to the paper Tennick writes: "[This]... vindicates entirely the stance taken by Gheag in defence of the ratepayers and the greater community of Hermanus. The mayor owes us an explanation". Indeed.

In fact, it would be rather sporting if Tennick's critics had the good grace to say: "You were right, Frank, there was something very wrong with that deal; sorry about all the horrible things we said, and thanks for getting us an extra R14m." But this is the Overstrand Municipality, which means it's all smoke and mirrors, i.e. the thing's not over yet. The municipality, finally cognisant that there are laws covering the disposal of municipal land, has suddenly released a large information pack, containing a recent R16,6m valuation of the site, reports from all sorts of experts on the desirability of a Checkers in Hermanus, and, of course, the latest agreement.

The pack makes for interesting reading, because Shoprite Checkers is, in fact, not offering R17m for the site at all. It's offering R10m: R3,05 has already been paid; R3m is payable on acceptance and R3,95m is payable after completion of the relief road. Which, of course, is for the municipality's account.

The remaining R7m is made up as follows: Shoprite Checkers will build an additional 150 parking bays on the municipal land just opposite the

development (under Hoy's Koppie) to the value of R1,5m; upgrade two roads around the site to the value of R2m; and restore the station building to the value of R3,5m. All of which will, of course, greatly benefit Shoprite Checkers. So, far from paying slightly over the odds for a site worth R16,6m, Shoprite Checkers will actually be paying far less.

Those of more sceptical disposition will wonder why the municipality is employing Cape Town-based appraisers JF Du Toit and JM Coetzee (of Appraisal Corporation) to do the valuation of a Hermanus site. Perhaps to avoid local bias? And why a firm whose understanding of the law appears as hazy as that of the municipality? Appraisal Corporation's letterhead gives none of the legally required information: no full name, registration number, names of its directors or members. It doesn't even have a website. And, if Appraisal Corporation is based at 35 Kloof Street, Cape Town (as its letterhead says), what are we to make of the fact that Appraisal Corporation cc, a close corporation whose sole member is Jacques Francois du Toit, has its registered address in Bellville – a stone's throw from the Shoprite Checkers headquarters?

Those of more cynical disposition might further wonder why neither the mayor nor the *Hermanus Times* have mentioned that the new agreement requires Shoprite Checkers to comply with certain requirements, including the creation of a number of flats for (horrors) "low-income earners", and provision for informal trading at the centre. Could it be that this makes the "swart gevaar" criticism raised against Gheag's objection look a little silly?

The big question is: Will Gheag drop its court case? Tennick feels the matter should go ahead. The real value of the site is way beyond R17m – more of the order of R35m – and many issues raised in the court papers must still be addressed.

On top of this, the latest sale itself looks suspect: why was there no tender process, and who gave acting municipal manager Coenie Groenewald the authority to sign the agreement?

We'll keep watching this one! 

MEDICAL INQUESTS

Backlog mounts

IN NOSE91, WE NOTED THAT THE ENTIRELY avoidable death of 33-year-old Thembela Matiwane during a Caesarean operation should have drawn fire down on the Mowbray Maternity Hospital; almost a year later it still hasn't.

This should come as no surprise to the hundreds, if not thousands, of people across the country who have lost loved ones, in unexplained circumstances, within the walls of medical institutions. They know something of the real difficulties involved in exposing the wrongdoings of medical professionals, who seem to be exempt from public scrutiny. Doctors would rather have cases of malpractice addressed by the Health Professional Council of South Africa's disciplinary department than see their colleagues subjected to judicial enquiry.

When Detective Inspector Jones of Woodstock police station finished with Thembela's file in June 2007, he handed it over to the NPA's Petersen Badlen, the prosecutor

in charge of inquests in the Western Cape. From her desk, the file has not moved an inch; it has simply joined the pile of other medical inquests awaiting adjudication. No doctor is ready to give testimony that might discredit the surgical hands of Dr Susan Fawcus, or any other doctor for that matter.

A source in the Cape Town Magistrates' Office showed us scores of medical inquest files that have been pending since 1998 because no doctor wants to testify for the state. "We are told that it would be like accusing one of their own of murder," the source told us as he showed us around. "There are over a hundred cases... victims with names and relatives. But even in death, they are further violated by other doctors who protect the culpable ones."

In the past ten years, the source told us, the Cape Town inquest court has concluded only one case, which re-

ceived a ruling a week before *noseweek's* visit to the court. Shortly thereafter, the case file simply disappeared.

The late Thembela's husband, Paul Mkhize, has been visiting the magistrate's court each week in the hope that Magistrate Frietag, who indicated that the matter should be set down for a formal inquest, will one day extract an explanation as to why the mother of his child had to die. But nearly a year later NPA prosecutors have yet to find a doctor to co-operate in helping the judiciary explain the cause of her death, or get Mowbray medical staff to explain how a death certificate was issued stating "natural cause" as the cause of death without an autopsy being performed.

Asked why its members decline to testify in various medical inquests, the Health Professionals Council's communication officer, Tendai Dhlwayo,

replies: "In terms of the law, if a healthcare practitioner is subpoenaed by a court of law to testify, the practitioner has to honour that and testify. Failure to do so can result in one being arrested.

"Unfortunately, the HPCSA has little role to play here aside from reminding or giving guidance to practitioners that if they are

subpoenaed, they should oblige. In a nutshell, one cannot refuse to testify if asked to by a court of law. I hope the above helps."

But subpoenaing doctors doesn't get things very far – prosecutors, who don't have any medical background, are generally not in a position to tell whether a doctor is covering up for his or her colleagues. What's needed is a more neutral stance from doctors towards participating in judicial enquiries – it's the negative attitude to testifying, taken by so many medical practitioners, that sees hundreds of cases left unresolved.

Noseweek hears that the NPA has plans to call on foreign doctors to study various pending cases in order to help the court reach decisions – but, until the justice minister provides funds to do this, medical inquest files will continue to pile up. **W**



Paul Mkhize with daughter Makaziwe



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Blame the messenger

IN NOSE96 WE TOOK a look at how Patricia Gorralla and Prof Brian O'Connell influenced the appointment of Manie Regal as director of finance at the University of Western Cape. Bad habits seem to die hard; *noseweek* can reveal that, when it comes to staff recruitment at this university, who you know outweighs your qualifications – or lack of them.

But let's first revisit the vexed issue of the transport tendering process. Soon after our *nose93* report UWC vice chancellor Prof Brian O'Connell wrote to *noseweek* claiming that the whole matter had in fact been handled transparently – but went on to say he had commissioned Deloitte & Touche to undertake a forensic audit of the process.

Noseweek has now learnt that the person who actually called for the audit was Mr D Pasquallie, then chairperson of the council's tender committee. He is reported to have told the rector that the council tender board had been misled.

Pasquallie was under immense pressure from the South African Teachers' Union (on which he served as deputy secretary general) after Prof O'Connell blamed him for the impropriety: "The people to question are the members of the university's tender committee, especially the chairperson, Pasquallie."

It is widely believed at the university that, by the time the forensic

The University of the Western Cape shows more interest in nailing a whistleblower than in mending its ways

auditors arrived, they had quietly been given an additional brief – to establish who was behind the leak to *noseweek*. Deloitte & Touche deny this. But a student leader who spoke to us remains convinced: "All they are interested in is to weed out those who advocate transparency. They are more interested in finding out who has been talking to the media than in fixing their crooked ways."

Apparently the audit firm concluded its investigations a while ago and the report has been handed to just a few top administrators at the university. The rest of the board were given only a verbal presentation by the auditors and none has had the courage to demand a copy of the report itself.

But it's believed that the blame for the tender fiasco has been put squarely on the previous director of business processes and operations, John Bredekamp – who died in a road accident last year. Coincidentally, Pasquallie, who had also demanded

the audit, was recently also killed in a road accident, shortly after receiving his copy of the audit. This has given rise to further wild speculations.

Harvey Christophers, the audit firm's Western Cape regional leader admits to *noseweek*: "Our report was issued to Council with a specific clause prohibiting the release of the report to any other third party without our prior written consent." We were unable to discover from Mr Christophers why this condition was attached to a report commissioned by a public education body.

Back to the matter of staff recruitment at UWC. Recently *noseweek* received a note from a UWC staffer who informed us that a food technologist had been appointed as a budget accountant at the university, and, it seems, the woman is related to her predecessor in that position.

A bit of nosing around revealed that in July 2006 a vacancy for a budget accountant arose at the university, and Deloitte & Touche were hired to oversee the recruitment of the best candidate. According to Noel Hendricks of the UWC human resources department, Deloitte's were presented with seven applicants for interviews, and assessed and recommended the candidate who was appointed.

Among the candidates, *noseweek* has learned, were two UWC BCom graduates, Patricia Bevie and Cecil Patani, both of whom worked at the university's Restricted Funds department as funds administrators.

Surprisingly, the two BCom graduates were beaten to the post by a Cape Technikon food technology graduate, Ilhaam Joseph, despite the fact that an advertised requirement of the post was a mandatory BCom.

Another source at the university's HR department claims that the decision to employ Ms Joseph was reached way before the advertisement: "The post was previously held by Saidiqa Yassin, Ilhaam's sister-in-law."

Noseweek has learnt that Yassin was promoted to head of residences. "Yassin and (Jacob) Thampi who headed the budget department at the



University of the Western Cape

It emerges that the university's recruitment process is not quite halaal

time were very close," our HR source informed us, "Thampi and Regal have been friends for a long time and Yas-sin had proved to be a confidential ally, so her suggestion to have her sister-in-law replace her was a way of sustaining the relationship."

A final year business student at UWC jokes: "This is taking the 'cooking of books' a little too literally!"

When rejected candidate Patricia Bevie wanted to know from the UWC HR department how such an obvious scam could be justified, our old friend Manie Regal (executive director, finance and services) immediately instituted and chaired a disciplinary hearing against Bevie, for insubordination.

Bevie, who has since moved to the University of Cape Town as a finance officer, believes that the poor financial management at UWC can be attributed to recruitment of unqualified staff, based on nepotism and friendship.

Noseweek has further established that Jacob Thampi, who facilitated

the hiring of the food technologist, was recently promoted to director of business processes and operations, after other qualified applicants for the same position were not even called for interviews.

Now it emerges that the university's claim that the recruitment process – as declared *halaal* by Deloitte, is, well, not quite *halaal*. Approached by *noseweek*, Deloitte & Touche politely wash their hands of any responsibility for the hiring of the food technologist. Christophers writes: "As part of the process for assessing applicants for the position of budget accountant, one of the steps taken by management of UWC was to subject candidates that they had short-listed to undertake an Excel Competency Assessment (ECA).

"[We] were asked by management to observe this process. The scope of our engagement was limited to this ECA process and hence excluded the broader evaluation process to determine short-listed candidates. As a result, we did not make any recommendations with respect to the suitability of any of the candidates for the job in question, nor endorse the recruitment of a food technologist."

Why use the audit firm to monitor the candidates' Excel competency, a program most computer literate people can use, but not their accounting and budgeting skills? Could it be that someone simply wanted a reputable audit firm to be associated with the recruitment process?

When will the UWC convocation – once a critical and energetic body – demand an end to this embarrassing farce? **W**



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Crisis? What crisis?

TRUE OR FALSE?

- T** 1. South Africa is not in an electricity crisis
 2. Eskom isn't to blame for our recent power cuts
 3. We should not mine more coal for our power stations
 4. Load shedding is good for us
 5. Alec Erwin is a tragically misunderstood genius.

You guessed it: no 5 is bollocks. But 1-4 are true.

South Africa is not in an electricity crisis – it's a little more serious than that. We are in a shared reality-comprehension crisis. We want to live in La-La Twinkly Lights Land, like on *Top Billing*, except we're running out of credit cards. Our accounts are missing entries in the debits column, but the ghost of Brett Kebble is still doing the books.

The government, Eskom, and the rest of us are all playing nicely together in the sandpit, building this fantasy castle. When the battlements start crumbling we panic, like when the TV dies during *Sewende Laan*. Quick! Put things back to normal! Turn the lights back on! (Sand's too dry? The blacks are in charge of sand provision nowadays, y'know.)

We wear "Ek'sdom" t-shirts, pompously sue the utility for lost business, and publicly shit in their nappies for not building more power plants. Then we tantrum about the price of electricity going up.

But, as in any good dysfunctional family, we keep passing the bucket around. And adding towers to the castle. (Nice day, eh? We really need more of those big coal-fired stations. World Cup's coming.)

We've bought into the idea that we desperately need more electricity, and that means building more big power stations. The problem, as we see it, is that Eskom hasn't done enough of what they did for decades before the ANC got in. (When white managers planned things and white grease-monkeys worked in the plants. And darkies got shot when they asked for better schools.)

But what if we don't really need more electricity, and if what Eskom's

Koos Kombuis beat us to it when he said Alec Erwin busts the myth that the ANC aren't able to govern because they're black

been doing all along generates more costs than benefits? If "educated" white people were a key part of the problem?

In the pre-ANC decades Eskom built a stack of huge, coal-fired power plants that gave us the heavily promoted benefit of "the cheapest electricity in the world".

Rather less talked about was the acid rain, and the mercury spewing out of Eskom smokestacks and spreading across the landscape, the health effects of which remain unknown. The mines to supply those plants destroyed watersheds, grazing areas and croplands, and in some places the coal seams began burning, polluting groundwater and causing sinkholes. Many are still burning today.

Even more serious is the Acid Mine Drainage (AMD) problem that future generations will spend billions dealing with – and that stands to ruin rivers running from or through coal-mining areas. AMD results from acid that forms in old mine shafts or in the filled-in pits of opencast mines. This acid eats away at the rock, liberating toxic metals such as lead, arsenic, cadmium and even radioactive uranium. The toxic soup of acid and poisonous metals builds

up underground, usually for decades, before it starts oozing out at the surface, when we typically first become aware of the problem.

Mines near Witbank that closed back in the 1950s are today poisoning the Olifants River. After floods massive fish kills occur all the way down to the Loskop Dam, hundreds of kilometres downstream. The Loskop's crocodiles have died after eating poisoned fish (it takes a lot to kill a croc). The mines, long closed, have no owners from whom to claim for damages.

Literally thousands of new coal-prospecting licences have been issued for the Mpumalanga highveld. Cowboy miners, revved up by the Eskom coal panic and a cadre of ignorant Minerals and Energy Affairs officials, plan effectively to sterilise the province's agricultural land in perpetuity and poison all its major rivers – which also flow down to the lowveld, and supply much of southern Mozambique's water.

The taxpayer will be saddled with the long-term costs of health problems, lost agricultural production and the monstrous clean-up, if the latter ever happens. Future generations will pay for the likes of today's BEE billionaires who grin at us from the covers of *Fortune* magazine.

Electricity from coal isn't nearly as cheap as we've been led to believe – and that's before pricing the carbon emissions from coal, which are a huge factor in a climate-concerned world.

The "cheap" electricity of the past was an anomaly brought on by simplistic accounting.

We've also mistaken electricity for the goods and services it typically provides. To paraphrase American energy guru Amory Lovins; we don't need x number of kilowatt-hours of 240v power to live comfortable lives – we need cold beer in the summer and warm toes in the winter. We don't actually need electricity to do many things we're accustomed to using it for: we can cook with gas, or even with the warmth of the sun.

Building homes according to well-established design principles (some literally millennia old) can mean that we don't have to use wired-in



Pictures: Allison Foat

THANK GOD FOR LEBO M. His tantrum at Jozi's Naledi Theatre Awards – refusing his *Lion King* prize because he felt blacks were unfairly treated – has given endless comic ammunition to the two humorists hosting Cape Town's Fleur du Cap Theatre Awards.

Pieter-Dirk Uys is giving out the prizes as Evita, more OTT than ever, courtesy designers Errol Arendz and Marianne Fassler. He's in tandem with compere Alan Committie, who sounds more and more like Mark Banks' baby brother.

These two poor buggers are on stage most of the long four hours and it could get heavy going. Especially since the show started almost an hour late – a spike in the system had blown the lighting – and the audience is starving and twitchy.

But, being geniuses at droll improvisation, they come up with some

Dame Evita Bezuidenhout and big winner Lara Foot-Newton

hilarious stuff. Almost as good as the joke being told in the foyer by Alan Swerdlow (nominated for Best Director for *Good Evening*.) It goes: "Who's that Naledi?" "That's no Naledi. That's my white." (You have to be over a certain age.)

Coincidentally, both Uys and Committie are nominees tonight. Uys for Best Performance in a Revue (*Evita for President*) and Committie for Best Performance by an Actor (*Rosencrantz and Guildenstern are Dead*.) So there's a bizarre moment when Committie wins his strongly contested category and trots happily from his side of the stage to accept it from his comic sidekick.

Pity Lebo M is not here to see Chuma Sopotola win the Best Performance by an Actress (*Karoo Moose*). In strapless, tight-fitting, chartreuse-coloured satin – the most glamorous outfit in this seriously unflashy Cape Town crowd – she gives her entire speech in Xhosa. Its

clicks trip mellifluously off her tongue but at such length that the compere looks anxious. Where's the Oscar music for when the time is up?

The speeches are considerably punchier than last year's. Claire Berlein, the irrepressible redhead who wins Best Supporting Actress (*Women Beware Women*), is unusually candid about her relationship with director Geoffrey Hyland: "He's like my lover. He sucks the marrow right out of my bones!" Veteran female impersonator Terry Fortune, who gets the award for Best Performance in a Musical for his male singing role in *The Kramer Petersen Songbook*, is even more brazen. He declares to his director and the world "David, I owe you a blowjob".

Clare Watling, the blonde bombshell who, with Godfrey Johnson, wins Best Performance in a Revue (*Kissed by Breil*), reveals that she and

Bites and

Godfrey played their little glockenspiels together in Standard 4. And in case anyone has any doubts about which city is South Africa's theatrical heart, Lara Foot Newton, who wins the awards for Best Director and Best New Indigenous Play (*Karoo Moose*), announces firmly "No question about it. Cape Town is the crucible of South African culture."

But for me the cherry on the top is the speech by the nameless, shameless actress who bounces up to collect the People's Choice Award for a group who isn't there. "I wasn't even in the production," she tells us, "but I just want to say I am an aspiring performer if anyone out there needs me."

Lack of inhibition is the general vibe at the Baxter tonight. Everyone's less self-conscious than at last year's event



Terry Fortune and glam Fleur du Cape queen Irma Albers (above); and Chuma Sopotola, Allison Foat and Nobuhle Ketelo (right)





at Artscape. Even the entertainers.

This year there are no sopranos in bejewelled black chiffon singing *My Hart Verlang Na Die Stille Van Die Wye Wuivende Veld*. No old toppie choirs swaying in unison. Instead the performing groups include Khoi rappers, an Afro-French puppet dance group, and – in what looks like an effort to be PC on the part of the sponsors, Distell – that *boeremeisie* survivor Amanda Strydom gamely doing her indigenous veteran thing in a few local languages.

Unfortunately we also get one

pieces
of those tediously
PC epic theme songs the Rainbow
Nation will be heir to until the end of

time. It's a massed-voice number that calls itself *Spirit of Africa*, and is as much of a directionless mish-mash as the land we live in.

At the after-party the famished crowds are tucking into sushi and oysters in the Baxter's revamped bar upstairs, and talking theatre. Geraldine Aron, the playwright from Sea Point, says *My Brilliant Divorce* has been staged in 23 countries and been running in Prague for five years – "But the best production was by amateurs, here in Milnerton." Peter Hayes, who won Best Performance in a One-Hander (*The Tricky Part*) tells me

Elmarie Marnewicke from Distell

he's taking the play to Canada where it will hopefully earn more than it did here – which was less in three weeks than his R15 000 Fleur du Cap prize money.

No-one seems particularly concerned about the fact that only two of the 21 plays in the nominee list were Afrikaans, a bit of a drop from last year. Irma Albers, organiser of the evening, thinks one reason is that some of the best Afrikaans plays are only put on at arts festivals – a logistical impossibility for the judges.

What will Lebo M say the

A LOT OF THE FUNNY emails I get aren't funny. But this was funnier than most. It was headlined Why Coloureds Can't Be Terrorists and apparently came from comedian Marc Lottering – though in my haste to read it I didn't notice he'd spelt his name with a K.

Among the reasons why Coloureds can't be terrorists I particularly enjoyed:

- Our whole freaking family plus neighbours would be at the airport to see us off, crying their bladdie eyes out, and one of our mothers saying to the white one next to her "I'm so proud of him. It's the first time he's hijacking a plane!"

- Or we'd somma argue and start a fight in the terminal before we even got on the plane and one of us would say out loud "Gaan kak man! Dan hijack jy die fokken plane alleen!"

- We would have dressed like terrorists: balaclavas, jumpsuits, karate *schoentjies*, dark glasses, en 'n *moerse* attitude.

- When we entered the cockpit we would use the intercom system for a karaoke session, with one *doos* trying to sing "I Did It My Way".

I sent it on to all those friends who send me emails they think are funny.

Then I bumped into Marc Lottering. "Hey Marc, that was a really funny email," I said, and tried to remember a few of the reasons he'd said Coloureds can't be terrorists. Like:

- Two of us would have forgotten our passports.

- Three of us would have over-

- weight luggage.

- We would take the plane for a joyride first, play the music at full blast and try to park the plane somewhere the *kinnes* could see us.

But instead of chuckling, he said it wasn't his, and he didn't think it was funny. It was offensive to Coloureds, because it wasn't typical Coloured behaviour.

Now here was a strange turn of events. Marc Lottering is a highly successful comic who's based his entire comedy persona on sending himself up as a Cape Flats Coloured. He does it on his national and international tours, his DVDs, his slot at Cape Town's annual Comedy Festival, and even when he's compering corporate events.

He's made an art of Capie self-mockery. He's mined the rich seam of weirdness that was Marc Lottering growing up in Grassy Park, and come up with side-splitting gems. And South Africans of every colour relate to him with such enthusiasm that he only has to walk onto a stage in Sydney – where he's just been touring – or London, Auckland or Toronto, and draw "Hoezit my broe?" with his all-embracing Marc Lottering grin under that signature afro with the streak of white, for the entire place to start screaming with delight.

He's been doing it ever since that fateful night 10 years ago when he discovered he was a comedian at his 30th birthday party at Brian Weinronk's Coffee Lounge in Church Street. He'd put on a 45-minute show to entertain

- his friends, and it had gone down so well that Weinronk had said "I think you better have a birthday party here every night for two weeks and we'll charge people".

He never went back to his job as project manager in an ad agency. It took him a few years though to become an institution, and for someone to begin impersonating him on the Net – emailing one-liners all over the country.

The first lot sent him up as a kid so ugly that the cat covered him with sand when he played in the sandbox. Standard clichéd one-liners. Then the Coloured terrorist emails began.

"When people first mentioned them," Marc says, "It was easier to just keep nodding and saying 'Thank you,' hoping it would go away. Until one of my corporate clients said 'Listen, a couple of the top guys here are Coloured, and this is just not our style'. They didn't want to use me any more. I told him it wasn't me, but how do I prove it?"

Tricky. The only giveaway is that spelling mistake in his name.

He's since put a message on his website distancing himself from the emails. And that's about all he can do. Even American fashion designer Tommy Hilfiger couldn't trace the source of that famous poisonous email supposedly sent by him, which went all over the States announcing that he didn't make clothes for black people. Eventually he went on Oprah's show to deny it.

That's Marc's only option. Now he's trying to get hold of Oprah. **[Z]**



Life at the Big Top

ARE YOU UNDER the impression that football is the most popular spectator sport in the world? Allow me to suggest that you're very probably wrong. In this age of a single superpower and the Internet, the spectator sport most worthy of our attention is the American presidential election.

With looming disasters begging our attention, like the Iraq war, global warming and energy shortages, there is a real need to understand how American presidential candidates view the day's big issues. What happens in the US affects the rest of the world. And everyone will be rooting for whoever best serves their interests, right?

Not necessarily. This spectator sport is more closely related to mud wrestling.

When last did you turn on the news and hear anything about John McCain's plan for dealing with the inevitable decline of world oil production? How about Hillary's? Obama's?

Instead, you have likely been hearing about Barack Obama's supposed Muslim past, (recently revived by Hillary Clinton's qualified denial of same), and Hillary Clinton's alleged duplicity in the Dubai port fiasco. You may even know that the Republican National Committee has been buying and registering Internet domains with entertaining names like "canttrustclinton.com" and "barackiswrong.com".

It is called "defining" one's opponent. That's what contemporary political campaigns are all about, and the Americans are masters of the medium. It's a sport and it's played like one. And, more often than not, the Internet is the field of play.

Recently, when an anonymous email made the rounds accusing Barack Obama of the heinous crime of having once been a Muslim, the shocking details were subsequently reported by *Insight* magazine and Fox news. The allegation gained detail as it climbed the media hierarchy. Had Obama attended a madrasa or a Wahabist school as a child?

Of course he attended neither. Mark Twain said: "A lie can travel half way around the world before the truth has time to put its shoes on." He neglected to mention that truth is irrelevant in a sporting situation.

We're mere spectators in the corporate-consultant and focus-group-driven world of the high-tech political campaign. The American voter has been reduced to more or less the status of Pavlov's drooling dog.

One might hope that those disseminating

In this age of a single superpower and the Internet, the spectator sport most worthy of our attention is the American presidential election

political information on the Internet will eventually adopt the rules of conventional journalists, and publish corrections when they discover they are wrong. Don't fool yourself: even casual perusal of the Internet should convince you the opposite is true.

Nowadays, the political news cycle is fed from the bottom up. It begins as an anonymous forwarded email (sometimes generated by a lower-level campaign operative whose statements can be publicly renounced should the need arise), it resonates in the blogosphere, gets picked up by the corporate media, and is fed to you in tasty nuggets by the evening news.

Isn't it amazing how quickly we forward gossipy or great-sounding email tidbits to all our best friends – without a clue as to whether they're true or false, or who wrote them?

What we learn from the world's favourite spectator sport is that it matters not a whit whether the information we receive is the truth or a lie. The subject has been raised, so we can take sides and eat popcorn.

A funny thing I've learned about the American media: when it comes to domestic party politics, they never interfere with your God-given right to choose your own reality.

Those who run political campaigns, like all good advertising gurus, know that most people are captives of the pictures in their heads. They know that misinformation and disinformation are easy to swallow when they reinforce what we want to believe.

Believe it or not, a lot of us prefer to spend more time justifying our prejudices than carefully weighing the merits of boring political polemic. I think Pavlov called it "operant conditioning". Does your mouth water for Hillary or Barack?

Creating associations and perceptions is what campaign Pooh-Bahs are paid to do. The vast majority will be influenced. And, occasionally, the delighted spectator will be treated to the siren song for the masses being played on a pawnbroker's "Stradivarius". Think Joseph Goebbels.

A political campaign is simply an enormous advertising campaign, and if they know anything, Americans know advertising. So pour yourself a brandy and coke, listen, read and learn. Pick a favorite team. Boo and hiss when your favourite bad guy takes the field.

The entertainment value of the World Cup pales by comparison.

My guy was eliminated early. He made the mistake of getting a \$400 haircut. Go ahead, Google it: "\$400 + haircut". ■



Casting pearls

WHEN IT COMES to wine-related conspicuous consumption you could do worse for a role model than to go back a few thousand years to ancient Egypt. Back then Californian cult wines and grand Bordeaux hadn't reached today's astronomical prices, so when Cleopatra wanted to show Marc Antony how rich and extravagant Egypt could be, inventiveness was called for. She took one of the stupendous pearls dangling from her ears, dropped it in a glass of wine, and, as Pliny reports in his *Natural History*, "when it was melted swallowed it".

"That's, like, awesome," murmured (in Latin) Marc Antony. The pearl was apparently worth ten million sesterces (a hundred thousand aurei, if preferred) but the wine is more likely to have been vinegar than Château Pétrus, as drinkable plonk is insufficiently acid to perform Cleo's trick. This, you will want to know, would have converted the pearly calcium carbonate into calcium acetate, water and carbon dioxide. (The formula for this process is apparently $\text{CaCO}_3 + 2\text{CH}_3\text{COOH} \rightarrow \text{Ca}(\text{CH}_3\text{COO})_2 + \text{H}_2\text{O} + \text{CO}_2$ – please don't say *noseweek* shirks its educational function.)

Gold flakes turn up in liquor as a gimmick now and then – local producer Cabrière has done it in a bubbly, tautologically named Aurum Gold – but pearls do not appear on any country's list of permitted additives. However the price for some wines, whether in sesterces, aurei or dollars, might suggest otherwise. The Californian cabernet Screaming Eagle 2005 is being offered at \$750 per bottle to those who've clawed an allocation of two bottles; the grandest Bordeaux of that year are easier to get hold of but will cost twice as much.

So if your horizons are merely local, you can revel in the modesty of our most ambitious producers' aspirations. But even on this reduced level, it's easier to ask the question as to whether Vergelegen V or Waterford The Jem are worth R700-odd, than to answer it with other than a contemptibly evasive yes-and-no.

If you're going to put them away somewhere cool and dark for a few years, it's easier to say yes – especially for the slightly pricier Vergelegen, which is very serious, and still pretty tough and unenjoyable to me, but should blossom wonderfully. The Jem should also improve, but is more ingratiating



Illustration: Meg Jardi

Vergelegen provided easily the cheapest wines in two tastings [at Davos], and they were amongst the favourites in both cases, ranking higher than some vastly more famous and expensive names

in youth. Both are excellent, but I have a sad and nagging suspicion that comparatively few will be matured, and that quality is less important than the high prices to many customers (especially at expensive restaurants in Johannesburg, most rich Capetonians being too mean to pay them).

The usual depressing marketing truths apply to wine: firstly, because good things are often expensive, many believe that expensive things are necessarily good: people pay heavily for fashionable labels and flaunt them, whether Gucci bags or Cristal champagne. Quality is seldom everything. British wine guru Jancis Robinson conducted some tastings of top wines for the rich and powerful at the last economic summit in Davos. Vergelegen provided easily the cheapest wines in two of these tastings, and they were amongst the favourites in both cases, ranking higher than some vastly more famous and expensive names. It won't do Vergelegen's international sales any harm – but the result is unlikely to change the prejudices of those tasters who preferred the Cape wine to Screaming Eagle and Lafite.

At least, unlike with sunglasses, prices of really expensive wines are driven up by a genuine rarity and uniqueness as well as (usually) quality.

What Vergelegen *et al* are actually after is less a sustainable local price of R750-plus than one of \$100-plus in the United States, where the rainbow is imagined to touch ground. Meanwhile (alongside Vergelegen's other top wines) Sadie Columella chugs along for a bit less, and is acquiring a great reputation both here and abroad. Further down the price ladder come fine established wines like Hamilton Russell Chardonnay and Boekenhoutskloof Syrah – this latter, at a mere R220-odd, being among the local wines hardest to get hold of, and one which can surely sneer a little at the rather vulgar ostentation of outrageous prices.

Incidentally, I have a name to suggest for a grande-luxe wine: "Magistry" – the splendid word for something precipitated by an acid solution, like Cleopatra's pearly sludge. Blankenberg Co-op Magistry sounds great to me, even if it might have some observers of conspicuous consumption in Mandela Square muttering on about casting pearls before swine. In exchange for the idea I ask only for a few bottles, as I probably wouldn't be able to afford the stuff. **TJ**



Pale Mothers

WELL SO FAR THE BODY BAGS have scarce exceeded in number the deceased of 9/11, which the occupants of the bags set out to avenge when they were yet alive and kicking. But of course there are the many mercenaries of Highly Respectable Security Companies who do the military slog too, because Congress limits troop numbers, and these gents also score body bags when they depart this life, but they don't count as militarily dead because they didn't wear US Army dog-tags, see? The clean-up squads just scrape up all the meat and divide the weight by the number of gents known to have been in the humvee; everybody's guts looks much the same when it's all minced up and partly cooked by high explosives, and nobody back in Abilene Texas is going to peep inside and make sure it really is their Leroy Jr reclining there.

But wait awhile, stick around, we're getting past the point where clean-limbed John Wayne generals can leer at us on the telly and strut their stuff about hearts and minds whilst other generals not on the telly declare Get them by the balls and the hearts and minds will follow. One of these days our Dubya is going to leave another damnfool cowboy caper somewhere to his successor so he, Dubya, can exit the presidency much acclaimed like G Washington, and much-acclaimed Chairman Mao will once again be proved right when the b/bags arrive by thousands per month and the populace starts clamouring for somebody's guts of a different sort.

Then maybe American kids will again fall into disgust with the entire war culture, and sleep in the outers and make love in public and not wash their hair and stick flowers in the rifle barrels of National Guardsmen sent to menace them. And maybe another Joan Baez will sing in a loud nasal voice about *You Masters of War*, a corny enough ballad, sure enough, but entirely capturing the mood of these kids, all of them, that's also sure enough; she used her guitar as Washington's rebels used the kettle-drum. The guitar became mightier than the B52. And she came from a genteel academic family, that's what really riled so, you couldn't say this lot were comics. And Dubya's John Waynes wouldn't be able to say this new lot were terrorists, as they presently do about any dude with an anti-war banner.

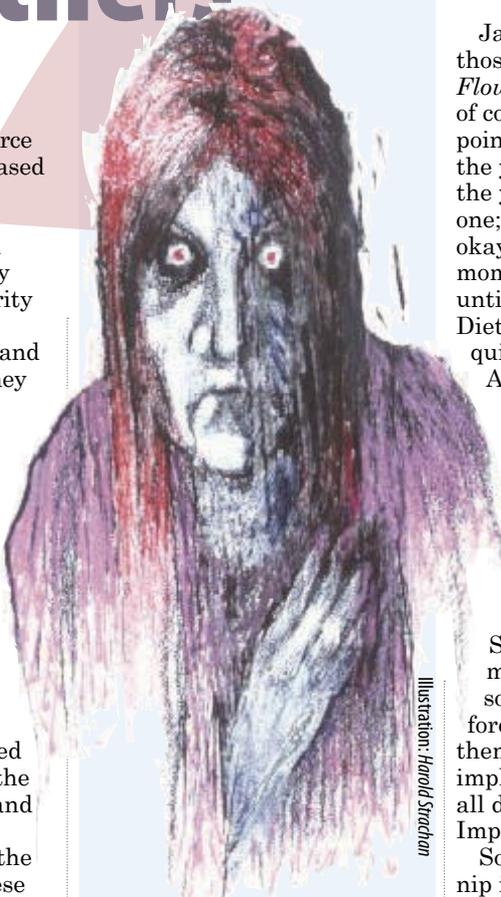


Illustration: Harold Strachan

We're getting past the point where clean-limbed John Wayne generals can leer at us on the telly and strut their stuff about hearts and minds

Ja, I remember too another song from those dreadful days: *Where Have All the Flowers Gone?* This also was a bit schmalzy, of course, after a few verses coming to the point: "The flowers went to young girls, the young girls went to young men, and the young men went to graveyards, every one; when will they ever learn?". Well okay, thought I, schmalz, but fitting to the moment, so I didn't give it much notice, until one day I heard it sung by Marlene Dietrich, no less, now old, old, but her quiet contralto cabaret voice still young.

And she sang it in German. She'd seen it all before. Well I tell you it fair gave me the creeps, man, this was weeping material; she wasn't just doing another bit of the old Baez routine, she had in mind also the young men of Stalingrad entombed in Russian ice, young men everywhere dead of war, when will they ever learn? Young men pickled in trench mud on the Somme, some there to this day who never made it to a graveyard, as also there are so many shell splinters still in certain forest trees of Flanders that no saw can cut them down. Of course the question was only implied, but I knew all right what they'd all died for, and the answer was Profit. Imperialism.

So then, you will say, we should all as one nip it in the bud. Yes, but when and how does the disgusting thing start? Well you can start by stealing an election and feeding your purposefully dumbed-down electorate a lot of sanctimonious jingo blather about liberty and decency, and deceive them and lie and trick them into a merciless unlawful war against a sovereign state posing no threat to them, and take them beyond the point of no return. I'm talking about Hitler, of course.

But let's turn to German #3, name of Bertolt Brecht, who wrote wrenching poetry about the *Burial of an Agitator in a Zinc Coffin*, in which he makes the point that only the agitator's wife should accompany this coffin to the graveyard; whoever else accompanies her, that person is now also known. And here is a snatch of his most chilling, because it applies straight to present days, and I give it to you in German because the words appear stark and brittle on the page, and the sounds in themselves have a particular grimness if read aloud:

*O Deutschland, bleiches Mutter,
Wie sitzt du besudelt unter die Völker,
Eine Fürcht, oder eine Gespött.*

O Germany, pale mother,
How you sit defiled amongst the nations,
An object of fear, or of ridicule. **■**

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