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# noseweek

# 103

# MAY 2008



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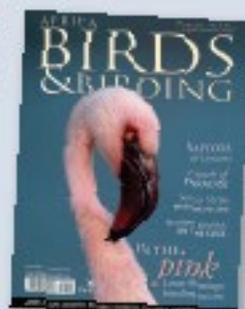
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# noseweek

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ISSUE 103



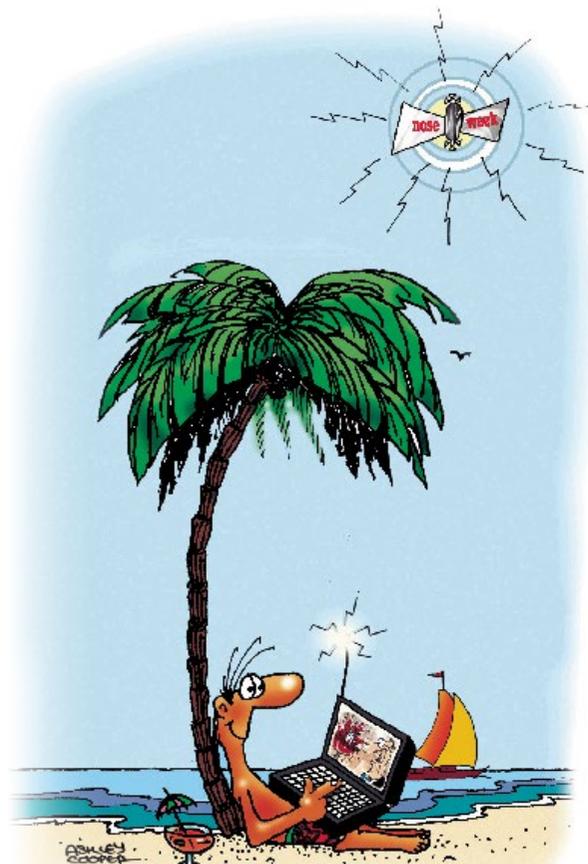
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**Fee, fi, fo, fum**

Re Investec employee benefits that weren't (*nose102*): I don't see what the problem is – I feel sure that the bankers and their advisors will see the error of their ways if they are approached in the “correct” manner. I would be prepared to handle this matter for a small consideration of, say, 5% of what's recovered.

**Len Palmer**  
Johannesburg

*Many a true word said in jest. –Ed.*

does. How is it possible that so many South Africans have no qualms about ripping off those who put their trust and faith in them? How do they sleep at night? Do they drink themselves into a stupor before falling into bed? I guess they do.

What makes people want so much? Looking at the obscene opulence around me, and then off to the townships where there is such poverty, I can't get my head around the fact that these so-called

overweight, under-educated, overstretched, underpaid police caught up in protecting the guilty with a little palm greasing. Yes, I think I will play an ostrich as there is no where for me to go.

**Jo Maxwell**  
Rosebank

*You may have nowhere to go, but there are several things you can do. Remain a decent human being, for a start. Don't do business with Investec. Encourage your friends to do the same. – Ed.*

**Making a difference**

We too can add our names to those caught up in the woes of incorrect chassis numbers on vehicles (*nose98*). No prize for guessing that the vehicle in our case was a 1998 Toyota Landcruiser.

Police clearance confirmed that neither the chassis number on the vehicle nor the quite different chassis number on the registration papers were those of listed stolen vehicles.

We then approached Rand Stadium Toyota for help. They contacted the manufacturers in Japan and the vehicle was confirmed as a grey import. With their help our car was subsequently registered with the authorities. We are most grateful to Rand Stadium Toyota for their efforts – they had not even sold us the car!

**Debbie Keech**  
By email

**I feel sure the bankers will see the error of their ways if they are approached in the 'correct' manner**

**What is Investec hiding?**

Like you, I don't believe Investec employee benefits so-called “London-based” – but mysteriously anonymous – insurer exists. But, if it does, it has repudiated liability. Why else would Investec not wish to identify it, or disclose the terms of the policy?

**Financial advisor**  
KwaZulu-Natal

**Playing the ostrich**

I can't decide whether or not to play an ostrich and pretend that the greed of our slimy “pillars of society” doesn't affect me emotionally. It

“high society moguls” do so little for the common man/woman – unless there's a tax benefit and/or a lavish “celebrity” party attached to their “donation”. The bottom line (a stupid expression) is profit above people. Fat cats living off the ill-educated or uninformed: Investec who spend millions on TV advertising and then plunder the pensions of the working class elderly; dirty deals, fraud and blatant theft, which our courts seem to condone when the have-nots are not able to pay the price for the best legal representatives;

**Just the beginning**

Your piece on cigarette advertising provided some light entertainment (*nose102*) – the miscreant advertisers would never be able to explain when or how an ad is not an ad. But what amused me most was *noseweek's* flouting of the same law you castigated Phillip Morris for, when you chose to reproduce the ad to illustrate your story, or was that a simple “communication”?

To the best of my knowledge there is no other local case where it is legal to sell a product, but illegal to advertise it to the same consumer.

This will soon have a sequel (if the meddling mother grundies have their way) when liquor advertising is subjected to the same repressive laws. This will lead to a large loss of income to the advertising industry and its ancillary operators, down to cap manufacturers and banner makers, as it will be illegal to display liquor brand names.

And by the way, does anyone even notice that after the advent of the ban on cigarette advertising there was no decrease in the price – which one would have expected, given that their peddlers were no longer obliged to spend that money on “communication”.

**Bob Broom**  
Bedfordview

**The new paperweights**

I giggled and gasped at the detail you unearthed (*nose101*) about the academic non-qualifications of the new self-created academia. These days any degree you want is hardly more than an email or two away – which makes me wonder how many newly appointed city managers have made use of such offers. How about a “name and shame” column?

**Michael Pollock**  
Johannesburg

*Name and shame – haven't you noticed? – that's our game! – Ed*

**Attack on hospital unfounded**

Your two pieces dealing with the death of Ms Matiwane in March 2004 (*noses91,102*) contain unfounded allegations against the staff of Mowbray Maternity Hospital, and Professor Susan Fawcus in particular. The first was particularly damning, despite sincere attempts on the part of Professor Fawcus and myself to play “open cards” with your reporter. The more recent piece also suggests that the delay in conducting the inquest into Ms Matiwane's death is due to stonewalling on the part of staff at Mowbray Maternity Hospital (MMH). I wish to set the record straight by pointing out the following facts:

**Gus**



*The New Karoo*

Both articles allege that the death of Ms Matiwane was “entirely preventable”, although you offer absolutely no hard evidence to support this conclusion. The allegations are supported in your first article by a number of rather speculative musings attributed to Dr Ingrid Grauls – described as an “independent medical expert”, but in truth a general practitioner, whose opinion on obstetrics and anaesthesia are hardly expert.

Ms Matiwane did not die while undergoing Caesarean section. She died a day later at Groote Schuur Hospital from complications of gestational proteinuric hypertension (GPH). To imply, as does your second column, that the “surgical hands” of Professor Fawcus (who performed the Caesarean section) were responsible for Ms Matiwane’s death, is both unfounded and grossly unfair.

To suggest as you do, that Ms Matiwane’s Caesarean section was done without an anaesthetic is grossly irresponsible. The name of the anaesthetist is clearly stated on the theatre record, and a full anaesthetic record is contained in the hospital file which was placed at your disposal.

I repeatedly told your reporter that a post-mortem examination had been done on the deceased, and that a detailed report is available from the hospital file, but you allege that no such examination was performed.

I categorically deny that MMH staff are in any way responsible for justice’s delay in conducting and concluding the inquest into Ms Matiwane’s death. The entire hospital record, post-mortem report and a detailed affidavit from Professor Fawcus

have been available to the investigating officer and the public prosecutor for the past two years. To suggest that delays in the inquest process are due to lack of co-operation from health staff is both unfounded and unfair.

Publishing this letter will present your readers with a balanced view of a tragic event, details of which have been distorted, much to the distress of dedicated health staff who do not deserve to be unfairly implicated in the death of Ms Matiwane.

**Dr David Bass**  
Medical Advisor

Western Cape Department of Health

*Curiously, Dr Bass, the distortions appear to be yours. We did not claim that MMH staff were holding up medical inquests: our point was a general one about getting medical practitioners to testify.*

*Nor did we allege that the Caesarean section was done without anaesthetic – we simply reported that, contrary to regulations, no anaesthetist was named on the theatre summary sheet to which we had access. Nor did we say Ms Matiwane died on the operating table – we said she never awoke from surgery. As for access to the hospital file – you yourself barred us from seeing it. So much for your claim to have played “open cards”. Furthermore, the investigating officer, Inspector Jones, confirmed that there was no autopsy – he was forced to reconstruct the pathology report for the courts from medical records. Lastly, Dr Grauls simply “translated” for us the medical terminology in the sections of the files that were available. We said no more than this. We note that you’re an orthopaedic surgeon – no expert on obstetrics either. – Ed.*

### Electrical eye-opener

NoseArk’s exposé of what the reckless rush to generate more electricity is doing to our environment was an eye-opener. Small wonder the rate of cancer is sky-rocketing in South Africa. When will we wake up and realise our government is poisoning us? I realize we are facing a power crisis, but this is, frankly, no excuse to follow a system which simply trashes our environment and severely affects the health of the nation.

**Sam**

Bedfordview

### Not a catastrophe

Your assertion (*nose102*) that the consumer is to blame for the electricity shortage is nonsense. Obviously if electricity is sold at an unsustainably low price (temporarily achieved by making no provision for the future) consumers will not bother to economise in its use.

And while coal is certainly a dirty fuel, your account of the dire consequences of using it are surely exaggerated, not to say hysterical: croplands and grazing areas destroyed, a toxic soup of acid and heavy and radioactive metals sterilising agricultural land in perpetuity and poisoning major rivers, etc etc. Representing problems as catastrophes does nothing towards solving them.

**Richard Cope**

*Noseark did not “blame” consumers for the electricity crisis: Ark merely suggested that it made more sense to spend money on developing ways to reduce consumption, rather than on producing more electricity at any cost. The consequences of reckless coal mining are there for all to see*

*in the areas identified in the noseweek piece. - Ed.*

### Diamonds are forever

There is a rumour prevalent in Johannesburg that Mr Mbeki and Mr Mugabe are currently partners in a diamond mine in the Congo. Could there be any truth in this assertion?

**Barry Black**  
By email

### Wok is Mbeki’s problem

Over the years I’ve grown ever more fascinated by Thabo Mbeki’s selfless support of Robert Mugabe, without apparent regard for the damage this has done to his domestic and international credibility.

The question I’d most like answered is just how much incentive (stick or carrot) China has been applying to President Mbeki in its endeavours to protect its enormous and ever-growing political (and economic) investment in Zimbabwe.

Only China could have kept South Africa’s nose so well and truly brown from its proximity to Mugabe’s posterior for the past eight or more years.

**Lee Hall**  
By email

### Taking Bullard by the horns

Who said the following about David Bullard’s book *Screw it, Let’s do Lunch?*

“David Bullard’s weekly *Out to Lunch* column is the finest example of the benefits of a free and unshackled press. Let’s hope it continues to be so.”

Answer: *Sunday Times* editor Mondli Makhanya quoted on the dust jacket of the book.

**Deon Adriaanse**  
Durbanville

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**Editor**

Martin Welz

editor@noseweek.co.za

**Production editor**

Tony Pinchuck

**Assistant editor**

Hans Muhlberg

**Gauteng bureau chief**

Jack Lundin

jhbnose@iafrica.com

**Censor-in-chief**

Len Ashton

**Sub-editor**

Chas Unwin

**Senior reporter**

Mark Thomas

**Cartoons**

Bill Ashton

Myke Ashley-Cooper

Dov Fedler

Gus Ferguson

Meg Jordi

Godfrey Mwampembwa

**Contributors**

Tim James

Nelly Nyagah

Marike Roth

Hilary Prendini Toffoli

Harold Strachan

Hilary Venables

**Subscriptions**

Maud Petersen

noseweek@iafrica.com

**Advertising**

Adrienne de Jongh

**Accounts**

Nicci Joubert-van Doesburgh

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## Till smelters freeze over

**A**ND SO WE FINALLY TAKE a closer look at what's going down at Eskom. You want to know why electricity charges must escalate right away? For starters: in the past we ran a handful of gas turbines for two or three hours a day to meet peak demand. Today we're rushing to have 50 turbines – and those we've got we're running 24/7. The crunch: it costs 18c a unit to generate electricity from coal; with the rapidly rising cost of diesel, gas-generated electricity already costs 128c a unit – seven times as much! That's just one detail that didn't make it into our lead story.

In our story, like a physician, we do rake over a whole range of unhappy developments at Eskom. The power utility is the heart that pumps the life blood of the country, so it's as well to pay close attention to every possible symptom of disease.

A bit dramatic, you say? Not at all.

Consider this: South Africa's electricity grid is designed to operate at 50Hz, requiring a constant, delicate balance between the amount of power fed into it by several types of generator across the country, and the amount drawn off it nationwide by a vastly complex network of consumers. If the load on the grid rises above 51Hz or falls below 49Hz – heart attack! – not just your suburb, but the entire national grid will close down.

Restarting the national grid is so complicated it could take weeks, even months, to phase in supply and demand gradually, sector by sector, while maintaining the fine balance at 50Hz. Lose it and you must start over. That's assuming we still have people with the skills and intimate knowledge of our particular network to do it.

Imagine what happens in the meantime ... when lights don't come on and sewage, water and petrol pumps stop working ... when trains stop and petrol tanks and diesel generators run dry. (Yes, and the mines flood and the smelters freeze over.)

Our national electricity grid is controlled by an obsolete computer system (bought over 30 years ago from the Swiss), based at a national control centre. This directs half a dozen regional network control centres, which used to be manned by about 400 highly skilled career personnel – as experienced, and scarce, as air traffic controllers. Today, despite special pay packages and an on-site gym, less than half remain – and they keep leaving.

The government's ill-conceived BEE programme (frequently simply a "deployment" of party hands and the well-connected) has left any number of services at the point of collapse (try-Home Affairs for size), inducing a sense of creeping paralysis; but if it continues at Eskom, the consequence will be quick and catastrophic.

What can one expect from a policy that tells white South Africans they only have a job (and a future) for as long as it takes to replace them with a black, tokenly qualified ANC member? No surprise that qualified whites emigrate or lack motivation, leaving the half-qualified and unmotivated doing a half-baked job. The logic is simple, the insult to all concerned profound.

We don't need to spend billions (which we don't have) in a state of chaotic panic on vast new nuclear power stations; we need to clean out the well-connected duds at Megawatt Park and replace them with competent managers, no matter their race. Then we need to clean up the government. (The lights are about to go out, and we're still taking delivery of submarines! Ordered by the man who says there's no crisis in Zimbabwe.)

As a matter of policy we must offer all South Africans a future. It's not a question of political disposition, it's a question of survival. By now, all South Africans should know that. Those who don't, must have it explained – urgently.

The Editor





Picture: images24.co.za / Beeld / Alan Murdoch

# Eskom whistles in the dark

Eskom CEO Jacob Maroga

**WE** HAVE OURSELVES A WHISTLE-blower folks! A high-level Eskom executive who simply can't take any more of the lying. Someone who's been with Eskom for a long time and who's seen it go from a reasonably well-run parastatal to the national embarrassment it's now become. Someone who must, for obvious reasons, remain anonymous. And someone whose allegations Eskom has chosen not to comment on.

But before we dish the dirt, a bit of background on Eskom, this giant we've all more or less taken for granted up to now. What exactly is this organisation which infuriates South Africans, makes foreign investors nervous and has Fifa wondering what the hell it's got itself into?

In the (dark?) old days, Eskom was a so-called creature of statute, the statute being the Eskom Act of 1987. It made a lot of money and paid no tax and no dividends. No one really minded because Eskom invested its profits in infrastructure, which meant we could turn the lights on whenever we pleased.

When the ANC came into power

Can you see any difference between the parastatal and the government?

it took one little look at this lot and thought something like "You're joking! Plough all that money into turbines and other shit we don't understand when there are so many worthier causes – like government coffers and directors' pockets"? So in 1998 it passed the Eskom Amendment Act, which made it a company with just one shareholder – the state – to which it pays both dividends and taxes. So it now provides the state with truly huge piles of money.

So yes, it really is a case of "Eskom, Government: Can you tell the difference?" Which makes it a little strange that Eskom is so keen to distance itself from the government at the moment. As in the "It wasn't us folks, it was the government; we told them years ago that we needed to invest" routine that Eskom does whenever questions are asked. Could it be that Eskom's directors need to keep their distance so that they can justify the latest tranche of bonuses? Because, as South Africa's finest mind, Public Enterprises Minister Alec Erwin, said recently, bonuses

can't be withheld from senior executives who have performed their contractual obligations, just because the country is angry with them.

According to our source, the government may well have been negligent when it refused to invest in power stations, but Eskom itself is run like a circus. Had it been run even half-properly, maybe it wouldn't be needing to impose the massive hikes which it is now seeking, in order to raise an additional R3,7bn in revenue. An issue which will be decided by supposedly independent energy regulator Nersa – a body which is funded by Eskom and therefore about as independent as ... how about the SABC? A body which will benefit from the increase almost as much as the Eskom directors, whose bonuses are of course based on increased revenue and profits.

So here it is folks – how to run a mega-corporation into the ground in seven easy steps:

#### **Step 1: Look after number one**

As we know the Eskom directors treat themselves rather well. The best-known executive committee member is CEO Jacob Maroga – you may have seen him on TV and said out loud: “Good thing this isn't in a meritocracy mate, because if it was you'd be lucky to manage a small corner café, where your assistant would be Alec Erwin”. Then there are a few nonentities who have managed to stay out of the lime-light – Brian Dames, Erica Johnston, Bongani Nqwababa and Mpho Letlape. And lastly there's the token whitey that Jacob Maroga gets to do the awkward TV interviews, Steve Lennon. Not only do these fine business leaders seek wonderful bonuses at a time when South Africans are required to pay a whole lot more for the electricity they don't have, but they also get security protection – gates, alarms and all sorts of gadgets installed at their homes. In fact, our source tells us that at one stage Steven Lennon needed personal security protection. Is it really possible that the Eskom big-wigs are so hated that they need all this protection at the taxpayer's expense? Here, in a country where crime is simply a perception?

Looking after the senior staff has long been part of the Eskom culture. As far back as 1997 Eskom decided that it needed to keep its top performers happy, to retain their skills and ensure that these skills would be transferred to the less skilful. The people Eskom had in mind were all so called “E-Banders”, the 200 or so employees who are one grade below the

*Is it really possible that the Eskom big-wigs are so hated that they need all this protection at the taxpayer's expense?*

F-Banders on the executive committee. So one Adriaan Jooste, who was head of the Consulting Unit of Eskom and who reported directly to then CEO Allen Morgan, devised a system of giving “special contracts” to a bunch of high-flyers. In a memo to Morgan dated 4 June 1997, Jooste said proudly that the special contracts would allow Eskom “to get quite creative on tax”. And altogether some 57 special contracts were signed, including one with a certain PJ (our Jacob) Maroga, then a mere E-bander, and another with fellow executive committee member – also then E-bander – Steven Lennon. According to our source some R60m may have been blown on these special contracts. And based on the mess Eskom's in now, precious little skill was retained or transferred.

The practice of offering special contracts to the chosen few would not have become public knowledge had Eskom not had a rather embarrassing court case brought against it by an employee by the name of Pierre Rubbers, who was manager of the Trader and Africa Desk of Eskom's Transmission Group. It was Rubbers' job to sell electricity to neighbouring countries, and if he hadn't been so good at his job we might have some more for ourselves now. Rubbers sought a court order declaring his special contract with Eskom to be valid, and ordering that an arbiter determine the amount of his claim.

Rubbers' case was based on the fact that, in early 1997, Jooste told him he'd been identified as a top performer entitled to a special contract, and that the executive director of the Transmission Group, Pieter Faling, would negotiate the terms of his contract. Faling and Rubbers negotiated away and made certain changes to the standard special contract, eventually coming up with quite a nice little package.

This entitled Rubbers to a bonus equivalent to 35% of the total of his basic salary, plus annual bonus, plus performance incentive bonus, plus two business class overseas trips for Rubbers and his wife every year – a provision for which Eskom would not deduct income tax on the basis that it was (disguised as) a “restraint of trade” payment.

That was not all: the contract further provided that if restraint payments ever became taxable under South African law, Eskom would pay the tax. And, of course, there was a strict confidentiality clause. Rubbers signed the contract and Faling co-signed on behalf of Eskom. And from then on the company treated the contract as valid, with Faling approving a nice end-of year overseas trip for Rubbers and his wife.

But when Rubbers tried to claim his bonus, Eskom took one look at the amount and said “no way”. In fact, Eskom asked Rubbers to tear up his special contract and sign an ordinary contract. Rubbers refused. Instead he sued Eskom, claiming some R4m in bonuses, with interest. Eskom defended the action by claiming that Faling, being neither the CEO nor the chairman, had no authority to bind Eskom. Which was strange, because nearly all of the special contracts had been signed by executive directors rather than CEO Morgan or chairman Reuel Khoza. Eskom also claimed that the contract was illegal, being in fraud of the tax man, Eskom and the people of South Africa. And Eskom claimed that, because of the foreign trips, Rubbers' agreement was more favourable than the other special contracts. Which was also strange, because some of the special contracts provided for bonuses of up to 50% of salary.

And if Eskom was so confident of its case, why did it decide secretly to settle with Rubbers – on what terms we do not know?!

#### **Step 2: Put your hand in the cookie jar**

Until fairly recently Eskom employed its own security staff. Then BEE came along and Eskom needed to outsource the security function, to satisfy BEE

requirements. So Eskom decided to sell the blocks of flats it owned in Edison Avenue, Sunninghill (Elmwood and Ashley), which had been used by its security staff. The idea was to offer the flats to the staff by way of a notice on the company notice board. Fine idea, but unfortunately some senior staff cherry-picked the flats they wanted before the notice went out, and then sold them for handsome profits. Needless to say the internal files documenting this have disappeared. The names of some of those who profited? Stand up Vuzi Ngobeni, one-time executive committee member in charge of Eskom Enterprises ... Oh, sorry, you can't: you're dead! Well what about you, then, Doug Dewey and ... (sorry, those names will have to come later.)

### Step 3: Take in a lodger

Eskom's head office, the butt-ugly Megawatt Park in Sunninghill, consists of four enormous Soviet-style office blocks. In 2003 Eskom decided it would be a fine idea to cram its entire staff into two of the blocks and find tenants for the other two. It appointed

(Guess which organisation runs a frighteningly efficient tax collection service, and which runs a shambolic electricity supply service?)

Anyway, not long after entering into this great deal, Eskom felt obliged to rent three more buildings in Sunninghill to accommodate its staff. And now, having realised that it's simply paying off someone else's mortgage, it decided that it wants to bring its staff back to Megawatt Park. But because it can't dislodge SARS, it needs to build another building on the campus – at a time when the construction industry is booming and building costs are high. The cost of two moves and the refurbishment of some 2000 workstations? Who knows? Our source estimates some R50m. And by the bye, Eskom also refused to pay Broll's commission of R10m for finding the tenant. Broll promptly took Eskom to court – and won.

### Step 4: Be too clever to take advice

In the early 'eighties, Eskom established communication with the Reserve Bank on medium and long-term



Illustration: Dr Jack

property company Broll to find a tenant, and, with delicious irony, it duly found the organisation which Eskom had tried very hard to diddle a few years previously, SARS. Even odder: in negotiating the rental, SARS was represented by a man who was previously at Eskom ... and one of the 57 special contract holders, a fellow with the memorable name of Kieswetter. SARS got a very good deal – we understand, some R53 per sq metre – and a 15-year lease. Eskom got a very bad deal – it was forced to build new underground parking to accommodate SARS, and soon found that its staff couldn't fit in the two blocks it had kept for itself.

growth forecasts for the country, as well as other matters which might be relevant in deciding new capacity. The thinking was no doubt that the Reserve Bank knows its stuff when it comes to the economy, and regular meetings were held.

But now no such meetings take place. Is Jacob just too proud to take advice from Tito? Or can Tito not take the heat?

### Step 5: Do some truly weird stuff

Remember the whole Oil for Food thing in Iraq? At one stage Eskom was quite keen on making money through power station refurbishment, so it sent

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two engineers to check out the possibility of doing this in Iraq. The two flew to Iraq via Jordan, and Eskom received a bill from a travel agent named Marathon – not Eskom’s contracted travel agent – for R436 000. For two flights! Actually Eskom was paying for some other passengers too. Like Jeff Radebe, now Minister of Transport, previously Public Enterprises, and one of the Pahad brothers – either Minister in the Presidency Essop or Deputy Foreign Minister Aziz. What these guys were doing in Iraq we don’t know. Just like we don’t know why Eskom had to pay for their trip.

**Step 6: When the shit hits the fan, lie!**

Remember Koeberg 2006, when the Western Cape got a sneak preview of the blackouts which were to come? Alec Erwin rushed in and blamed “human instrumentality” and “loose bolts” and so on. The man may look all ears, but he certainly doesn’t listen – the problem had nothing at all to do with Koeberg. In fact the electrical load from Mpumalanga to the Cape could not be carried because of badly maintained transmission lines, which were found melted in the Karoo. Which was, of course, all part of the “the less we spend on maintenance, the higher the profits and the higher our bonuses” strategy. And, says our source, given the state of the lines throughout the country, there’ll be plenty more of this in the future.

And Eskom has been lying about the current crisis too – it has nothing to do with wet coal but rather with a lack of coal. Which is not to say that there isn’t enough coal in the country, but simply that the coal isn’t getting through to Eskom. Once again BEE produces its sting. In times gone by, Eskom either used its own collieries or it received its coal from large companies like BHP Billiton. But then it decided that it should use small BEE-compliant collieries out in Mpumalanga. And these small collieries soon realised that Eskom was no longer exercising any quality control. So they started sending rock instead of coal. Which of course stuffed up the equipment, causing so called “tube leaks” which mean that boilers had to be stopped. Executive committee member Brian Dames decided that one Rob Lines, manager in charge of primary energy, should be the fall guy for the lack of coal. Lines told Eskom that if they dismissed him he’d take them to court and the whole world would know what was going on – like, that three Eskom managers, named Noma, Jabu

***Eskom has been lying about the current crisis too – it has nothing to do with wet coal but rather with a lack of coal***

and Japhta, had already “been resigned” because of tender irregularities involving coal. He was suspended and now awaits a disciplinary hearing.

Ah, you say, but if that’s all that’s involved, surely the crisis can be tackled by cancelling all the deals with small-time operators and getting real coal from proper collieries? Uh... not so easy. That would require an admission that the whole process has been a fuck-up – and that’s difficult for political (and bonus) reasons. And though Brian Dames has recently secured some 35 million tons of much-needed coal, it takes time to get the stuff delivered, and even then we still won’t be out of the woods. Because the power stations themselves are in a complete mess because of lack of maintenance.

**Step 7: Give jobs to the boys**

The good news is that Eskom is actually building some new power stations. The first one will be Medupi in Lephalale, Limpopo, at a cost of some R78bn. In March 2006 Eskom put out tenders for boilers and turbines, with a deadline of 10 August 2006. Only two companies submitted bids, Alstom and Hitachi. Hitachi’s offer was deemed to be unacceptable on technical grounds, so on 14 June 2007 the Eskom board conditionally approved proceeding with Alstom for turbines and an Alstom and Steinmuller consortium for boilers.

As is fairly well-known by now, Eskom then changed its mind and

awarded the R20bn tender for boilers to Hitachi. Some say that this was not unrelated to the fact that the ANC front company Chancellor House is Hitachi Power Africa’s 25% BEE partner, and that it stood to make some R3bn from the deal. Hitachi claims to be highly irritated by the fact that its reputation has been sullied by the suggestions of improper influence, but we suspect that it will get over it if, as expected, it also picks up the contract for the boilers at another planned power station at Emalaheni, Mpumalanga, a deal which could be worth another R20 billion.

What is less well-known, however, is that shortly after approving the initial deal with Alstom and the Alstom Steinmuller consortium, Eskom instructed its Procurement and Supply Chain department to look at the tender process and determine if it had been fair, competitive and transparent. On 25 July 2007 a report (signed by the general manager of the department, one Vule Nemukulu, but suggesting that enquiries be directed to one Barry Culligan) was sent to Eskom CEO Jacob Maroga marked “Strictly Confidential”.

The report said there were “shortcomings” in the tender process, in that there were too few responses (bidders). This is ascribed, in part, to “misunderstanding of Eskom’s intentions given numerous previous enquiries not executed”. In plain language, Eskom likes to get quotes but never accepts any of them, putting a lot of people to a lot of trouble for nothing. Another reason was “sub-optimal pricing” – Alstom was expensive. However, said the report, there was no suggestion of any corruption or other impropriety and certainly no reason to cancel the deal. The report concluded as follows: “Concerns are significant but not material to change the outcomes. Even if Hitachi were deemed technically compliant they would not have been found to be the best commercial option.”

So Hitachi didn’t have the right product nor was its pricing any good. Yet the company got the order. Now where have we heard anything like that before? Oh yes, something to do with fighter jets and frigates.

In 1992 *The Sun* newspaper in the UK ran the following headline on the day of a general election in which it was predicted that Neil Kinnock’s Labour Party would topple John Major’s Conservative Party: “Will the last person to leave Britain please turn out all the lights.” In South Africa, it seems that person won’t have to. **■**

# Investec defames noseweek in confidential letter

**F**OR THE PAST MONTH all divisions of Investec have been fielding calls from brokers and clients demanding a response to our exposé (*nose102*) of the multi-billion rand pension fund rip-offs and other nasties at Investec Employee Benefits (IEB). The “confidential” letter sent to unhappy clients by Investec Asset Management (IAM) pretty well tells it all.

Their first sentence is simple and to the point: “[We] refer to your request for information regarding an article recently published in *noseweek*.” By the second they’re into piety: “We do not normally respond to sensationalist journalism” – IAM’s top executives apparently don’t regard their parent company’s appropriation of billions of rands belonging to working class pensioners as being in any way shocking or noteworthy – but this time they condescended to “attempt to address the questions that clients may have in this regard.”

Not really. They simply sent concerned clients a photocopy of the “detailed” comment prepared by their colleagues at IEB. But – and here’s the interesting bit – the smart boys at IAM

IAMs insensitivity to the issues raised in the *noseweek* report.

Now on to IEB’s “confidential” commentary on our report: quotes are in bold.

■ **Noseweek’s story about the dispute between Investec Employee Benefits (IEB) and 11 pension funds is not only defamatory in the extreme, but the allegations of fraud and misappropriation of funds by Investec are totally unfounded and devoid of any truth.**

A plea of not guilty has been noted. Our readers will judge the moral and factual merits of our story; the courts will, in due course, judge the legal merits of the pension funds’ claims.

■ **In 2001, Investec acquired the financial services business [and various subsidiary companies] of the Fedsure Group [including the unlisted Fedlife] which had issued policies of insurance to the Funds. Fedsure had no direct connection with the members or pensioners of the Funds. ... consequent upon the acquisition ... [Fedlife was] renamed Investec Employee Benefits.**

While the contract was one of insurance it clearly also entailed the invest-



the monthly pension directly to the pensioner.

■ **The funds lodged claims in regard to the bonuses declared by Fedsure under the policies. IEB was, and remains, of the view that these claims have no merit whatsoever, and offered to resolve the disputes by independent arbitration. Rejecting this, the funds referred the disputes to the Pension Fund Adjudicator – who dismissed their claims.**

Subsequent to this, the funds commenced legal action, during the course of which they have been ordered to pay over R1m towards Investec’s legal costs.

Like practised poker players, IEB feigns honesty, goodwill and reason – while causing delays and running up costs. In fact, the funds’ claims against IEB are for losses relating to both delict (wrongdoing) and breach of contract. The “zero” bonuses are but one

of the issues. Others include Investec’s removal of the pension funds’ non-vesting bonuses in 2001 – which amounted to roughly 12% of the total fund value (about R600m) and, in some cases, claims for “windfall profits”.

The most important demand made by the funds is that IEB account for its administration of the monies entrusted to it – which IEB still refuses to do.

Arbitration was offered to the KZN Electrical Fund after it had already referred its complaint to the Pensions Fund Adjudicator – a much cheaper route. But controversy arose about whether the Adjudicator could act with regard to pension funds established in terms of the

## Editor ‘shocked and amazed’ (yet again!)

did find it prudent to conclude their letter with a rider: “It is very important to stress,” say head of sales Albert Coetsee and MD Thabo Khojane (who both sign the letter), “that Investec Asset Management is not the entity engaged in this legal dispute [between IEB and 11 pension funds]. As a client of Investec Asset Management you have no exposure to this court action”.

For those clients simply concerned about losing money as a result of the mess at IEB, the assurance will have come as a relief. But what of those who suspect that the same rapacious corporate culture also rules at IAM? They are unlikely to have been comforted by

ment of pension funds giving pensioners the right to share in the profits generated by investments.

Investec obviously has an agenda – which we are unable to fathom at present – when it denies having dealt directly with pensioners. [Perhaps it wishes us to know it was not actually looking the pensioners in the eye when it appropriated their money? - Ed.]

Whatever the current agenda, Fedlife did have direct dealings with members and pensioners. Claims from members were administered and paid by Fedlife to the members. At retirement pensioners were compelled to purchase an annuity from the company that then paid



Industrial Conciliation Act (rather than the Pension Funds Act) – IEB’s Kieran Whelan informed the fund’s trustees that if the Adjudicator ruled against IEB, he would take the decision on review to the high court. Clearly the

matter was going to end up, either way, in the high court, so the Adjudicator never even got to considering the claims.

IEB refused access to its accounts and investment records. The KZN fund then launched an application in terms of the Access to Information Act. IEB defended the action and delayed the case by asking the fund to submit a R2m costs guarantee. By the time this was settled, the funds’ claims were about to prescribe. The only way to stop prescription is to issue summons. This happened in December 2003. As IEB was still refusing to account to the funds, their claims could only be provisionally stated and would inevitably have to be amended later, as information became available.

Litigants in the high court must seek information from one another in terms of the court’s own “discovery” procedures. So the funds withdrew their access to information claim and had to pay Investec’s “wasted” costs.

■ **Noseweek states that Investec’s attorneys have instructed the court Registrar to hold documents in the case under lock and key. It is, in fact, the Funds’**

**attorneys who have instructed the court Registrar to do so.**

Technically it is true that the funds’ attorneys requested the court to “seal” the documents pending the court’s decision. This was done because IEB’s attorneys threatened to apply for an urgent court injunction should the funds file their application at court, making the documents public – a threat of more costs and more delays.

■ **The funds, in addition to suing IEB, also instituted action against the directors of Fedsure in their personal capacities. All the directors disputed liability – and the court found that the funds’ claims against the directors lacked merit and ordered them to pay the directors’ costs.**

The funds did institute action against the directors, but as a result of Investec’s policy of non-disclosure, the funds were later obliged to apply to court to amend their claims as more information became available. Judge Malan dismissed 20 and upheld 13 of the 33 objections raised by IEB and/or the former Fedsure directors to the amendments sought by the Funds. But an application to “amend” is deemed to be seeking an “indulgence” of the court – no matter what the real cause. And since some of IEB’s objections were upheld, the funds were ordered to pay the costs.

■ **Noseweek accuses Investec of drawing large dividends from IEB while the Funds received far lesser returns on their policies. The reason for this is that Investec made proprietary investments**

**for its own account through the medium of IEB.**

In 2001 Fedlife/IEB was so broke that it could not meet the statutory Capital Adequacy Requirement (CAR) until Investec put in R600m. (They then promptly removed R600m from the policyholders’ bonus account.)

The so called “proprietary investments” Investec now raises as justification for the shocking discrepancies, appear to relate to money Investec made available in an extraordinary deal to bail out another Fedsure disaster, Fedbond. Fedlife had recklessly invested hundreds of millions of pensioners’ money in its participation bonds. (See *nose98* about Fedbond.) But this, too, cannot justify the massive dividends declared by IEB in favour of Investec.

■ **Inflammatory statements are attributed to two employees of Investec [about their insurers “not caring a stuff about pensioners” and intending to pay “as little as possible as late as possible”] which were supposedly made to attorneys acting for the Fund. These employees deny making such statements.**

There were eight people at that meeting, enough to prove what was actually said.

■ **IEB is insured by reputable insurers in London in contradiction to the bizarre averments made by noseweek as to “captive insurance companies” and “Kazakhstan insurers”; suggesting that there is in fact, no insurance.**

What’s more bizarre than Investec’s persistence in refusing to name its “reputable insurers in London”? How reputable can they be, if Investec still would rather not name them? Or are they perhaps so “reputable” that they would rather it not be publicly known that they are Investec’s insurers?

By far the most likely reason for Investec’s reticence is the likelihood that, once identified, the insurer can be asked if it is indemnifying Investec against the claims made in the pension funds case – and that the answer will be “no”.

■ **Investec prides itself on its reputation and its integrity. As a matter of philosophy and business practice it always puts the interest of its clients first and will continue to do so.**

Dear reader, knowing what you now know about Investec, if you still believe that spin about “philosophy” and “business practice” and “putting the client’s interest first”, you will believe anything. You are the typical Investec client.

**Next issue: What Investec failed to tell the London Stock Exchange**

# noseclean

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# Glenrand doesn't do it again

**T**HE WHEELS OF JUSTICE have yet to turn for 55 year-old Iman Dharsey, who suffered multiple injuries in a bus accident in October 2002. Iman's cries for justice are so inaudible that even her own attorney hasn't bothered to get the matter placed on the roll for adjudication.

On the morning of 7 October 2002 Iman boarded a Sibanye bus (operated by Golden Arrow) for her normal journey to work in Cape Town. Shortly thereafter the bus stopped unexpectedly and Iman was thrown about violently.

Disabled by her fall Iman was told by orthopaedic surgeons that she needed surgery. But until the insurance claim can be heard, Iman must wait – and that may be forever, given that Glenrand MIB are happy to wait patiently in the very long queue for a court date.

While Iman was still in hospital a man – who it later turned out was a “scout” for attorneys – visited her and chatted sympathetically about her injuries. He told Iman about an attorney who, he assured her, was the very best person to represent her in her quest for compensation. Lize Kriel, he declared, would see that Iman got the justice she deserved, and gave her Kriel's card.

Kriel turned out to be an associate with Balsillies Inc. (now Balsillies Strauss Daly), and the attorney duly filed claims against the Road Accident Fund (RAF) – and secured an award to Iman. But this was only a first hurdle in a long and difficult race. Since the bus was insured, the RAF awarded Iman only R25 000, plus costs of R29 000. Balsillies Inc. duly collected the R54 000 from the RAF, but forwarded only an insulting R6 628 to Iman. The rest, they said, went to costs.

Iman and husband Moghamet asked for details of their attorneys' account – and got a nasty shock. Staff at the law firm enclosed (surely inadvertently) two sets of statements, with quite different figures and details; one that had been submitted to the RAF and another set meant for their client. But in the statement to the RAF the attorneys had billed Iman for consultations that never took place. Iman says: “For the initial consultation that lasted for about 40 minutes, Kriel billed the RAF for some



Iman Dharsey

R4 000. She even charged me for a consultation, supposedly on 11 May 2004, that never took place.”

When the Dharseys raised the matter with the attorneys, senior partner Louw Malherbe withdrew their representation. Still weak from the accident and faced with a very uncertain future, Iman went to the RAF offices in Cape Town to ask them to intervene. But they referred her on: “They told me to go to the Cape Law Society.” Which she

did, with no results.

Iman, born in the UK, was surprised that in this country an attorney could fire a client for asking to be updated. And worse was to come: after Iman reported the matter to the Cape Law Society, Balsillies responded by claiming that their former client had called Kriel a thief and a liar. Retorts Iman: “How could I have called her anything – she avoided me for over three months. The last time she spoke to me was when she told me she had won against the RAF. For over three months nobody at her office could tell me anything.”

The uphill journey of fighting the bus company and their insurance company got even scarier for Iman Dharsey when, in September 2004, Nico Humphries of Michalowsky Geldenhuys & Humphries agreed to take on her case.

Since then nothing has moved an inch. Though Iman makes weekly visits to her doctors and the physiotherapist, her health is gradually deteriorating. In the meantime, hardly ever an update from attorney.

*Noseweek* could get no explanation from Balsillies as to why they had withdrawn their representation of Mrs

Dharsey. Instead the firm simply sent us a breakdown of account, explaining why Iman received only R6 600 of the R25 000 awarded by the RAF.

Nico Humphries discouraged us from contacting the bus company: “We would appreciate your cooperation in not contacting the bus company at this stage as negotiations between ourselves and their attorneys are on a knife's edge pending our application for a trial date.”

Despite this plea, Humphries concluded by stating: “We have no objection should you wish to contact their attorneys though; the contact person is Mr van der Merwe of Dicks Van Der Merwe Attorneys.”

Humphries said he was waiting for a court date. But this, he declared, was not forthcoming since Judge President Hlophe, who sets trial dates and assigns judges, is always busy with his private businesses. Humphries claims that the earliest likely date for a hearing would be sometime in 2010.

To *noseweek's* surprise Humphries claimed not to know which insurance company covered Sibanye Bus Services: Really! So what has he been doing since 2004? Verifying the real owners of the bus! “We first went for Golden Arrow, which turned out to have leased the bus from Sibanye Bus Service.”

Hard luck for Iman! This was when *noseweek* contacted the bus company – and discovered that the particular bus had been insured by Glenrand MIB. And Glenrand tells *noseweek* that their attorneys are waiting for Mrs Dharsey to make them an offer. The victim to make an offer of settlement to the insurers? Clearly Glenrand MIB see everyone else as village idiots.

Since the RAF awarded compensation to Iman, there shouldn't be much dispute over liability. Ah, but what happens if the claimant dies either from the injuries she has been unable to treat fully? Then the claim dies as well. Is this perhaps what Glenrand MIB is waiting for? Their executives, who would know, have opted not to respond to our queries, or make Mrs Dharsey an offer. ▣

*Mr Nose feels an attack of Glenrand déjà vu coming on. See noses60, 76, 78, 88 & 96.*



# A mansion to die for

**T**HE IDENTITY OF THE PERSON living at 88 Addison Drive, La Lucia (a spectacular resort made famous by the Oppenheims many decades ago as a seaside destination for the rich and famous) has in recent months been the subject of intense speculation amongst the locals: is he/she a rock star? A rap artist? Arms dealer? Oil baron? It had to be someone flash who took up residence in the mansion bought last year – at auction – for R17m. It has since been extensively renovated.

It seems the owner has also taken possession of the house adjoining 88 Addison, at 1 Moreland Drive. The latter property, a stately pile in its own right, has been walled in to form part of the Addison Drive complex. The present consensus is that the occupant must be an oil sheik.

There's a constant stream of small boys – and grown men – walking, driving and cycling up and down the road outside, all come to ogle the pieces of automotive pornography parked in the driveway: an Aston Martin DB9 sports car, a Lamborghini Diablo, a Bentley Continental... All are shiny black.

The giant Mercs, Bee-ems and Porsches in the fleet are almost too com-

mon to mention. Men in dark suits, carrying assault rifles, frequently chase the oglers away if they get too close to the mansion, or its many cars.

Opulent 88 Addison Drive, La Lucia

A ring of closed-circuit cameras records their every move.

Neighbours had long imagined that the residents of 88 Addison had named their home "Mpisane", but that's not the case at all. Mpisane is the name of the owner of the compound.

Municipal records show that the home is owned by Wiseman Sibusiso Mpisane, until recently a constable, now a sergeant, in the Durban Metro Police.

So many high-profile ANC politicians are seen at the compound that *noseweek* was initially told in error that the home was owned by the KZN Premier.

Mpisane's own colleagues say that Mpisane is "highly thought-of". Taxi bosses and township thugs run in terror at the mere mention of his name.

It's no use asking Metro manager Michael Sutcliffe whether Mpisane has permission to moonlight in a second job (he'd have to have a lucrative

one to maintain this establishment), since Mr Sutcliffe has already decreed that any questions about Mpisane are racist – and will be ignored.

Metro Mike came to that startling conclusion in his address to the eThekwin Municipality Executive Committee nearly two years back, in response to revelations published in the *Citizen* newspaper (*nose81*) that his Metro Police had lost hundreds of firearms and that some of these had allegedly been sold to cash heist gangs by Metro policemen. (See box.)

Former *noseweek* correspondent Paul Kirk had asked Sutcliffe to explain just how it was that Mpisane came to keep his job as a Metro Police constable after being linked to a murderous shooting by taxi hitmen and then absconding from work for nearly a year.

In May 1998 a BMW M5 sports car belonging to Mpisane was one of several getaway vehicles used by a gang of hitmen who wrought havoc outside the Durban High Court during a high-profile trial of various taxi bosses.

Sergeant Craig van Zyl of the SAPS Durban Dog Unit was driving to the airport when he spotted a number of gunmen carrying AK47 rifles walking toward the high court. Van Zyl stopped his car to challenge the men, and was

gunned down. He bled to death on the road outside the court. Dozens of passersby were wounded in the gunfight – among them a pensioner on her way to do her weekly grocery shopping – who also died at the scene.

Murder and Robbery Unit detectives managed to identify the BMW M5 getaway vehicle as belonging to Mpisane, who even 10 years ago clearly had way more money than the average cop.

A manhunt was launched for Mpisane by the erstwhile Durban Murder and Robbery Unit – who had some questions they wanted the constable to answer. In press interviews they pleaded for him to contact them – but for well over a year nobody saw Mpisane, not even his employers.

And then, mysteriously, Mpisane was back at work. And just as mysteriously Metro Mike has apparently never seen fit to ask why Mpisane went into hiding after being linked to a group of taxi hitmen.

Mpisane's take-home pay as a Metro Police sergeant, even with overtime, amounts to around R15 000 a month. He now works in the Durban Metro Police Dog Unit – ironic, since the murdered Sergeant Van Zyl was a member of the SA Police Services Durban Dog Unit. **W**

## Gunning for Burgess

**I**N 2004 DURBAN CITY councillor John Steenhuizen asked for the results of an audit into the firearms controlled by the city's Metro Police to be made available to council. In proposing the motion he said that around 150 guns were missing from the Metro Police armoury.

The ANC caucus in council voted unanimously not to make this audit public – ensuring the public never got to know how many lethal weapons crooked cops have put in the hands of criminals. Despite the ANC majority's attempt to keep the audit from councillors, reporter Kirk learned that, in 2003, metro police armourer Warren Burgess had been tasked with conducting the audit – and that he had discovered that nearly four dozen guns had vanished from the Metro Police armoury.

He found that in some cases cops had lost two or even three handguns –

without facing a disciplinary inquiry. He also discovered that many of the guns had never been reported missing to the SAPS.

Days after filing his report, Burgess, a reservist with the SA National Defence Force, was arrested and charged with being in illegal possession of army property. The Metro Police had charged him with having unlicensed shotgun barrels – which turned out to be old pieces of steam piping. The Durban corporation's men in blue also charged Burgess with being in possession of stolen military goods – which turned out to be equipment the SANDF had formally request he store in his strongroom.

Burgess was found not guilty. His lawyer, Jacques Botha, told *noseweek* he suspected this was all done to punish his client for reporting rampant corruption in the Metro Police to the SAPS. **W**

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# Septic menace from on high

**I**F THE DE KELDERS water supply ever tastes foul – well, maybe it is. Because the village has a bloody great sewage tank perched right above its water supply.

De Kelders is a charming little hamlet situated close to the much less charming fishing and shark cage-diving town of Gansbaai, Western Cape. It sits on a cliff overlooking Walker Bay and locals will tell you that the whale-watching is even better than it is in nearby Hermanus.

The name comes from the huge caves in the cliff face below, which are significant for spelunkers – they were exploited as show caves *a la* Congo and Sterkfontein until 1990. But the caves are also the village's source of fresh water: groundwater in the caves is pumped to a surface tank and then into the local water system.

The De Kelders hotel once stood directly above the caves, but some years after it was demolished owner Rood van der Werf sold the land to developers, who built a rather ugly complex called Whale Cove. Van der Werf, however, retained ownership of the cliff face, which, it seems, means that he owns the caves, though the local authority holds the right of water extraction. Many residents believe that the caves, as a national treasure, should be expropriated.

The residents of De Kelders were never very happy about Whale Cove – for starters, they felt that such a dense development (78 units) would alter the whole character of the village.

But the bigger concern related to sewage. There are, you see, and quite rightly, privations to be endured in the little pieces that remain of heaven on earth – like a sewage tank on each property, instead of water-borne sewage. This might be a septic tank, which allows for seepage into the ground, or a conservancy tank, which retains it all. Which, dear Sandtonians, means just what you're thinking – turds that linger on your property until a big truck arrives with a suction pump.

And with Whale Cove the maths just doesn't look good – 78 units... let's say an average of three people per unit – that's three times 78, which comes to an awful lot of number twos.

Sewage from a cliff-top development in De Kelders threatens to poison the water supply of the Southern Cape hamlet

The residents made their concerns known to the local authority – none other than the Overstrand Municipality (*noses*97&98). Oh don't worry, replied municipal officials, we realise there are risks and the Whale Cove septic tank must be placed right at the back of the property, far from the cliff face and the caves. Rather reluctantly, the locals went along with this – naively, as it turns out. Because a great big screen went up around the development and next thing a massive hole was being dug much closer to the cliff face than agreed, and, it seems, right above the caves. Before anyone knew exactly what was going on, an enormous conservancy tank was in place. And if you're wondering about the locals' lack of celerity, much of De Kelders consists of holiday homes, and many permanent residents are retirees. Besides, say locals, no sign went up at the site to say who the developers were.

On 23 April 2007 a group of residents, led by a man who prefers to remain anonymous, wrote a letter to Stephan Muller, head of infrastructure and planning at the Overstrand Municipality, to ask what was going on. No response. So another letter was written to the Western Cape provincial government, also without response.

The municipality was nevertheless aware of the serious unhappiness, so on 25 May 2007 its Gansbaai area manager, one F Myburgh, released a

statement in the *Gansbaai Courant*. He conceded that there had been deviation from the original plan approved by the locals, and “explained” why the location of the conservancy tank had been changed.

The original plan, claimed Myburgh, meant sewage would have to be pumped uphill to the tank from some of the units, which would have been very expensive (obviously safety can't compromise cost!). He then listed the new plan's advantages: no need to excavate near existing houses; the sewage truck wouldn't have to park on the street, where it used to block traffic; the new arrangement would minimise the risk of pollution to the water supply below (why bringing the tank closer to the caves should do that he didn't explain). Rest assured, he insisted, we are absolutely satisfied that the tank won't leak and that there will be no damage to the caves below. And why such complete confidence in the tank? As a municipal official would later boast at a meeting – because it was designed by the French!

Dissatisfied, the residents wrote several times to the Department of Water Affairs and Forestry (DWAf). On 19 February 2008 Minister Lindiwe Hendricks responded: thanks for your concern and all that, but there's really nothing to worry about – our Mr John Roberts has checked it out and he's quite happy that this tank is OK. In fact, Roberts met with the Overstrand Municipality to “ascertain that all the mitigation measures to protect any potential pollution of the caves has been taken as agreed to with the municipality. My department is satisfied with the measures taken by the municipality to ensure protection of the resource”.

When *noseweek* approached Overstrand mayor (ex-general) Theo Beyleveldt, he told us the developer was a close corporation called Turnstone Trading 48, and that the 20m x 4,7m x 1,7m tank, which holds around 160 000 litres, had been designed and built by qualified structural engineers, who had obtained the necessary compliance certificates. Furthermore, expert archaeological and palaeontological surveys were done, and altogether there was no reason for alarm.



Photo: EcoAdventures - Galskhan

The Whale Cove development at De Kelders

On the weight of the tank Beyleveldt tells *noseweek*: “It is not possible to determine the weight of the sewage tank accurately”, but “it was argued that the actual load of the filled tank will not be more than the material removed to build the tank”. Odd way of putting it.

And why was it moved? Simple: the new position minimizes the risk of pollution because no sewage needs to be pumped. Beyleveldt referred *noseweek* to a letter which the Overstrand municipality sent to John Roberts of DWAF on 6 June 2007, which claimed that “the new position is not on top of the caves” and that “the decision to deviate from the original approval however was indeed taken to minimize risk of contamination of our water resources”.

May we see the documents which led you to conclude that the tank is safe, *noseweek* asked? This was a step too far for the former military man, who leads a DA-controlled council which some say believes a lot more in the alliance part than the democratic part. Beyleveldt: “The reports by specialists generated in the process is quite voluminous and was meant to convince the relevant government departments that the proposed development will have no impact on the environment. Objectors to developments of this nature must respect the position, functions, powers and responsibilities legally bestowed upon the powers that be and therefore it is deemed unnecessary to unveil the information.” In other words, Big Brother knows best – access to information *se moer!*

*Noseweek* then spoke to John Longo

of the Turnstone Trust, who was quite chatty. According to Longo the old De Kelders Hotel was even closer to the caves than Whale Cove and had used septic tanks, so Whale Cove had to be an improvement. He and one Derrick Barnes are the development company’s only members, and this was their first development in the Overberg. Because he’s kept some units for himself, he’s concerned about the water supply.

He also said that the original proposal in fact consisted of two tanks, a smaller one which would service the lower-lying units and which would be even closer to the caves than the present tank, and a second larger tank at the back of the property, with an electrical pump moving the sewage

from the lower tank to the higher tank. Why did you change the plan? Prescience my mate – it was quite obvious to us back in 2006 that Eskom would run out of electricity and that there would be a risk of seepage during power failures. How about a generator? Mmm maybe... Anyway we decided that a single mega tank, further from the caves than the smaller tank but closer than the larger tank, would be the answer.

So it wasn’t, as Myburgh suggested in his press release, about cost? No – the new plan cost us more. And what does this thing weigh? The concrete structure weighs 10-15 tons and a full tank would weigh some 160 tons, so over 170 tons in total. And doesn’t that pose a risk? Not at all; the experts said it would be fine. Can you send us their reports? Sure thing; I’ll fax them through. How co-operative! Except that we’re still waiting.

John Roberts of DWAF says that the Whale Cove development poses much less of a threat to the water supply than all the older septic tanks in the area, which must eventually be replaced with a water-borne sewage system. On the re-siting of the tank, he claimed it would have less impact in its new position because it would be more accessible to trucks and wouldn’t require excavation close to any homes. He was quite adamant that the tank poses little risk to the water supply, and he had insisted on safety measures, including the installation of a floating alarm which is activated when the tank starts to get full.

Roberts sent us a report by Somer-

set West hydrogeologist John Weaver, which says that “The De Kelders water source is vulnerable to a pollution event at surface”; that the septic tanks used by the old De Kelders hotel “will have caused groundwater pollution in the past”; that the new tank “will be a significant improvement” and that “there is no reason this development (Whale Cove) should not take place”.

Now, this does sound rather convincing. Except that the report was written in April 2006, when the tank was still to be sited at the back of the property. Weaver based his statements, being used to justify the new site of the tank, on the following: “The De Kelders cave is at the north-west end of the site. Note that the conservancy tank and the refuse area are located at the southern point of the development, i.e. at the furthest point from the De Kelders water source”.

Whale Cove is up and running and its monster septic tank is being emptied regularly by the municipality (when this happens neighbours apparently run for the hills). But De Kelders residents are still worried; despite what the Overstrand municipality says, they’re convinced that the tank is either directly, or almost directly, above the caves, and certainly directly above the town’s water supply. Unlike Beyleveldt they know that the full tank weighs a mighty 160 tons – quite a lot if you think that the cliff-top road which runs in front of Whale Cove prohibits vehicles in excess of 2 tons.

The residents also know that in 1995 two reports were done on the feasibility of redeveloping the old De Kelders Hotel, but they don’t know if these were even looked at when Whale Cove was approved. The first was written by a Dr SA Craven, a medical practitioner and consulting speleologist, who said that “any construction work on top of the cave may cause the roof to collapse, and will affect the water seepage into the cave. Recommendation: No construction work should be done directly above the cave”.

The other was done by J Mountain and Partners (apparently for Group 5, then planning a health club on the site), which recommended that “Structural analysis should be undertaken to confirm the stability of the caves under the superimposed loads. Stability could be improved, if necessary, by propping within the cave or by repositioning the proposed site of the Health Club. Exploratory diamond boreholes, possibly with SPT tests, should be undertaken”.

Until the situation is clarified, the residents of De Kelders may find themselves preferring bottled water. **■**



# Just not trying

**W**HAT A REMARKABLE FEAT FOR THE Boks to come out tops in the Rugby World Cup. But how on earth did we do it, given the parlous state of the game in this country, and our dismal record against any meaningful opposition? Good team selection and a careful game plan counted for plenty of course, but the key factor, actually, was massive luck – the luck that saw the team escape facing any really serious contenders.

Coach Jake White quite evidently realised from day one that he wouldn't get attractive, purposeful ball-in-hand play from the Boks, and focused instead on team selection in line with a fairly basic game plan, devising strategies for

By **Robert van der Valk**

turning our traditional negative style of playing to our advantage.

“Coach” is a bit of a misnomer: the national level coach is more akin to a manager. As Dick Muir of the Sharks has commented, Super 14 coaches coach while the national coach selects. Take a peek at Jake's book and you'll find yourself hunting in vain for any discussion whatsoever of coaching methods, or indeed for any kind of mention at all of coaching.

No, rather than worry himself silly about changing the way our guys play, Jake armed himself with a scale and tape measure and selected the biggest

players. Skill took second place to size and power: none of this “small is good” stuff – big is best! Jake's game plan demanded huge warriors to trample the opposition into the grass. For example, at 112kg Schalk Burger is our lightest Bok forward. Later, when the victorious team visited parliament, President Mbeki remarked that the players were so big they could easily replace his presidential guard.

Jake always said that defence would win the World Cup, which is typically a rather dour affair with conservative play dictated by a tournament format that doesn't allow for slip-ups. Now defensive play, of course, suits the Springboks down to the ground, because that's how we play our best rugby. But for us to demonstrate our terrifying tal-

*President Mbeki remarked that the players were so big they could easily replace his presidential guard*

ent for bringing down our opponents means the other side must have the ball – hence all the kicking. The Springboks basically won by playing for field position to get kickable penalties, or by kicking the ball away into the other guys' hands, then tackling it away from them, picking it up and running to score.

To illustrate how effective we were in this strategy, consider the following statistics: In the pool stages we beat England 36–nil, though we had only 37% possession of the ball and flyhalf Butch James kicked every ball he got his hands on. Not a single pass from Butch in the entire game. We slaughtered the USA 64–15, but they had more of the ball (55% possession). Butch passed the ball only twice and we made 195 tackles – the most ever recorded in a World Cup match to date. It was much the same in the final against England: they had the possession, Butch passed the ball twice, and we again broke the record for most kicks and tackles (225).

Only two World Cup finals have seen no tries – and both games involved

**M**ISTY-EYED BOK SUPPORTERS CLAD IN replica kit swell their chests to the strains of *Nkosi Sikele iAfrika* (actually singing the Afrikaans bit... *Uit die blou van..*) and wave the flag (sometimes the old one) in the mouthwatering expectation of another victory. Yes, we're world champions!

Yet the chances are that if we're up against any of the four major rugby powers (New Zealand, France, Australia and England) the Springboks are likely to lose 60% of the time. But don't tell that to the many fans who remain convinced that the mighty Springboks are nigh invincible, while in truth we hang on to a top five position because few countries take rugby seriously, and only in New Zealand is it the major sport. It's our win/loss ratios against no-hopers like Uruguay, Spain, Italy, USA, Georgia etc that gives us our standing.

Who gains from the delusion that we're among the very best? A couple of obvious culprits, actually, who, rather than addressing the real problems, prefer to pull the wool over the eyes of the

### SA Coaches Records 1992 – 2006

(Games against Australia, N Zealand, France, England)

Coach	Played	Won	% wins
Williams	5	1	20
Christie	4	4	100
MacKintosh	10	2	20
Markgraaff	9	4	45
Du Plessis	7	2	28
Mallett	23	13	57
Viljoen	9	2	22
Straueli	12	2	17
White	31	15	48
<b>Overall</b>	<b>110</b>	<b>45</b>	<b>41</b>

South Africa. After the 1995 South African victory the IRB changed the rules of the game to stop our tactic of kicking the ball over the dead ball line. After the 2007 World Cup IRB president Syd Millar remarked that the rules needed to be looked at, to remedy the kind of game seen in the final, where the side with the ball lost to the side without the ball. The experimental laws aimed at favouring the attacking side are currently being tested in the SANZAR countries.

But it was really our luck of the draw for opponents that set the advantage for the Boks in 2007. Before the tournament the Springboks were ranked the 4th best in the world, behind the All

game's long-suffering supporters.

Firstly, there is SA Rugby, who are ultimately accountable for the depressing state of Springbok rugby. It is this bunch of amateur bunglers, with no rugby pedigree or business acumen, who appoint (and then fire) inadequate coaches, and persist with competition formats that pit teams with player budgets of R25m against minnows who are bankrupt. And as custodians of the game they have stood by while club rugby becomes irrelevant and disappears down the toilet. They have pussy-footed around transformation by selecting players who aren't ready, or aren't good enough. Maybe they're just thick, as one sometimes suspects.

But the administrators know that the illusion of a first rate Bok team keeps the heat off them, so they nurture it, instead of really looking at the state of the game.

Then we have the coaches. Completely well-meaning no doubt, but appointed because they're acceptable to the administrators, and not for their coaching skills. Acceptable by virtue of not challenging what's going on, and because they accept ridiculous conditions simply because they're dead keen to get the job. Some coaches even believe they *can* do the job! Only too late do they realise there's no greater hell than that of a Bok coach whose team has lost.

Instead of applying their minds to analysing the game, coaches mouth on awkwardly about being "disappointed" if we lose against New Zealand, or of a team "not playing to its potential" when we lose, to France in Marseilles, where France have never lost. They create unreasonable expectations in the supporters by their absurd confidence, when for the most part their game plan consists of heroic defence, feeding off opponents'

Blacks (no.1), France (no.2) and Australia (no.3). Our main opposition in our pool, England, was ranked 7th after four years of abysmal results that followed on their 2003 World Cup victory.

After winning the pool we were up against 12th ranked Fiji in the quarter-finals. By the time we reached the semi-finals the All Blacks and the Aussies had been knocked out and the Boks were up against the 6th ranked Argentinians who had unexpectedly won their pool, and then narrowly beaten a weak Scottish team to get to the semis.

Our opponents in the final, England, won grinding games against Australia and France by employing the same defensive tactics as the Springboks,

mistakes or intercepting tries. When last did you see a Springbok victory as a result of outstanding ball-in-hand play?

Then there's MNet *Supersport*, with exclusive rights to broadcast South African rugby. *Supersport* is hardly likely to criticize its "own" product and has done so once only, when Guy Kebble got stuck in after the Springboks were knocked out of the 2003 World Cup before the serious competition began. Commentators are instructed to be positive, so they'll never criticize players or complain about the endlessly boring "kick and charge" tactics. Tries are always the outcome of "brilliant play" – never because the opponents can't tackle, or get in each others' way. For the most part their technical

### Springboks vs other countries

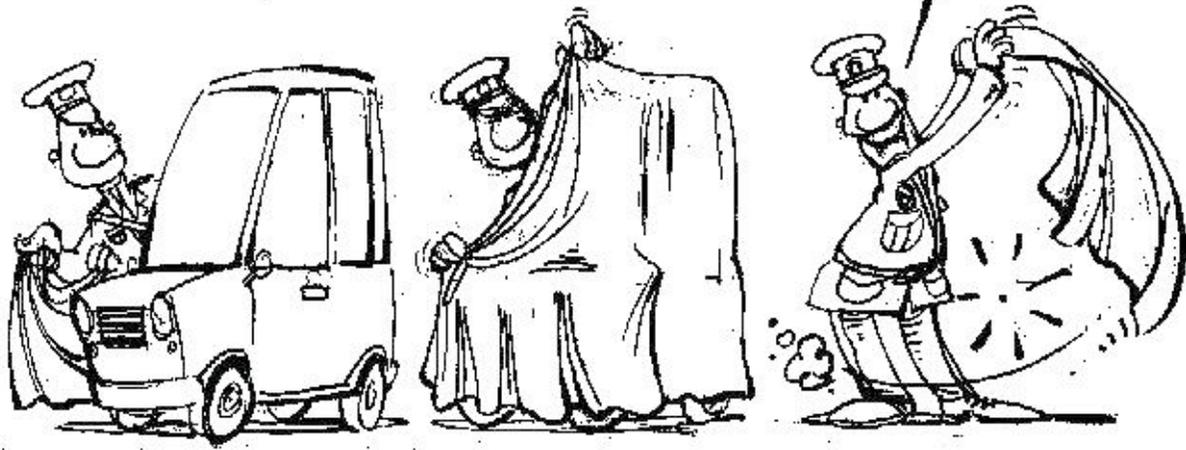
	Played	Won	% wins
England	21	11	52
France	17	8	47
Australia	34	16	47
N Zealand	35	9	26
Lions	3	1	33
<b>Overall</b>	<b>110</b>	<b>45</b>	<b>41</b>

analysis is embarrassing. I would give an arm for a balanced assessment of the game instead of the upbeat spin that's concocted to please undiscerning (half-drunk?) viewers.

One also wonders just why most local supporters don't seem to notice all of this. Why do they prefer to believe in the myth of the conqueror Boks? If they woke up, would they be out there demanding that administrators' and coaches' heads roll? Would they stay away from the stadiums and switch off their TV sets? And where would they be then, without their rugby..?

relying on their forward power and the boot of Jonny Wilkinson. With a hard-fought, uninspired victory over England, South Africa won the World Cup. We had beaten the 6th, 7th and 12th ranked teams and avoided the three teams ranked above us.

The Springboks are the 2007 World Cup Champions, and, as they say – look in the record books. But, much like England after 2003, the Springboks, in all probability, won't be looking that good in the next couple of years. The bet's on that they'll soon revert to their 40%-win ratio against the other four major rugby-playing nations (see box). The first test, in the shape of the Tri Nations, is around the corner. **W**



## Car trouble

**W**ESTERN CAPE MULTI-MILLIONAIRE Sharief Mohamed Modack is struggling to clear his name and keep his family businesses afloat after police claimed vehicles sold by his son Yassen were stolen – which led to Absa bank blacklisting and then attempting to sequester him.

An investigation into the protracted legal tussle between Modack senior and Absa has led to serious questions about the bank's apparent inability to stand by its clients. But what's really alarming is the fraud going on in the country's vehicle registration system – which has been revealed by *noseweek's* enquiries into the police's handling of the matter.

The Modacks' nightmare began on 23 January 2006 when Superintendent "Liebs" Liebenberg and Inspector Barry Steenberg arrived at the motor dealership in Goodwood, saying they were looking for stolen vehicles. Claiming to be from the Johannesburg Vehicle Theft Unit (Liebenberg tells *noseweek* that he has always been based in Bethlehem in the Free State), the two officers went about inspecting the vehicles in the Modack showroom. They didn't produce a search warrant, but, says Yassen Modack, "I didn't demand one since everything I had been doing was above board. All second-hand vehicles I dealt with had the required clearances: police clearance, eNATIS, HPI, road-worthy and registration".

When the policemen asked to inspect the sales records of all vehicles sold over the previous year, Yassen was once more happy to let them go ahead. But the next day he was surprised by

**A rude shock awaited all concerned when vehicles were seized by the police from a car dealership – and then went missing**

the arrival of several of his customers, under police orders to bring their vehicles in for inspection. And a rude shock awaited all concerned when the vehicles were seized and moved to a police vehicle pound in Bellville. When the dust settled, 11 vehicles, all bought with Absa financing, were in police custody.

Modack senior, who had stood surety for the Absa vehicle-financing packages arranged by Yassen for his customers, visited the Western Cape Police headquarters armed with the relevant clearance papers, but got

little co-operation. No-one knew where the vehicles were. The Modacks were later referred to the Johannesburg Motor Vehicle Theft Unit, but had no luck there – they were told that, as the vehicles legally belonged to Absa bank, the Modacks had no right to demand to know their whereabouts.

Modack had bought the cars from Worcester businessman Mark Olivier, but maintains he is not aware where or from whom Olivier sourced the vehicles. Olivier can't answer, having allegedly committed suicide while he was being questioned on his cellphone by Steenberg. Yet, according to Inspector Steenberg's testimony in court, Olivier was never suspected of foul play. Apparently the theft unit was at that time searching for a suspect called "Bart Oakes".

The police evidently do not think the Modacks themselves were guilty of any misdemeanour: by the time Yassen Modack bought the vehicles they had clearly already been fraudulently re-registered on eNATIS. If, that is, they had actually been stolen in the first place. Why can we say that? Because theft has never been proven, nor have the the legitimate owners ever been identified by the police.

Johannesburg attorney Zehir Omar wrote to ABSA's attorneys after failing to trace the whereabouts of the vehicles: "In the last seven to eight years, our media has given extensive coverage to conduct by corrupt police people. A police person seizing a vehicle does not per se confirm that the vehicle seized is stolen."

How did Fast and Furious Sports Cars, Yassen Modack's business, ob-

## How did Fast and Furious Sports Cars obtain clearance papers for stolen vehicles?

tain clearance papers for stolen vehicles? The buck rests squarely with the SAPS and/or those who maintain the eNATIS. It's clearly being done nationwide – the Fast and Furious case, it emerges, is only the tip of the iceberg.

When Absa was informed of the situation, the bank demanded that the Modacks pay the balance on the eleven cars that had been impounded. Given that they had gone through all the right channels in registering the vehicles they sold, and weren't being charged by police for dealing in stolen goods, the Modacks tried to get Absa to hold off while they sorted out with police what had actually happened to the vehicles. Absa were unsympathetic – effectively, the Modacks were treated by Absa as having dealt in stolen goods.

In June 2007, acting Judge Budlender issued a judgment in Absa's favour against the Modacks and their companies for R603 102 plus interest. Their attempts to have the judgment

set aside hit a snag when the court file went missing. In the meantime, Absa's attorneys, Sandenbergh Nel Haggard, targeted Modack senior to recover the award.

Despite being aware that the Modacks were seeking the court file in order to institute an appeal, Sandenbergh instructed a local sheriff to attach Modack's properties, including his wife's property. At the same time, the attorneys applied for the attachment of the multimillionaire's financial portfolio, with a net value of R15m, which was, and still is, being handled by Absa Finance, a subsidiary of the bank.

Not even an undertaking by his portfolio manager that he could afford to pay, should he be found liable, could stop them. As he planned to appeal, Modack offered to pay the demanded amount into a trust account. The bank's response: "Pay up or you'll be sequestered; your time to appeal has prescribed!" At that point the missing file resurfaced, but it was too late.

So Sharief Modack, under duress, paid up: the full amount was by then some R913 400. In the meantime, Absa blacklisted him, and also refused to hand back his portfolio. His portfolio manager confirmed to *noseweek* that Modack has been an honest client.

Contacted for comment, Absa's head of communications, Patrick Wadula, says: "I have been informed by our legal department that the matter had been resolved." He did say that he would advise his bank "to call Mr Modack for a meeting without the attorneys, to discuss the matter".

And what of the customers who had their cars taken away from them? Although they were no longer expected to pay their instalments – the Modacks

were being forced to pay instead – they did lose whatever they had already paid up by that point.

Xoliswa Patience Gongota bought a white 2000 Volkswagen Golf from the dealership for R123 000 in March 2005 and paid a deposit of R45 000. By the time the police descended on the Modacks, she had made ten monthly repayments totalling a further R19 817. When she asked Absa to refund her money, the bank told her to claim it from the Modacks.

"I am so fed up. All I want is my money and someone is going to give it to me," says Patience. She is now considering hiring a lawyer in an attempt



Picture: Nelly Mngqah/www.mnecnsul.com

Sharief Modack at his car dealership

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to recover the money.

Interestingly, Gongota had been hijacked in September 2005. Police recovered the car (now confiscated as stolen) later in Khayelitsha and once again it passed all checks. Gongota was issued another police clearance and a letter confirming that the engine and chassis numbers had not been interfered with. So how did police obtain the information that the vehicle, now deemed stolen, could be traced through *Fast and Furious*?

*Noseweek* got nowhere attempting to trace the vehicles. Contrary to police regulations, the Bellville pound where they were first taken has no record of who brought them there or took them away. The pound staff say they held them briefly for the Johannesburg unit. Potelwa Novela, the SAPS provincial director of communications, still can't throw light on the situation:

"All the Western Cape did was to offer pound facilities. It was a Johannesburg matter." She then referred *noseweek* to the national communication director.

All SAPS national spokesperson Captain Percy Morokane could tell us was: "The vehicles were seized during a properly planned and authorised crime-intelligence-driven operation. Several arrests have been made and various court cases are still ongoing."

On the whereabouts of the vehicles Captain Morokane declared: "The vehicles, which were stolen mainly by means of fraud and falsified documentation, are being kept in a safe venue until all investigations and court cases have been finalised. All property seized during police investigations will, in the final stages, be disposed of in terms of the law."

Superintendent Liebenberg told another story: "The vehicles were taken to the police pound and the original owners were called to identify them and thereafter they were returned to them." He wouldn't identify either the pound or who the owners were.

A similar statement was made by Liebenberg's colleague Inspector Barry Steenberg, in his unchallenged court testimony in the matter between the Modacks and Absa bank. There Steenberg claimed that the vehicles were returned to their original owners. Unfortunately, the Modacks' lawyer didn't demand to see the original police report, which should have given details of this claim, as well as of the alleged thefts.

Steenberg explained to the court that thieves sometimes identify records available on the eNATIS (National Traffic Information System) for vehicles that have been exported, and changed the identification marks of similar stolen vehicles to correspond with these. He was not asked to explain how this could be done by unauthorised individuals.

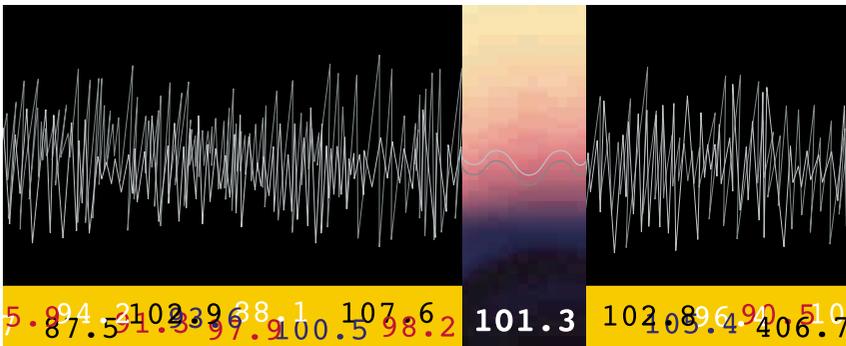
The significance of Steenberg's claim is that eNATIS is being manipulated to allow vehicles that have been stolen to be re-registered, without this practice being picked up by the system.

Police have been known to drive impounded vehicles for personal and official reasons. In 2006 former police commissioner Jackie Selebi was reported to have been driving a stolen impounded Toyota Land Cruiser while his wife used his official Mercedes Benz. SAPS then told the parliamentary portfolio committee on safety and security that there was "nothing irregular" about police officers using impounded vehicles.

Sharief Modack simply wants to clear his name by getting to the bottom of the issue. His reputation as an honest businessman is in tatters and he believes he has lost his good standing in the community. He showed *noseweek* the mosque he built for the community: "People here needed a place for prayers, but some of them think I built it with dirty money."

The motor vehicle dealership has not been left unscathed. The blacklisting has forced the Modacks to deal only with cash buyers and those financed by Wesbank, the only motor financier that has ignored Absa's blacklisting order. At the same time, his competition is warning people to deal with his various dealerships at their own risk since, it is alleged, "he deals in stolen vehicles". ■

## calm in chaos



### When in Cape Town

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# Smitten by the Sword of Stalingrad

**WHO OWNS THE FABULOUS** Sword of Stalingrad, for more than 40 years a crowd-pulling centrepiece of Joburg's Military History Museum? We do! insists the museum's director, John Keene. No, I do! counters distinguished neurosurgeon Martin Lewer-Allen.

History records three truly legendary swords: King Arthur's Excalibur, the Sword of Damocles and the Sword of Stalingrad. The last, a magnificent two-handed bejewelled broadsword with solid silver crossguard, was presented to the people of Stalingrad by King George VI in honour of the Russian army's victory over Hitler's troops in a brutal battle that turned the tide of World War 2. Stalin accepted the sword from Sir Winston Churchill at the Teheran Conference in 1943.

The blade for the Sword of Stalingrad was forged by Wilkinson Sword, who, after the war, made three replicas of the sword, for promotional purposes. Today the original sits in the Stalingrad Museum in Volgograd. One of the replicas hung in the Pall Mall head office of Wilkinson Sword in London; another in the company's sword factory in Acton. The third replica was used to promote the company's swords, razor blades and scissors, until it was written off the company's books and sent to its South African agency in 1960.

This replica Sword of Stalingrad is the centrepiece of our story.

For three years the sword languished in a subterranean safe of Wilkinson Sword's South African agent in Joburg's Pritchard Street, where it sustained some rust damage from the damp. In 1963 it was discovered by Dempster Heming, head of Wilkinson Sword South Africa, who recognised it at once.

At that time Martin Lewer-Allen was a young medical student with an abiding interest in swords – Heming was shortly to appoint him Wilkinson Sword SA's honorary armourer. Heming asked Lewer-Allen to clean up the Sword of Stalingrad and it went on display in Joburg stores such as John Orr and Stuttafords.

Heming had also become friends with Colonel George Duxbury, then director of the War Museum (as the SA National Museum of

Military History was then called) in Saxonwold, and in 1964 Heming agreed that the Sword of Stalingrad should be loaned to the museum to enhance its display of weapons. The sword was such an attraction that Duxbury and Heming decided to hold an exhibition centred around it. This took place in 1966.

Wilkinson Sword in the UK sent out 17 swords and Lewer-Allen selected 14 of these for the exhibition.

After the exhibition, the Sword of Stalingrad remained on loan at the War Museum until 1969 when – and this is crucial to our tale – Wilkinson Sword's Dempster Heming withdrew it and sent it to Lewer-Allen, then serving an internship at the Addington hospital in Durban – it needed attention after the blade became damaged by fining and rust blemishes.

Lewer-Allen was already building his own sword collection and he hankered after the Sword of Stalingrad.

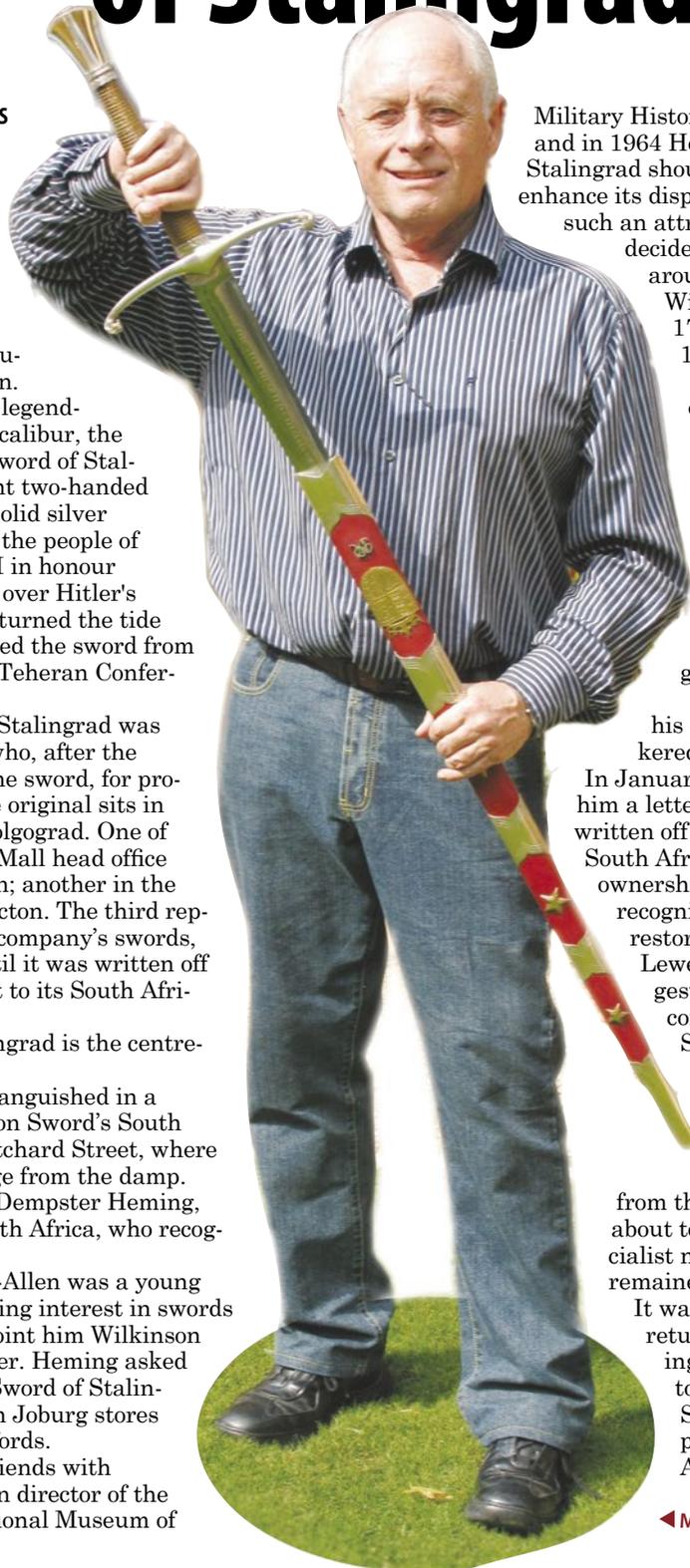
In January 1970 Dempster Heming wrote him a letter stating that the sword had been written off the books of Wilkinson Sword South Africa and it was his decision that its ownership should pass to Lewer-Allen in recognition of his work as sword adviser, restorer, embellisher and designer.

Lewer-Allen agreed to Heming's suggestion that for five years it should continue to be used by Wilkinson Sword for promotional purposes.

In the event, it remained on loan to the War Museum.

Five years later, at the beginning of 1975, Lewer-Allen was free to reclaim his sword from the War Museum. But he was about to leave for the UK to do his specialist neurosurgeon training. The sword remained in the museum.

It was ten years before Lewer-Allen returned. He bought a house in Morningside and finally had somewhere to house his treasured Sword of Stalingrad. But Wilkinson Sword's product group manager in South Africa, Paul Blackbeard, then sug-



◀ Martin Lewer-Allen

gested the sword should be the centre-piece of an exhibition to celebrate the 1986 Centenary of Johannesburg.

But first it needed some attention. Lewer-Allen took it to his Morningside house for a couple of months (this became important in resolving the fracas to come), hanging it over the sitting room fireplace.

After the 1986 exhibition Lewer-Allen was asked to help out for a couple of years in the neurosurgery department of a hospital in Zimbabwe. In the event, he remained in Harare for the next ten years, until 1995. And the Sword of Stalingrad remained a star attraction at what was now called the Military History Museum. After his return to South Africa Lewer-Allen was asked to set up a neurosurgery department at Joburg's Sunninghill hospital – where he works to this day. By 2001 he had bought a Tuscan-style house close to the hospital, with space for a sword room to house his collection.

But when he went to collect the Sword of Stalingrad the museum's chief curator, John Keene, demanded proof that it was his. Dempster Heming, long-retired, in his 80s and frail after triple by-pass heart surgery, obliged with a letter confirming that the sword had been given to Lewer-Allen in gratitude

*Photographs of the sword at Lewer-Allen's home in 1985 showed a fingerprint etched in rust on the blade*

for his services as sword adviser and armourer to Wilkinson Sword.

Keene's response was that the Sword of Stalingrad had been in the museum's possession since 1966 (in fact it was since 1964) and under the law of prescription had become its owner in November 2000.

Under the law of prescription, items must remain in the constant and uncontested possession of recipients for 30 years. And of course the Sword of Stalingrad had twice been taken out of the museum by Lewer-Allen, in 1969 and 1985.

Lewer-Allen was livid when Keene wrote saying: "The museum receives frequent specious claims to items in the collection." That did it. He instituted

legal action against the museum's owners, the Northern Flagships Institute, to reclaim his sword. In June 2004 all parties agreed to arbitration.

Keene's claim was that the Sword of Stalingrad was among the 17 swords sent out from Wilkinson Sword (UK) for the 1966 exhibition. Wilkinson Sword (UK) had given the sword to the museum and the sword that Lewer-Allen had removed to work on in 1969 and 1985 was a different one.

Some smart detective work blew that one. Photographs taken of the sword at Lewer-Allen's home in 1985 showed a fingerprint etched in rust on the blade. Armed with a court order, Lewer-Allen marched into the museum with his lawyer in 2004 and took new photographs of the Sword of Stalingrad. Although the blade had been polished, the same fingerprint was clearly still visible. The sword that Lewer-Allen had taken from the museum in 1985 was indeed the Sword of Stalingrad.

In September 2005, faced with the fingerprint evidence, the museum's owners agreed that there was only the one sword after all.

An affidavit from Robert Wilkinson Latham, Wilkinson Sword's UK historian archivist, declared that full title of the Stalingrad Sword replica had been passed to Lewer-Allen. Latham was prepared to fly out for the September 2007 arbitration hearing, but the trip was cancelled when Northern Flagships made settlement overtures. But then they decided to carry on – and since Latham was now not available for cross-examination his affidavit was dismissed as hearsay.

Museum director John Keene, who reckoned the Stalingrad Sword was worth R250 000, continued to insist that the sword came to South Africa from Wilkinson Sword UK in that bundle of 17 for the 1966 exhibition, and had never belonged to Wilkinson Sword South Africa.

This despite a letter from Wilkinson Sword's director UK and Eire, Nick Powell, which stated: "It would appear very clear that ownership rests with Mr CM Lewer-Allen. Since Mr Dempster Heming (CEO and chairman of Wilkinson Sword SA) took charge of the sword in 1960 in SA, Wilkinson Sword have had no ownership or authority of the sword, and has no wish to repossess it. As far as Wilkinson Sword records and research show, the sword belongs to Mr CM Lewer-Allen and must be returned to him forthwith." This letter was also not admitted – dismissed as hearsay.

There was high drama when the arbitrator (advocate Piet du Plessis SC)

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and two advocates flew to Cape Town last September to take evidence at the home of the fast-fading Dempster Heming. Heming confirmed the contents of an earlier affidavit: that the Sword of Stalingrad had been given to Martin Lewer-Allen by Wilkinson Sword South Africa. His new affidavit was admitted – and undoubtedly swung the case for the neurosurgeon. Three months later, on New Year's Eve, Heming was dead of a heart attack.

John Keene gave evidence at the final arbitration hearing in January this year. Now his version was that although Lewer-Allen had been given the sword, he had never taken possession of it. Based on this technicality, Lewer-Allen had not become its owner. Keene continued to deny that the sword had ever left the museum since 1966.

In March arbitrator Du Plessis announced his award: the replica of the Sword of Stalingrad was the property of Martin Lewer-Allen and the museum must return it to him within seven days. Northern Flagships Institute was ordered to pay the action's costs, estimated at more than R500 000.

In his judgment, Du Plessis recalls what he describes as an "amazing statement" by Keene in his evidence. "He confirmed," writes the arbitrator, "that the museum had many items on display which were loaned to them by different people and, asked whether he regarded all such items as the property of the museum after 30 years, his answer was positive. He confirmed that that was his attitude, whether the items were on loan to, or otherwise in possession of, the museum."

Today the Sword of Stalingrad is finally in the home and hands of Martin Lewer-Allen. The 65-year-old neurosurgeon is writing a book about the whole affair. His seven-year battle with John Keene has left a bitter taste. "Having spent my childhood in and out of the War Museum, I might well have been inclined to leave my collection to it," he says. "Now this is unlikely, given its style and level of management."

John Keene, who has worked at the War Museum since the 60s, continues to assert that Lewer-Allen has no right to the sword. "We had it in our possession here from 1966," he says. "Then in 2001 he came to the museum and said that it was his. In our catalogue we had it recorded that it came from Wilkinson Sword London. We've always understood that it came in that collection of 17 swords for the 1966 exhibition.

"We think the whole thing, that the sword belongs to him, has been concocted." ■

## Duerr sells up

**M**ICHAEL DUERR, the German investor who took offence at the Reserve Bank practice of stealing back shares from unwanted shareholders, sold his Hermanus property and returned to Germany within days of the appearance of *nose101* – in which we reported on the tiff. His sudden departure prompted Hermanus neighbours to speculate that Duerr had been put under pressure by either the SARB or the nuclear lobby to leave the country. (Duerr also headed BANG, an anti-nuclear pressure group opposed to the planned reactor at Bantamsklip – the farm next door to his.)

No, he did not flee in fear of his life, says Duerr; his farm had been on the market for some time, and he happened to sign the final sales agreement at that point. He's owned a house in Germany for several years and has been commuting between the two countries since 1999.

He is still in regular contact with SARB and continues to lobby for what he calls a "positive privatisation" of the bank. He says he'll be back to attend SARB's annual general meeting in September.

■ Since our story SARB shares have been trading at up to 10 times the price they'd gone at before.

## Mansion wrangle

**F**OLLOWING OUR DISCOVERY of billionaire Miko Rwayitare's secret deed of donation giving his wife Conso 50% of the shares in Propro, the company that owns their R100m Sandhurst mansion (*noses101,102*), Mrs Rwayitare has brought a high court application to stop architect Greg Pietersen from registering the company's shares in his name.

Pietersen attached 100% of Propro's shares in terms of a judgment for monies owed to him by Rwayitare, and, when the Sheriff auctioned them last August, bought them himself for a bagatelle R400 000. Miko died the following month. His widow is now seeking an order declaring the judicial attachment void and for the sheriff's sale to be set aside.

The deed of donation – made at the time of their marriage – not only gave Conso 50% of Propro's shares, but recorded that on Miko's death she was to get the other 50% as well.

Under the deed of donation Conso also received life insurance policies valued at US\$3,5m. ■



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# Tree time in Bryanston

**T**HE LOFTY PRESENCE of a giant, 30-year-old pin oak, slap bang in the middle of their driveway, has caused an almighty row between well-heeled residents of an exclusive Bryanston complex. One of them, fiery Joburg insolvency attorney Alec Brooks, went as far as

seeking a high court order against his neighbours to have the old oak cut down – and failed.

So what got Brooks so het up? Was it the night-time hooting of the Giant Eagle owl that has claimed the upper boughs of the 25m oak to roost on?

No, Brooks claims that the tree's

formidable presence leaves a mere 3,2m space to squeeze his car through as he drives in and out; plus a tight and difficult turn around the oak to reach his property.

There is another much easier route – across the portion of the drive owned by his neighbour, car dealer Greg Reilly. But, following their fallout, Reilly and his marketing manager wife Cara declared this a no-go area – reinforced at one stage with a strip of garden and now with their parked cars.

The small estate stands on one of those old Bryanston near-5000 sqm plots, divided into four after the original home was razed. Greg and Cara Reilly moved into the house they built in October 2005. Brooks took possession of his in June 2007.

At first, all went well. "He arrived, we had our second home owners' meeting in our pub, it was all very friendly," recalls Cara Reilly. "The situation deteriorated when I became chairman of the 20 Hans Crescent Home Owners' Association. There were issues relating to a low wall between our two properties. Alec said: why don't you demolish two metres of its length so I can drive straight through?"

Cara's email reply said: "Greg and I do not believe that knocking the wall down will have any effect on how you get into your driveway. The line of the tree is the main issue and removing the wall will only open us up to your driveway and lessen our privacy."

The pin oak falls within the servitude (right of way) registered against the Reillys' property. This means that the other residents and their guests must come and go through the narrow 3,2m gap between the oak and the western boundary wall. This was no problem for the other two home-owners, construction boss Wolfgang Neff and investment broker James Arnot, since for them it's a straight drive-through. But attorney Brooks just hated that tight turn around the oak.

There was another row over the



## The rights and wrongs of right of way

◀ Trunk road: Keep left

main gate. Three months after moving in, Brooks – tall, grey-haired and in his 50s – wrote to Cara Reilly: “Last night, when I enquired from you why the main gate was locked with a chain and lock which could not be reached and why I had not been advised thereof, you resorted to foul and abusive language towards me and stated ‘why don’t you just fuck off’ whereafter you slammed your door in my face.

“I am not used to being treated in this abusive manner and I do not accept this conduct from somebody who is young enough to be my daughter. I call on you to apologise to me and am not prepared to serve on the Home Owners’ Association until this matter is resolved to my satisfaction.”

“I did swear at him,” admits Cara, who’s 31. “As Home Owners’ Association chairman I put a chain on the front gate because the gate motor was broken. Alec came knocking on my door to say it was unacceptable that I hadn’t had the motor fixed. I told him to leave me the F alone. I got a letter the next day to say he wanted a written apology.”

Two months later, last 27 November, with the “matter” unresolved, Brooks did not attend the home owners’ meeting. But that did not stop him from addressing a sharp letter to the association’s remaining trustees. Owners, he wrote, and “in particular the Neffs, should, when away from their homes, ensure that their dogs are attended to and do not bark non-stop for three days”; “the neighbours at 24 Hans Crescent have not mowed their lawn for months. I suggest that a neighbourly letter is addressed to them”; “the owners of the stand to the east of 24 Hans Crescent are neglecting their pavement. I suggest that a neighbourly letter should also be addressed to them.”

Last December, six months after their arrival, Brooks and his wife Cecilia took the war to the Johannesburg High Court. Their amended notice of motion sought “free and unfettered use of the entire area of the right of way servitude” and for this to be achieved by the “removal” of the pin oak.

Fellow resident Wolfgang Neff objected strongly. “It is a mature and beautiful shade-providing tree which enhances the aesthetic appeal of the property” read his affidavit. “Neither I nor my family have difficulty in gaining vehicular access to our property by passing between the tree and the wall on the western boundary.”

Brooks’s reply: “The age and the

looks of the tree are, with respect, irrelevant to the application. The Neff family do not have to drive around the tree and any affidavit by Mr Wolfgang Neff is accordingly irrelevant.”

The Brooks’ friend of 30 years, attorney and property developer Cornelius Myburg, attested that he found it “extremely difficult, and in fact hazardous” to leave the Brooks’ property “due to the huge tree. My wife Gudrun refuses to visit them in her car, which is a Mercedes 4x4, for fear of driving into either the boundary wall or the tree when leaving the Brooks’ property.”

On 25 March Judge Percy Burochowitz dismissed the Brooks’ tree-felling application, with costs and a closing comment: “To my mind it sounds like Mr Brooks is just trying to make life a little bit more convenient for himself.”

Greg and Cara Reilly plan to celebrate the preservation of the old pin oak with a party around it, to the strains of the 60s Tony Orlando and Dawn hit song *Tie a Yellow Ribbon Round the Old Oak Tree*.

Alec Brooks is well known in Joburg legal circles as an insolvency specialist. His legal career has included spells at Hofmeyr – who represented him in the fruitless tree application – the boutique firm of Taback and his present Brooks & Brand. Looking back on their short but sharp war with the short-fused attorney, Cara Reilly says: “He’s arrogant and has a chip on his shoulder. I think it might have to do with an age situation. I suspect that nobody’s stood up to him for years and it was a shock when we did.”

Her car dealer husband Greg: “Brooks sends all these fancy letters trying to intimidate me. He might be a lawyer but I employ 25 people and I deal with R12m to R15m worth of car stock every day. I don’t need fancy language and fancy letters – and I don’t have time to argue about a tree.

“It should never have gone to court. He could have come and had a beer with me and it would all have been solved by a handshake; I would have said to him ‘drive over my property’. He shouldn’t have been rude and aggressive towards us, and everybody else in the complex, and in particular Cara. When he started being rude we put our foot down.”

“Do I now feature in *noseweek*?” is the sarcastic sneer from Alec Brooks, when we call for a comment. The abrasive attorney adds: “We’re waiting for the written judgment to consider an appeal.” □

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# Spinning a liner

**A**T NOSEWEEK, WE'RE ALWAYS HAPPY to share good fortune – so we're letting you in on a little loophole we've discovered in the passenger cruise business, one that could well earn you a quick million bucks (or more). All it takes is three simple moves:

Step 1: Register a new cruise company under some regal name, like Royal African Cruises, or, even better, something glitzy, like Razzmatazz Ocean Cruises.

Step 2: Design a website for your cruise company, onto which you paste the schedule and itinerary of a reputable cruise operator (lifted from their website). At your nearest harbour take a pic of a cruise ship you like the look of – or simply lift a pic of an appropriate vessel from the Internet, or from an old brochure. Then digitally superimpose a new name onto the ship's hull and place the pic on your website.

Step 3: Set up a call centre (preferably at your home, to save expenses) and begin advertising short cruises out of Durban, in a mainstream newspaper. Now watch the cash roll in. (Use your own account – people won't bother to check that it's not a secure trust account.)

Don't let the fact that you don't own a ship get in the way – there is no maritime law to stop you selling cruises on a ship to which you have no claim.

This method has been used twice in recent years, and was pioneered (as far as

How to make a million in the passenger cruise business when you haven't got a ship

we know) by the directors of Royal African Cruises (RAC), and refined by the director of Razzmatazz Ocean Cruises, who sold voyages on the same "ghost ship" a couple of years later. We've simplified the method a little, but brush away the fluff and it's essentially what both (now defunct) cruise companies did, leaving hundreds of passengers stranded.

It all began in 2003 when Sam Dodgen (previously well connected with the Western Cape ANC government) and Tonie van der Merwe (brother of controversial "businessman" Gary van der Merwe, arrested by the Scorpions on tax and investor fraud charges in 2004) launched RAC, a so-called BEE

company that promised to operate short cruises out of Durban.

It wasn't long before RAC ventured into murky waters. Dodgen and Van der Merwe initially claimed to have bought the Greek ferry *Vergina Sky* to operate the cruises, but the vessel's owner told a different story and the little lie was soon exposed when someone noticed that the photos on RAC's website were, in fact, pictures of another ship.

RAC cancelled its scheduled cruises but the company's directors soon claimed to have bought the river-cruising vessel *Viking Bordeaux*. RAC no doubt used *noseweek's* recommended strategy to "christen" the *Viking Bordeaux* as the *African Queen* digitally, and photographs of the renamed ship appeared in the company's sales brochures soon after.

Alas, the *Viking Bordeaux* never legally became the *African Queen*, but this didn't stop Dodgen and Co from selling cruises. By September 2004, passengers were getting very distressed, so the director duo quickly claimed to be in the process of buying yet another ship, the *Caribic Star* – which also failed to materialise.

Payments for RAC cruises didn't go into a secure ABSA trust account, as Dodgen claimed they would, but went instead into a standard cheque account accessible to RAC's directors. Needless to say, no ship was ever secured to operate the cruises and hundreds of would-be passengers lost their money.

Dodgen and Van der Merwe were arrested on fraud charges in November 2004, relating to about R2m in fares collected from prospective passengers. The figure was later reduced to just over R450 000, and the directors went on trial in April 2006 on 49 counts of fraud. In court they recounted some rather interesting stories about investors leaving RAC in the lurch by failing to provide R23m to float the fledgling cruise operation, and Dodgen and Van der Merwe were acquitted. The money was never properly accounted for and many victims of the scam were never refunded.

Dodgen and Van der Merwe walked away as free men, but the ghost ship story doesn't end there. Shortly before they began pleading their case in court another local cruise company was formed which actually did secure the 220-passenger *Viking Bordeaux* that RAC falsely claimed to have bought. Indian Ocean Cruises was launched in December 2005, legally renamed the *Viking Bordeaux* as the *MV Madagascar* and operated two short cruises out of Durban before the sheriff of the court attached the ship. This was apparently due to a dispute between the ship's owner and his agent over unpaid debt. Unlike RAC, Indian Ocean Cruises refunded passengers and no major harm was done.

The *MV Madagascar*, meanwhile, sat in its berth in Durban harbour waiting for another cruise cowboy to point, shoot and sell cruises to unsuspecting would-be passengers.

Enter Ian Powell, the sole member of Razzmatazz Ocean Cruises, a cc he founded in January 2007.

With no cruise industry experience, no apparent investors to back his solo venture and, of course, no ship, Powell set up a website and a "call centre" from his Johannesburg home and began advertising short cruises out of Durban, in the *Sunday Times*. The itineraries for his cruises mirrored those offered by reputable cruise company Starlight Cruises. Powell advertised cruises on board the *MV Razzmatazz* – actually none other than the *MV Madagascar*, which was (and still is) "under arrest" in Durban harbour. Powell superimposed "*MV Razzmatazz*" onto a picture of the *MV Madagascar* and dropped the doctored photograph onto his website.

Powell claimed he was in "verbal" negotiations with the ship's owner, Shatiek Shipping, to lease the vessel. And he might have been – but the only proof of any negotiations he has produced to date is an unsigned charter agreement that anyone could concoct on a PC. Perhaps Powell let his sunny optimism get the better of him. He certainly was over-opti-

mistic when he scheduled launch cruises for August 2007, though he hadn't yet secured the lease for a ship that still had to be reflagged, registered and issued with a new passenger safety license.

Predictably, August came and went with no cruises – a "delay" Powell blamed on bad press stemming from comments made by the director of established cruise company Starlight Cruises Allan Foggitt. (Powell subsequently tried to sue them but failed). Powell then promised that he would have the ship's lease and those niggly licensing glitches sorted out by November 2007, and continued advertising in the *Sunday Times* – even bragging that his cruises for December were already "more than half full".

He continued to collect fares in his company's ABSA bank account, which the bank has confirmed is a standard savings account and not a secure trust account. November came and went and the *MV Razzmatazz* remained a ghost ship. Powell was forced to cancel all scheduled cruises, among them a cruise to Europa Island chartered by birding group Zest for Birds.

After collecting over R1,2m in fares from Trevor Hardaker of Zest for Birds, Powell informed Hardaker that the birders' dream cruise had turned nightmarish only days before the cruise was scheduled to depart on 17 November. It was by then too late to stop several birding enthusiasts who were already en route from the US and Europe, doubling the financial blow for those who forked out for international air tickets as well

as for the cruise.

Despite promises of immediate refunds, that was the last time Hardaker heard from Powell, who has been ducking calls from Hardaker, his lawyer and *noseweek* ever since. Niland & Pretorius Inc, the lawyers acting for Zest for Birds, issued Powell with a letter of demand last December, giving the beleaguered cruise company 21 days to refund the birding group. Powell failed to respond and Hardaker has now instructed Niland & Pretorius to lodge an application to have Razzmatazz Cruises liquidated.

No other passengers have reported being owed refunds by Razzmatazz, leaving industry sources to speculate that Powell made refunds to individual passengers.

Insiders suggest Powell is trying to raise the money to refund the birders through a lawsuit lodged in December 2007 in the Durban High Court, where he is suing the *MV Madagascar's* owner for breach of contract. Powell is seeking damages amounting to over R2,9m for loss of business and costs he claims to have incurred.

Perhaps Powell was really done over by the ship's owner and had every intention of launching cruises. But where did the birding group's R1,2m go? And why haven't they been refunded, or even contacted, by Powell to explain the situation?

Hardaker and the members of Zest for Birds don't care; they just want their money back. If, as suspected, there is no money to be recovered, they'll consider pressing fraud charges. ■

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Fortunately, 70 years after the US pressured most of the world into banning hemp, the world has finally rebelled. Today, industrial hemp is on the rebound. More than 40 countries have joined the hemp revolution, and the global market is booming. In a time of global shortages and environmental degradation, people are looking to hemp to provide sustainable alternatives to everything from textiles, wood and cement to fuel and food.

South Africa was one of the early enthusiasts. In 1998, it committed itself to a National Hemp Initiative which was intended to provide thousands of

*Why is the government dragging its heels over legalising a miracle plant that could create thousands of jobs and homes?*

Tony Budden of the Hemporium in Cape Town displays part of a brick made from hemp and lime. The bricks, which are seven times lighter than cement and provide excellent insulation, could be the foundation of a new generation of low-cost, low-energy houses

jobs, alleviate rural poverty and generally make everyone healthy, wealthy and happy. So what went wrong (*nose102*)? Why, after 10 years, is this crucial development project still stuck in the experimental phase?

Since the only organisation allowed to grow the plant is the state-controlled Agricultural Research Council (ARC), we hoped they would be able to give us an explanation.

The head of the council's Institute of Industrial crops, Dr Graham Thompson, blamed the law. It's a convenient excuse. Our Medicines Control Act still regards the cannabis plant in all its forms, including industrial hemp, as a dangerous drug, right up there with highly addictive substances like amphetamines and heroin.

Dr Thompson assured us that the ARC was fully in favour of changing

the law, and was, to this end, “participating in a discussion forum led by the Department of Agriculture and including all role players”. Jolly good. Except that the ARC is supposed to have been helping to draft new legislation, since at least 2000.

So what have they been doing all this time? Thompson says we should rather ask the people at the Department of Agriculture in the Eastern Cape, currently the only province producing any hemp at all. *Noseweek* assured him the Eastern Cape authorities were on our contact list.

Apart from the legal issue, Thompson said that “there is no infrastructure in the processing pipeline” and no work has yet been done on the feasibility of a local hemp industry. But not to worry, the Department of Agriculture is “about to initiate” just such a study.

This is disappointing news. In 2001 the minister for science and technology at the time, Ben Ngubane, assured us that “South Africa now boasts a burgeoning hemp industry, with the promise of thousands of jobs, economic empowerment for our previously disadvantaged communities and the stimulation of the small business sector”.

That same year, the Department

of Agriculture in the Eastern Cape presented the residents of Dininkosi village in the Eastern Cape with hemp-farming equipment to the tune of R500 000. Three years later, the province took delivery of 10 hemp oil extraction machines, imported from Germany at a cost of R1,2m. Shortly afterwards, the National Department of Trade and Industry promised R55m towards a hemp-processing plant in the province. Quite a lot of infrastructure in the “processing pipeline” then.

As you would expect, the processing of hemp is as tightly-controlled as its cultivation. The only organisation permitted to manufacture anything useful from the ARC’s trial crops is another government institution, the Council for Scientific and Industrial Research (CSIR). According to the head of the CSIR’s textile technology division, Sunshine Blouw, the quality of our home-grown hemp is “comparable with anything in the world”.

So why aren’t thousands of small businesses churning out oil, textiles, bricks, boards, non-woven fibre door panels for the automotive industry, and so on? He tells us it’s the law that’s the problem.

Blouw says he is fully aware that

perfectly respectable countries like Canada, France and Germany have no problem distinguishing the industrial plant from its recreational cousin. “You are speaking to the converted. It’s very frustrating, but sometimes rational argument is not enough. We have to consider the opinions of law enforcement.

“We have a big dagga problem in this country. We need the confidence of the police before we can move forward.”

When pushed to explain what the CSIR had done to gain the confidence of the police by, for example, proposing a sound regulatory framework, Blouw lost his temper and abruptly ended the conversation.

We consoled ourselves by taking Dr Thompson’s advice and calling the head of Agriculture in the Eastern Cape, Amon Nyondo.

He assured us that his department is as enthusiastic about hemp as ever. But it’s the law, you see.

“It has to be looked at in terms of the general fight against crime and drug trafficking.”

He suggested we speak to the project manager for the provincial hemp initiative, Monde Sotana, who was “very passionate” about the subject. In fact,

Join us for an evening of song and laughter (yes, there’ll be wine and the odd woman). Comic Nik Rabinowitz, diva Aviva Pelham and a jazz combo will perform. There’ll also be a bit of cheek from Mr Nose himself, served with dinner and a bubble or two...

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Similar events will be staged in Johannesburg and Durban –  
so readers in the North and East – hang in there!



Nyondo said he would get Sotana to call us. Sotana didn't. So we called him a couple of times a day for a few days, and left numerous messages. He didn't call back.

Never mind. We have a pretty good idea what he would have said. It was obvious that we would get no clarity without speaking to both the Health Department and the police.

There were a number of people at Health we were keen to question. The minister, for one. The head of law enforcement at the Medicines Control Council, Chepape Ramarumo, for another. But we were told the only person who could deal with such a weighty matter was the head of communications, Felix Hadebe, whom we first got hold of in January this year, when he said he would be glad to answer our e-mailed questions (we have yet to receive a reply, in spite of numerous follow-up phone calls and e-mails).

After all that, the response from the SAPS was refreshingly forthcoming, if ill-informed. The National Head of Narcotics, Senior Superintendent

*There is little chance of anyone, never mind a police officer, mistaking legal hemp for illegal dagga, or vice versa*

Devan Naicker, made no bones about his conviction that making industrial hemp legal would be a disaster for the fight against illegal drugs. He had three major objections:

Firstly, he claimed that, while the THC content of the initial crop might be low, the seeds from that harvest would produce higher THC levels in

the next generation.

He also claimed that because industrial hemp would be farmed close to traditional dagga-growing areas, the non-narcotic plants would be pollinated by the narcotic strains, increasing the drug content of successive hemp crops.

Thirdly, he said that if industrial hemp were legalised, anyone arrested for dagga offences would claim their stash was hemp, and insist that it be tested in a lab.

"We make from 80 000 to 90 000 dagga arrests every year. Imagine if we had to send every exhibit to the lab for testing and wait three months for the result."

Unfortunately for Naicker's credibility, there is no evidence to support any of his claims. For a start, the Chinese have maintained low THC levels in their industrial hemp crop for more than 8 000 years. As for cross-pollination, studies show that it works the other way round: high THC crops are pollinated by low THC varieties, which would gradually reduce the potency of the illegal crop and drive neighbouring

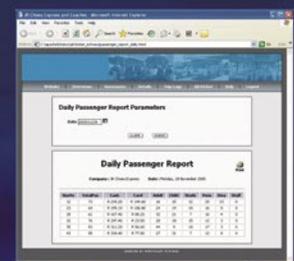
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dagga growers out of business.

Lastly, there is little chance of anyone, let alone a police officer, mistaking legal hemp for illegal dagga, or vice versa. Even in the field they look markedly different. Industrial hemp plants are densely cultivated to produce tall plants with strong, straight stems and few leaves or branches. Dagga, by contrast, is short and bushy with multiple flower heads. The two plants are harvested at different times and industrial plants are cut and left to lie in the fields to "ret", an ancient process that makes the fibre easier to extract. By the time the hemp crop hits the road, it looks like nothing but bundles of dried sticks, in contrast to the sticky, fragrant buds of the dagga harvest.

Needless to say, none of Superintendent Naicker's fears have been realised in the countries where hemp is legally farmed. Impervious to reason, Naicker said the police would "object" to any attempt to change the law. So far, however, no-one has asked for their opinion.

The longer the government takes to legalise industrial hemp, the more reasonable the conspiracy theories sound.

The National Organic Produce Initiative (NOPI), a civil society organisation involved in the hemp project, is convinced there is dirty work afoot. It points out that both the ARC and CSIR receive juicy government budgets for hemp research, and are unwilling to relinquish their exclusive rights to the plant. More importantly, the two councils have a cosy relationship with the powerful industries threatened by hemp's productivity, versatility and ease of cultivation. More than a third of the ARC's annual budget comes from corporate clients. The CSIR earned just 10% of its income from private sources last year, but is aggressively pursuing industry contracts. Both councils provide research services to the paper, timber, cotton, agrichemicals, cement and biotech industries, among many others (including, ironically enough, the dangerous legal drug, tobacco).

Hemp is a particular threat to cotton. It is stronger, more absorbent and more durable, and unlike its delicate rival, requires no herbicides and little in the way of fertiliser, pesticides or irrigation. By contrast with cotton, which is a big biotech money-spinner, hemp is resistant to genetic modification. Not that it needs any improvement.

In four months hemp produces four times as much cellulose per hectare as

a tree plantation does in seven years. And you can harvest two hemp crops a year. Products like hemp board, which we currently import from China, present serious competition to the timber industry. Hemp paper would have a major impact on Sappi and Mondi's bottom lines. Mixed with lime, hemp stalks make extremely strong, lightweight bricks with excellent insulation properties, and don't need energy-sapping cement.

NOPI consultant, and former advisor to the Department of Agriculture, Thierry Alban Revert says he has plenty of evidence that the research councils have been doing everything in their power to hamper hemp. He says the problems go all the way back to 1997, when the ARC and the CSIR released a report claiming that the climatic conditions in South Africa were not conducive to growing the plant. Revert says he was so outraged, that he paid out of his own pocket for a counter-study by experts from France, Germany and Australia, who all agreed that hemp would do very nicely on the southern tip.

The ARC's Dr Thompson comes in for particular criticism. As late as last year, says Revert, Thompson interrupted a presentation on successful growing trials in the Western Cape to tell the audience that hemp was not safe and could be confused with dagga. Thompson says this version of events is "incorrect" and that he was merely outlining the legislative position. Revert says he can provide witnesses and affidavits to support his account.

NOPI is particularly aggrieved because its planned hemp-building project, Grow Your House, has been dealt a severe blow by the refusal of the ARC to allow them to grow a single brick's-worth of plant material. The community project, which planned to construct up to 20 000 quality low-cost houses over the next 10 years, is one of the few local initiatives to earn approval under the global carbon-trading system, the so-called Clean Development Mechanism. NOPI calculates that Grow Your House would save hundreds of thousands of tons of CO<sub>2</sub>, not only by avoiding the need for cement, timber, and their transportation, but because the hemp plant is a carbon sink.

In terms of the Kyoto Protocol, clean development projects can earn "carbon credits" which can be sold to other industries unwilling or unable to reduce their own greenhouse gas emissions. The price of carbon credits is currently between R80 and R160 a ton, meaning Grow Your House could earn a subsidy of millions of rands. **W**

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Pictures: Hes Range

Desmond and Leah Tutu

**D**EPLY, MADLY, IS HOW THE Irish love Cape Town, judging by the money they're throwing at it. But they're so full of blarney, can we trust the statistic I've just been given by an Irishman – that 45 000 of his compatriots are reckoned to have property in the Cape? He says he saw it in Dublin's *Irish Times*. We're at St Patrick's Ball and the Graham Beck Brut is flowing, so I suppose anything's possible.

And another Irish-Cape property titbit from another chatty boyo. That so many deals have been made here since that gazillionaire from Cork, Frank Gormley, was brought here by Tony O'Reilly and built the Mandela Rhodes complex in the heart of the city, that you now get Dublin taxi drivers telling you they have a flat in Sea Point. "Uv corrs the only time they seen it," this Irishman purrs in that rivettingly seductive brogue, "is on the brorrker's website".

The Celtic Tiger is what they call the economic miracle which turned that impoverished island of potato eaters into the fastest-growing economy in Europe. And tonight it's thanks to another miracle that 450 of us are partying in the Cape Town International Convention Centre in our ballgowns and black ties.

At 10 o'clock this morning, gale force

winds were buffeting the original venue, a marquee in the courtyard of the Castle. (Wind almost ruined both previous annual balls. Will the stubborn Irish never learn?) Fortunately the day was saved by the Convention Centre's Dirk Elzinga. He fast-tracked this new location – though he had a bash for 800 upstairs – and it's all gone seamlessly. No wonder he was knighted by Queen Beatrix.

(Elzinga is everyone's hero tonight, including Anya van der Merwe Miszewski, an architect on the convention centre design team. She and Elzinga are divorcing their previous partners. The Netherlands' loss will be our gain if she gets him to stay here.)

Architects abound.

Clockwise from right: Christian Stewart of the Alliance Group; Ebrahim Rasool with Marie Gormley; and Lady Hatch, aka Mary Clancy, with Norma Smurfit



Derick Henstra's gang, who work for Gormley, are here and so is style guru Stefan Antoni, making an open-necked fashion statement.

Fun is something the Irish like to think they do better than anyone. "If you don't have a great party tonight, there's something wrong with you," Gormley tells us, flashing his green bowtie. He's brought Irish reinforcements to show us how. Heading the contingent is Norma Smurfit, Ireland's wealthiest divorcee and doyenne of charity fundraising, sporting a precious gem or two, courtesy of the paper magnate now in Monte Carlo. Her game sidekick is the vivacious Mary Clancy, aka Lady Hatch, widow of the BBC's Sir David Hatch.

Gormley has more tips for us benighted colonial leftovers whose country can't get it together.

*Bites and*

"Confidence is the key here," he says encouragingly. "Today was a mini example of what this great country can achieve... The Irish will replace all the South Africans who're leaving. We call it BIE – Black Irish Empowerment..."

But he does lay on a generous line-up of cross-cultural entertainment, followed by cheeky, chunky Christian Stewart who was a devil on the rugby field and is now a devilish auctioneer. In this case, for charity. With patter like "Thank you folks, yes, the Irish pound is talking," Stewart manages to get, among other lesser items, R160 000 for a limited edition 2007 Rugby World





Clockwise from left to right: Ivor Queally with Rachel Brier; Ronnie Kasrils with Helen Zille; and Carla and Stefan Antoni

back. No, Rasool says, today's storm is not because he and Zille and Ronnie Kasrils are at the same table.

Some high-profile Irish have not made it. Liam Mellon is too busy rounding up Irish volunteers to build more houses here – 2008 of them in the year 2008, says Gormley. And though the dodgy Irish eyes are smiling again of former beef baron Pascal Phelan, since the completion of Cape Royale on his proposed Claridges site in Green Point where Southern Sun pulled out, he didn't crack the nod.

But another Irish meat packer is one of tonight's sponsors; Ivor Queally of QK Meats, now based here and doing it for Woolworths. Queally is evidently addicted to the aggro-inducing stuff, judging by the fleshy rolls on the back of his neck and his angry retort when we approach to photograph him: "Can't you see I'm eating?"

As my Scottish grandmother used to say, you can take an Irish meat packer out of the shit, but you can't take the shit out of an Irish meat packer.

the arms deal that won't go away, Terry Crawford Brown, whose wife Lavinia is Tutu's aide.

Helen Zille looks gorgeous in gauzy Jenni Button leopard. Why she doesn't get to make a speech beats me. Ebrahim Rasool does of course. "There is some Irish flowing in Kader Asmal's veins but I don't think it's blood," this jovial jokester tells us, as his bodyguards behind me – they're always near the media table –glare at Zille's

Cup jersey autographed by the winning Springbok team, and R100 000 for a large plaque of Tutu.

Since Tutu is a patron of the St Patrick's Trust, he's here too, shaven-headed for the Cancer Shavathon. The fashionable neo-Nazi look. Also shaven-headed (and in a green bowtie) is the dogged author of that book on

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# United States of Archieland

**L**ONG BEFORE THE INTERNET there were other means of communication, cultural edification and entertainment. Really. When I was a child, I achieved a certain level of sophistication through the medium of *Archie* comics. I read the misadventures of Archie, Betty and Veronica with no realisation whatsoever that in doing so I was becoming a woman of the world. When I read *Archie*, the characters spoke with South African accents. How was I to know that Archie and his pals didn't live in Hermanus? Sure, they had some mythical thing called television, but even at that tender age I was proficient at practicing a willing suspension of disbelief when it came to my entertainment.

In every *Archie* there was a page of advertisements for such novelties as onion-flavoured chewing gum, joy-buzzers, and the forbidden yet titillating X-ray specs – which purported to provide the wearer with the ability to see through solid objects, like clothing. I was intrigued, to say the least. Such mysteries did much more to pique my imagination than memorizing the seven sacraments or scrupulously avoiding venal sins, whatever they were.

I was tempted to approach my father about mail-ordering one or more of these marvels, but since he was notoriously dedicated to maintaining our family's tenuous economic hold on a claim to middle-class respectability, my caution always won out.

The advertisement which finally spurred me to action was the one portraying the grinning and mischievous looking sea monkeys ([www.sea-monkeys.com](http://www.sea-monkeys.com)).

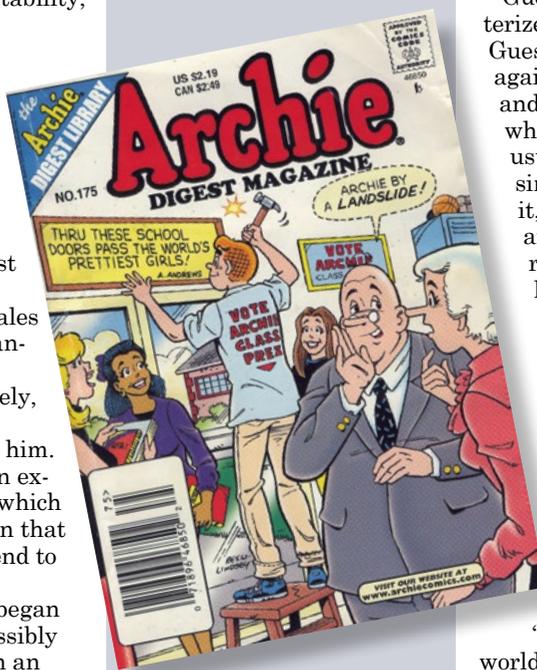
I gathered the courage to approach my father, the *Archie* comic carefully opened to the sea monkey advertisement in my sweaty little hand. I thrust it into his lap while simultaneously blurting out my carefully rehearsed sales pitch. The result was an unexpected anticlimax.

"That's overseas," he said dismissively, and went back to reading *The Argus*.

For quite some time I didn't believe him. This "overseas" seemed far too easy an excuse. It was my father's nonchalance which finally convinced me. I knew even then that when grownups lie to children they tend to make a production of it.

It was my first geography lesson. I began to accept that "overseas" was so impossibly far away it might as well have been in an

*In every comic there was a page of ads for such novelties as onion-flavoured gum, joy-buzzers, and those titillating X-ray specs*



alternative universe, and graduated to Enid Blyton's *Famous Five*. A few years later, when my innocently acquired aversion to all things remotely educational faded, I discovered newspapers and magazines.

When I was nearing middle age, the Internet appeared, and suddenly everything changed while staying the same. Now I can read most of my favourite old magazines and newspapers online, without the clutter. And I'm living in Archieland, reading about what's going on overseas.

My favourite entertainment is the South African blogosphere. I go there to check what other South Africans are saying about life, the universe and superior genes. Really, it's always about that. If the blogosphere is an accurate reflection of contemporary attitudes, it's clear that South African society is still a prisoner of racial obsession.

Especially in times of trouble, someone has to be blamed, and who easier to blame than those who don't look like us? Forget that there is a shared geography to consider. It's obvious that most adult South Africans share my childhood disdain for that subject.

Yup, rolling blackouts and political uncertainty have resulted in that same old tired rhetoric which can be expressed most succinctly as "My tribe is better than your tribe". It ain't the first time you've heard it and it won't be the last.

Guess which tribe is again being characterized as lazy, stupid and politically inept? Guess which group of South Africans is again being compared to our more peaceful and pragmatic primate cousins? And guess which tribe is again being denounced as usurpers who caused all of Africa's ills simply by showing up? The truth, as I see it, is that it's never been about whities and darkies. It's simply a battle between rich and poor. Even Archie knew that as he courted the rich Veronica and dated poor Betty on the side. Perhaps if we'd only studied *Archie* comics instead of the Battle of Blood River, we might have realized how simple it is when you remove race from the equation.

Now that my contact with the country of my birth is limited to all-too-infrequent visits and letters from home, I am tempted to use my father's excuse – the one that ended my infatuation with *Archie* comics and sea monkeys:

"That's overseas". But now I'm big, the world seems so much smaller. **■**



# In the family

**T**HE RICH ARE DIFFERENT, as F Scott Fitzgerald kindly pointed out. Perhaps if I were an information technology mogul or a mining magnate I'd understand the urge to put one's own name or that of one's nearest and dearest on a bottle of wine. I'm not, so I don't. It's not surnames that concern me, or the tradition of using full names. There's Ernie Els as a recent example of the latter – and while it might have seemed more dignified to call the wine Ernest Els, they reasonably decided not to. And plenty of wineries around the world are named after their founders, including some of the best locals: Hamilton Russell (omitting the hyphen used when naming the owner, however), Jordan, Neil Ellis, Ken Forrester, De Trafford, and so on.

The irritating labels are those using first names: Waterford's excellent and pricey The Jem follows on their Kevin Arnold Shiraz – but they didn't call that The Kev, so why now invoke owner Jeremy Orde's pet name in this way? And why the inexplicable addition of the definite article? Graham Beck, not content with a winery or two named after him, seems to have started this particular practice. The Joshua is that winery's most expensive wine (though for me not the best), adopting the owner's second name. It started the trend, and The William followed (one of the best "Cape blends" – that is, with pinotage in the mix), along with The Andrew (a decent Bordeaux-style blend). Both of these were named for Beck grandchildren, but the longer-established The Ridge Syrah was not – and there'd be a problem if they decided to maintain the pattern retrospectively by naming a grandchild after the wine, as Ridge Beck sounds a trifle canine to those with South African accents.

This naming formula seems a local speciality. Fortunately. Think of Bordeaux: the origins of Mouton are obscure (it wasn't named after a sheep, apparently, or a person), but when Baron de Rothschild bought the property in 1853 he just added his surname, following time-honoured tradition. If he'd been a South African, Mouton-Rothschild Grand Vin might well have become The Nathaniel, or The Nat.

Talking of Nats, if I may descend to politics, we do, of course, have one of our finest reds named after a National Party minister of transport – but done so long ago that it



**Die Martha has nothing to do with Die Hard**

seems not to matter, even in our politically tender circumstances, and most people have never heard of Paul Sauer as anything other than Kanonkop's fine wine. Let's hope there's no PC fuss, or they might have to rename it The Paul.

They're pretty dignified at Kanonkop, but some are content with the unpretentious tweeness of first names. Miles Mossop, smart young winemaker at Tokara, was perhaps infected by that winery being named for Tomas and Kara, the children of banker owner GT Ferreira. He called his first two own-label wines after his children, Saskia and Max. They're both very good (as are the children, I trust). But, though horrified to admit it, I approve more of businessman Christo Wiese. He hasn't, admittedly, had the good taste to abandon the grandiloquent "Christo Wiese Portfolio" rubric for his wine interests, nor the idea of calling one of his ranges "Five heirs" – but at least the wines have quietly dropped the names of the fortunate heirs themselves, and remain modestly content with varietal characterisations.

The most recent, and perhaps alarming, example of our speciality comes on wines made by the newish outfit near Hermanus styled after that seaside town's original name, Hermanuspietersfontein. Only Afrikaans is used on their labels (though the website, [www.hpf1855.co.za](http://www.hpf1855.co.za), abandons linguistic purity in favour of communication with the wider world), but foreigners who don't know the language or our quaint labelling habits, might wonder at *Die Bartho*, *Die Martha* and *Die Arnoldus* – labels apparently wishing death on these people, if you assume they're in English (I don't know who's represented, apart from winemaker Bartho Eksteen).

The HPF wines are beautifully made (and handsomely packaged), especially the three sauvignon blancs – yes, three, and a fourth version reportedly on its way. And while I think the people-naming is silly, it allows for a label which is among my favorites. *Die Arnoldus* is a big, bold cabernet-based blend, but there's a cheaper and easier-going version of it called – charmingly, wittily and appropriately – *Kleinboet* ("Little brother").

On the whole, though, while I'd be the last to suggest that sentimentality doesn't have its place in this vale of tears, does that place really have to be wine labels? **W**



# Boef

**W**ELL I'VE ALWAYS THOUGHT the Dobermann Pinscher a fine kind of dog, nice and athletic, you know, also nimble and bright like any terrier, which is what Pinscher means, of course. So I got a pup, new-weaned, called him Boef, and did a good job of bonding. We would sit at the top of the back steps and drink tea and smile upon our fruit trees and jade vines and orchids, and ducks' eggs dotted here and there on the lush green grass of our urban rain forest. Indeed he got bonded to the poultry too; in the manner of monkeys he would lie supine in the sun, upside down with his tongue lolling out and his undersides exposed, and the hens would pick fleas off his belly. In fact they got so good at the oxpecker job they even learned to pick things from inside his ears. I took him off to a farm one weekend and he came back entirely covered in tasty ticks which supplied the hens with protein for a good month or so, as the noonos swelled up with Boefblood, the hens then providing perfect egg protein for me. So we had a good Balance of Nature, a closed cycle in a manner of speaking, recycled supermarket dog cubes ending up in myself as muscle tissue so necessary for marathon training.

Boef when adult could run a good half-marathon, which we'd do once a week, part of our training for the real thing, and he was v. disciplined too – he'd never accept an invitation to a bloody good fight with another dog and never did his jobbies on the pavement; exactly at kay five he would sort of stagger a bit and move over to a gutter and drop his load where no human foot would ever fall. When we came to certain walls on which the whole dog community of Overport had left it's signature he wouldn't stop and add his, according to canine culture, but bend his long Dobe nose sideways and sniff and hop along on three legs and do a phantom pee without losing pace. Eventually I took him along on a standard 42 kay. Naturally the officials were dreadfully irritated, yelling Whose bloody dog is that? and making as if to *gooi* him with *klippies* in the SA mode and yelling *Footsack!* But I pretended not to know him, and it was 6am anyway and the starter had to fire his revolver. Run-



Illustration: Harold Strachan

*I did a crafty tiptoe down that end of the yard, and what do I behold but a stand of healthy metre-high insangu plants – Durban Poison.*

ners loved him, and the folks at the refreshment tables gave him 120ml of water every three kays, as prescribed, and a few muesli bars for carbo-loading, and we did a creditable 3hrs 15min 44sec, pretty good for both veteran and novice.

So he was a good dog. Neither footpad nor rapscaillon scaled our palisade with Boef on patrol. But, curiously, he quite suddenly stopped eating. The proffered bone might warrant a lick, but the fowls ate his daily dinner.

His gutter defecations were as normal, there was plenty of something coming out, but nothing going in, as it were. He wasn't eating eggs, and though

he enjoyed bananas all right, for the carbo-loading, you know, he wasn't eating green ones from the trees. I should have to spy on his every move, that was clear, so I set up a hide in the henhouse and got up at first light on Sunday and sat there with a thermos of tea and the Sunday papers. And blow me down, I was there but five minutes when who should come trotting by with ear-to-ear grin and waving tail but ol' Boef himself. Quick as a flash I had my birdwatching binocs to my eyes, and there he was at the gate, tucking into a fair kg of raw meat. When he'd done, a finger came through a crack in the planks and tickled him upon the nose. Clearly he wasn't being poisoned. When the finger disappeared I did a crafty tiptoe down that end of the yard, and what do I behold behind the great big leafy philodendrons but a slim plastic pipe coming through the *ithingulu* hedge and pouring water on a stand of healthy metre-high insangu plants. Durban Poison. Boom. Dagga.

Should I wrench at this pipe and yell curses through the hedge? Not whilst Boef scored all that *baksheesh* brisket. After three months or so the buds appeared, the smoking stuff, and I nipped them off one by one, then finally the *insangu* was higher than the hedge and Aquarius realised something was amiss. But what did you do with the nippings? asked Dlamini with some anxiety. Please, give them to me and I'll make you a chicken stuffing that will change your life. One pinch per guest. Well Dlamini was chef at the Palm Springs Hotel, five stars, he knew his stuffings all right and did us a turkey, since it was Christmas time. *Insangu* gives you the nibbles; we demolished the whole bird, just six of us including Dlamini and Boef. Some of us are giggling yet. ■

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