

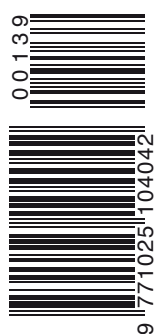
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noseweek

MAY 2011

ISSUE 139

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Brown but not out

BASED on your account of Arthur Brown's latest application to court, it looks very much like the endemic, worldwide virus called "Lack of Ethics" has infected many more segments of our society than I had thought. (Yes, I am still somewhat naive.) It certainly doesn't give one a warm feeling about our mainstream media's objectivity.

I sincerely hope that The Truth manages to get its head above these murky journalistic waters. Your report will, I hope, prompt editors and sub-editors to do their job properly.

Looking back at your report on Fidentia at the time – "Shades of Brown", nose89 – I see that [as usual! – Ed.] you came off a great deal better than most, when it comes to balanced reporting.

Don

Marina da Gama

■ YOUR latest piece on Arthur Brown is quite an eye-opener! In my book Brown was the lowest form of swine; but then my view was based on the *Mail & Guardian* stories and the hysteria on the nightly news channels.

If what you say proves to be true, what recourse does he have?

Can Brown sue someone for loss of his business empire and massive slander and, if so, would he have the funds to embark on such a protracted court case?

Steve

Kempton Park

Medical-aid abuse

THE article "Blood Money" in nose138 surprised me because it so lacked

the common sense you normally apply to such issues. Medical aids are a necessary fact of life but they are also often abused. The private hospital business is backed by an army of medical specialists with similar priorities: their primary concern is to make money – and the best way to achieve this is to perform more and more hi-tech tests (often unnecessary) and more and more "surgical procedures", which in many cases merely prolong the patient's suffering.

allow a select few to use up precious funds to the detriment of the average member.

In your article you state that the Council for Medical Schemes found for Compcare. This should have been sufficient for you to accept that Compcare had been more than fair in the case you feature.

J M Carey
Krugersdorp

If the argument had been that the extremely high cost of bone marrow transplants cannot be justified as a

amount if the donor was not related, no matter that the medical prognosis was more favourable. The lack of logic suggests an injustice. – Ed.

Give us a brake!

I ABSOLUTELY love *Noseweek!* Have you considered publishing bi-weekly? This month (nose138) it was "Driven round the Benz" that really hit the spot. I, too, have learned a thing or two about Mercedes Benz dealerships.

We recently moved to Cape Town. Before we left Johannesburg, I wanted to make sure both our Mercs were safe for the drive. Both vehicles have always been serviced, on time, by Mercedes Benz Bryanston.

I sent my husband's car in first. Mercedes Bryanston quoted me R18,000 for repairs which they said were necessary. Part of the quote included items that had previously been repaired by Mercedes Benz. When I pointed this out, I was told that their parts only have a two-year warranty. When I said I'd like to take the car elsewhere for a second opinion, Mercedes Bryanston said if I did so, I'd have to pay them a fee equivalent to one hour's labour for the quote.

I ended up taking the car to my father's mechanic who previously worked for a Merc dealership. When he saw the quote I got from MB, he laughed and said "I'm in the business of making money, not stealing money".

He fixed the car for R8,000.

Next I took my car – which was not due for a service – to Mercedes Bryanston. I told them there was a problem with the air conditioner and



"I do Pieter-Dirk Uys impressions"

As illustrated in your article, the amounts charged are often astronomical and impossible for the average person to pay, so medical aid is their only hope. The medical aid funds, on the other hand, have to evaluate these high claims, keeping in mind that they cannot

charge to the community (all the less so, in view of their extremely low success rate), you would have a point. But that was not the argument. In the case we reported, the fund professed its willingness to pay for the procedure if the donor was a local relative, but refused to pay the same

windscreen wipers. It took them two full days just to quote. The quote, which included new rear brake pads and repair of an oil leak, came to R9,000. I reminded them that my car had had its previous service there and the next wasn't due for another 8,000km, so why new brake pads? (I'd only asked them to check wipers and air conditioner.)

Same story: I had to pay a fee for them to look at my car even though I did not ask them to check anything besides the wipers and aircon. And they refused to give me a copy of the quote!

My Dad's mechanic did all that was necessary for R4,000. (And there was no oil leak!)

Kelly Picken
Cape Town

■ WHEN my beloved Mercedes Vito recently refused to start up, it was towed to Mercedes Benz Culemborg, who took a day-and-a-half to get back to me with the news: faulty ignition switch, a new one to come from Germany, up to 15 working days. Which was when I recalled a posting I'd seen on the BMW Motorcycle Club website by Geoff Russell about his perfectly good Merc that was taken to a Merc dealer for a service, and between his handing them the keys,

and their vehicle inspection, it developed +R20,000-worth of problems. Ignoring their advice, he took back his keys, and – a few Hail Marys and a drop of water from Lourdes later – he drove out in what was, by all accounts, a perfectly restored Merc.

So when a friend suggested I take the car to Russell Ormerod of Car Electric in Montague Gardens, rather than Mercedes Culemborg, I took his advice.

A few days later I drove out with a new battery, and a possible R15,000 in change to spend on Sushi. (An ignition replacement at a dealer could run up to R18,000 – and I'd have had no vehicle for up to two weeks.)

Meanwhile, I bought the latest *Noseweek* with J Arthur Brown on the cover (he was a client of mine). Lo and behold, you feature Mercedes Culemborg... where Geoff saved his car's soul and his wallet, and where my uneasy feelings caused me to take mine elsewhere!

Neil Terry
Milnerton

Ineffable

THE use of the eff-word in court proceedings might present judges with a

problem – but clearly not an insurmountable one for a judge as well-versed in linguistics as was the renowned Judge Toon van den Heever. I quote his judgment in *Marrucchi v. Harris* (1943 OPD on p18): “Harris called Marrucchi a sanguinary Dago and told him to get out in language in which a word signifying the sexual act was substituted for a verb of motion.”

The reading of this old judgment still prompts a smile.

Hennie Vermaak
Pretoria.

■ THIS article is fucking brilliant!

I was not too fokken “sensitive” to enjoy it.

Yvonne V
By email

From the horse's mouth

THANK you for exposing the cruel end that some race horses experience (“From Star to Starvation,” *nose137*).

To be fair, I have worked with Stan Elley over the years, and, while I have met some uncaring trainers in that time, he is not one of them.

It is common practice to sell horses for a token price (no matter what they were originally bought

for). When you buy a race horse on an auction, you are frequently just buying the potential of either blood lines or physical attributes. Most are unproven, and what *Noseweek* discovered is typical of what happens. I honestly don't believe there was any ulterior motive on Stan's part – it's simply standard practice.

And I guess that is where the problem lies – the racing world is filled to capacity with horses who have a racing shelf-life of about five years. So what happens to all those thousands of horses when their racing career ends? Thoroughbreds require expensive care: they cannot live “on the land” and are always the first to need a vet. Is it the trainer's responsibility or the owner's?

I feel strongly that the racing authorities and the industry as a whole should take some of the responsibility (along with the owner and the trainer).

The racing industry should set more money aside for the policing and maintenance of ex-race horses.

Perhaps the media have the power to make it happen; certainly the silent and gracious horse is not in that position.

Karen Macaskill
By email



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Things are not what they seem

RECENTLY received the following email from an old friend, with the word RACISM in the subject line – so, of course I read it:

“A customer asked... ‘In what aisle will I find the Irish sausage?’

The shop assistant asks, ‘Are you Irish?’ The guy, clearly offended, says ‘Yes I am, but let me ask you something: If I had asked for Bratwurst, would you have asked me if I’m German?’

‘Or if I’d asked for a Taco, if I’m Mexican?’

The shop assistant says ‘No, I probably wouldn’t.’

The guy says ‘Well then, why did you ask me if I’m Irish?’

The shop assistant replied, ‘Because you’re in Builders Warehouse.’”

I laughed and immediately forwarded it to two other friends. It’s so easy – just the click of a button! ...only to learn that I was probably spreading some clever viral advertising devised for Builders Warehouse by some smart PR-type.

A while back, I was much tempted to publish a series of pictures – again, forwarded to me by email – of interiors decorated in a Hollywood version of Marie Antoinette’s Versailles. These were declared to be interiors of Bob Mugabe’s residence in Harare. Bit of a poofter, what? I thought briefly, then thought; No, too good to be true.

I was right. My source did not know where his source had got the pictures. Neither did the source of the source. All had simply forwarded what they thought was some remarkable evidence to support their view of the ghostly McGabe.

It transpires that my friend Richard Young received the same pictures in an email and, no doubt like many, many others, spread the pictures around to all his friends, only later to learn he’s been had by another viral propaganda specialist. Contribute, he has sent the following note to his friends: “While the sentiment is right on the mark, and there is no doubt Mugabe is living a life of luxury, the mansion in this email is actually in Los Angeles [I guessed right!], and

has nothing to do with Mugabe.

“It’s a spoof. In recent years, ownership of this mansion has been attributed to former Nigerian military ruler Ibrahim Babangida, Indian film star Shahrukh Khan, Universal Church of the Kingdom of God founder Edir Macedo, the former Secretary of Health Care for Azerbaijan... and Zimbabwean President Robert Mugabe.”

And then Richard apologised – to his friends.

Pause and consider for a moment how many of those jokes that you’ve had forwarded to you – and that you have then laughingly forwarded to your friends – don’t necessarily promote a product, but a prejudice or political line. In large, easy-to-read, crisp blue type they tell a quaint story or make you laugh about something that, if you pause to think about it, is just a bit mean and nasty. All those bizarre, illiterate quotes from speeches by President Barack Obama – that weren’t real. All those bits, in similarly easy-to-read type, by “less well-known” professors who assure you that the nuclear blow-out in Japan is as harmless as a bit of sunshine or a tooth X-ray, and that all views to the contrary are the paranoid fantasies of a bunch of left-liberals on pot.

The internet, dear reader, can be fun. It’s a miraculous resource. But, like all things human, it’s also a scary, dangerous medium to rely on for information. Google will find the most amazing stuff – but it can’t tell you if it’s true. You need to get to know your source before you can rate its credibility. On that point, nothing has changed.

For ages, people in the English-speaking world have known that *The Times* is a bit stuffily Conservative, but generally reliable; *The Guardian* a bit piously left, but generally reliable; *The Sun*... well we all know what to expect of *The Sun*.

And *Noseweek*?

Most readers know us pretty well by now. And, thanks to you, we’re still here. And, of course, we’re also available on the internet!

The Editor



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Unloved Swellendam mayor clings on

THE PEOPLE of Swellendam have been celebrating the departure of their mayor, Jan Jansen, who was fired from the Independent Democrats just weeks before the local government elections.

But it wasn't the pile of



Jan Jansen

ordure that's been building up around Jansen for the past few years that buried him. It was the confirmation he was standing as a candidate for a rival party, along with two other former ID councillors.

Jansen failed to make the DA/ID Coalition list for the coming polls and for weeks had been openly campaigning for the newly-formed Civic Independent Party. (Rumour has it he tried to join the ANC but they didn't want him.)

Nevertheless he was allowed to remain in his powerful position until the last possible moment – the publication of the IEC's final candidate lists on April 12 – despite the wealth of evidence of misconduct that has emerged during two recent investigations by the Western Cape authorities.

A stream of Swellendam councillors, officials and ratepayers told an inter-departmental investigation and a sitting of the Steering Committee on Public Accounts (Scopa) that Jansen had repeatedly interfered in the running of the municipality, tried to secure jobs and property for family and friends, obstructed the appointment of qualified people to the critically short-staffed and dysfunctional finance department and misspent municipal funds, including investing R6 million of public money in a financial company linked to the ID.

The final insult came in August when, at the behest of a property developer, Jansen put the town's highly-regarded municipal manager, Nico Nel, on forced leave.

As reported in *nose135*, Cape Town businessman

Jean Nortjé had taken exception to the conditions Nel and other officials placed on the mega development he plans to build outside Swellendam.

Nortjé wrote to the then-mayor accusing Nel of everything from nepotism to fraud – without furnishing a shred of evidence. Nonetheless, Jansen ordered Nel to quit his post pending a disciplinary hearing, which was supposed to take place within 60 days but never happened. Since then, the municipality has been heading steadily for the financial rocks under the helpless watch of Mervin Steenkamp, a junior official and lickspittle appointed to act in Nel's place.

The provincial investigators, who released their report in March, found no grounds for the municipal manager's dismissal. In fact, they described Nortjé's accusations against Nel and other officials and councillors variously as "a misrepresentation of the facts", "very strange" and "unfounded".

At the time of writing, Swellendam was confidently anticipating the

imminent return of Nel to his post – and of the municipality to some order.

When *Noseweek* asked the ID why it had taken so long to eject Jansen, Western Cape secretary Rodney Lentit repeated the party's previous position that it could not interfere in local council affairs.

Even when the ID mayor was seen driving around with a Civic Independent sticker on his car?

"Our legal advice was that we should wait until the IEC released the official candidate lists before we took action."

ID leader Patricia de Lille was also asked about the R6m invested in a company called Quadrix Asset Management – heavily plugged on the party's website where it is described as "the ID's unique financial services partner".

De Lille told us the investment was perfectly above-board. There had been a tender process which was initially won by FNB. When the bank pulled out, Quadrix was awarded the contract as the only other bidder.

So that's alright then.

Hey, big pretender... !

THE government and its agencies are synonymous with service delivery backlogs, but it seems they've a pile of reading matter to catch up on too – only a few weeks ago did they pick up on our exposé in *nose129*, about corruption within Nelson Mandela Bay Municipality, involving regional ANC boss Nceba Faku (Comrade Giraffe) and his benefactor, Yusuf Jeeva and sons.

The Windy City ratepayers suspect that the Hawks' current examination of various lease agreements involving the municipality and the Jeevas' Africorp International Properties is simply meant to hoodwink voters into believing action is being taken, as they prepare for the local government election.

Just two weeks after *Noseweek's* July 2010 report, the municipality hurriedly renewed

the leases, including ones not yet due.

Noseweek had revealed how Sanlam, Old Mutual and Investec had cheaply sold prime properties, claiming the buildings were not yielding viable returns – yet Investec then bonded the three properties for Jeeva for tens of millions of rand.

In recent weeks, The Herald newspaper in Port Elizabeth has been at odds with the municipality, which had refused to release a forensic audit. The audit would appear to be a reproduction of *Noseweek's* July 2010 issue.

The municipality had claimed that releasing the report "would have negative financial effects on the Metro and the country".

Really! The original statement, *Noseweek* believes must have read "negative political effect for the ANC..."



Theodosiou bother

property developer – yes, we are speaking of Investec and their close, close friend Zunaid Moti and his Abalengani group – was similarly papered over late last year. That “structured” arrangement left Investec effectively in control of Abalengani’s properties, and Moti with – it is said – R100 million in change, his black Ferrari and (would you believe it!) his intercontinental business jet: a Bombardier CL-600-2B16 (CL-601-3A) with registration ZS-SGC.

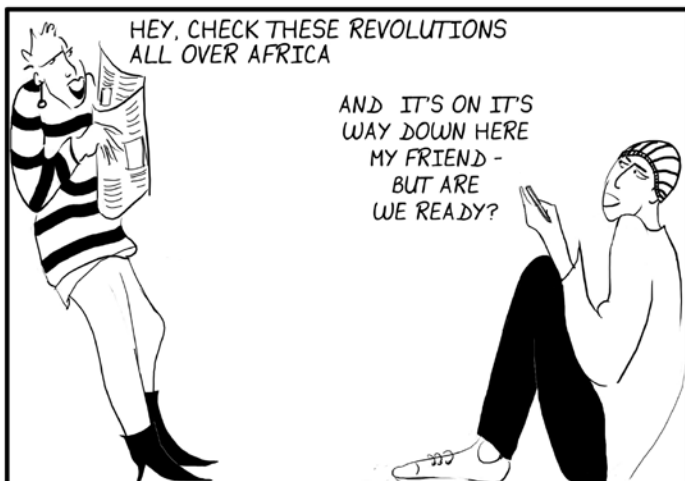
The plane, acquired in heady 2008, is held in the name of Abalengani Aviation (Pty) Ltd, and was saved as a Moti lifestyle necessity thanks to the intervention of his extremely wealthy, extremely good friends, the Mias of Midrand.

Directors of Abalengani Aviation, at the time the Bombardier was acquired, were Salim Ahmed Bobat and Zunaid Abbas Moti. They were joined on the board, for obvious reasons, by Mohamed Reza Mia, Sayed Hoosen Mia and Zaakir Hoosein Mia in August last year.

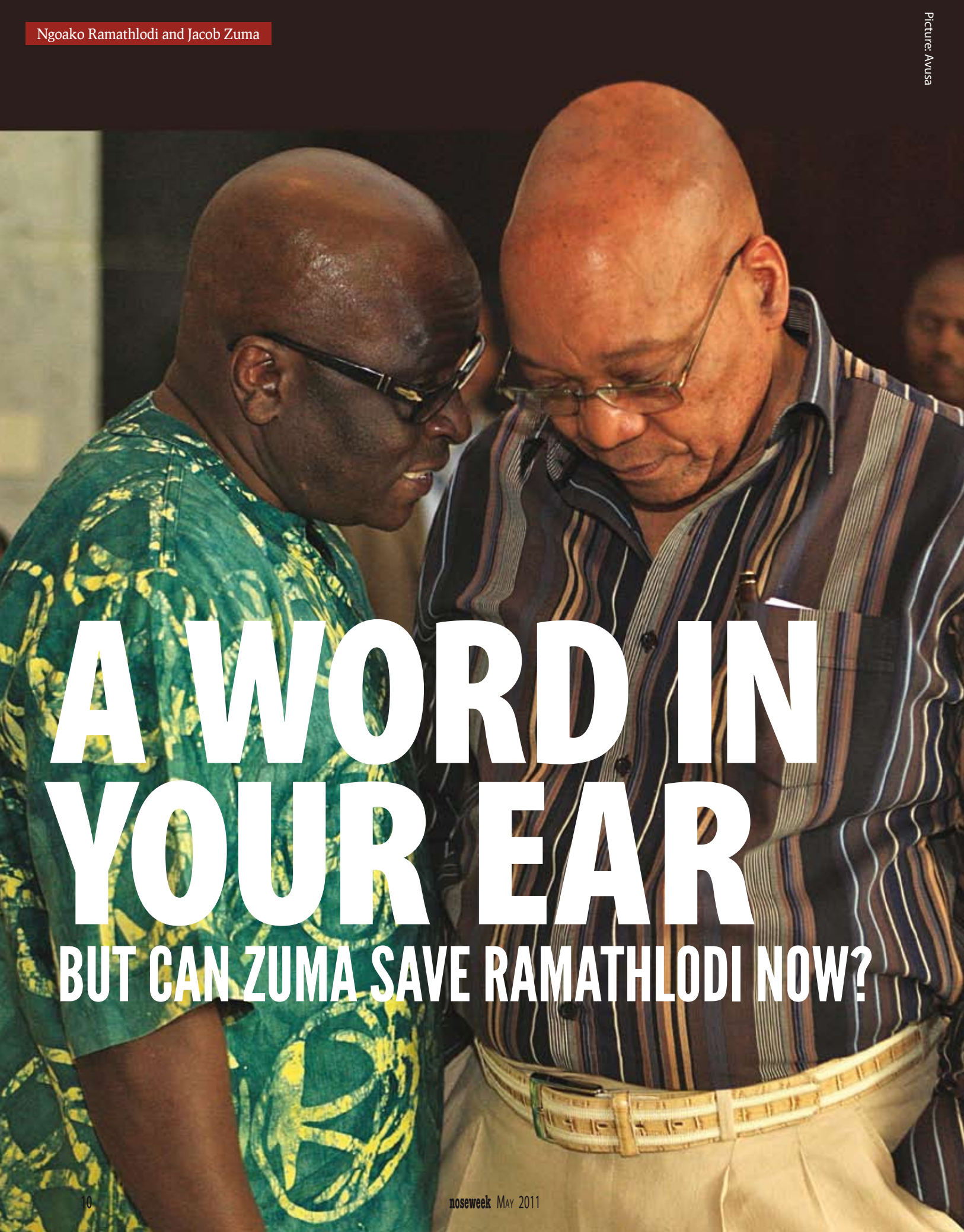
THE TWO shopping malls developed by the controversial Theodosiou brothers, due to have been auctioned on 30 March (nose138) were sold for an undisclosed sum before the auction took place – to Mark Corbett’s Century Property Development. It was what the trade calls “a structured deal” with the bank. All that a company spokesman will say is: “The price is confidential. We did a deal with

Absa just before it went to auction”. (The “structure” will no doubt have been so designed that the loss will not (immediately) appear on Absa’s balance sheet, but will, instead, appear as an “asset”, probably in the form of shares or a fresh loan. It’s called papering over the cracks. – Ed.)

■ Another banker’s sadness with another once-favoured Sandton



STENT



A WORD IN YOUR EAR

BUT CAN ZUMA SAVE RAMATHLODI NOW?

PRESIDENT Jacob Zuma's determined rehabilitation of former Limpopo premier Ngoako Ramathlodi is about to take a severe knock. Both Ramathlodi and his wife, Mathuding "Ouma" Ramathlodi, are to be subpoenaed and cross-examined in a pending high court trial about their roles in an extremely dubious property transaction that, several years back, attracted the interest of the Scorpions.

The events here related took place in 2003 and 2004 when Ramathlodi ruled Limpopo and enjoyed the patronage of former president Thabo Mbeki – a patron he was to lose after the publication of *nose50* in October 2003. In that issue we recounted the claims made by cane furniture king and ANC veteran Habakuk Shikwane that Ramathlodi had received millions in secret payments from Nicoh, the BEE partner of Cash Paymaster Services, who held the contract for pension payouts in the province.

The since-defunct Scorpions launched an investigation and, in November 2008, the National Prosecuting Authority announced that the 55-year-old Ramathlodi would be charged with corruption; alternatively, theft and money laundering. Nicoh was alleged to have paid R785,000 to Tzaneen businessman Michael Toulou, who had allegedly passed the money on to Ramathlodi.

A week later all charges were dropped.

But Ramathlodi, an advocate who had been tipped as the next national Director of Public Prosecutions, had already been cast into the political wilderness by Mbeki. It is only now, under the patronage of Zuma, that he has been making a comeback – first as chairman of Parliament's justice committee, and then, in a Cabinet reshuffle last November, as deputy Minister for Correctional Services.

Back in 2003 Ramathlodi was still undisputed king of Limpopo, lording it over the province's obedient subjects from the Pumpkin Palace, his opulent mansion outside Tzaneen. And – it now emerges – he was about to make the proverbial killing on the sale to the state of a land claims farm.

The 1,586-hectare farm, Otthilie, some distance from Polokwane (formerly Pietersburg), was owned by David Daniël Malan, a septuagenarian

known to one-and-all as Oom Malan.

Oom Malan is a broken man today – and was under severe strain back then when – laden with debt and about to be sequestered – he was contacted by Polokwane attorney Ben Hattingh.

Trust me, I'll get you out of this mess, Hattingh told the farmer, explaining that they would use long-established Polokwane estate agent and valuer Eli Ströh to auction the farm – and use the proceeds to pay off Malan's Standard Bank bond and other debts, which added up to R1.5 million.

The auction never happened. Instead, Mathuding Ramathlodi presented herself as the farm's purchaser. (She and her husband, the premier, were married in community of property).

Unbeknown to Oom Malan, Otthilie was shortly to be gazetted as a land

Mrs Ramathlodi presented herself as the farm's purchaser

claim – greatly increasing its value when bought by the state.

In February that year, R150,000 – as deposit for the purchase of the farm – was paid into the trust account of Eli Ströh Pty Ltd. A receipt dated 26 February 2003 states: "Received from Michael Toulou Investments R150,000. Deposit DD Malan".

This is the same Michael Neophitou Toulou, a wealthy, now 64-year-old, businessman in Tzaneen, who was later to be named as money launderer of Nicoh's slush fund for Ramathlodi.

Five days after this deposit was made, on 3 March 2003, Mathuding Ramathlodi signed an agreement with Malan and his wife Isabella to buy the farm for R1.5m. The balance of R1.35m was to be paid on registration.

However, the cosy intrigue came unstuck seven months later, when *nose50* appeared, in October 2003, with a story headlined "Limpopo premier took R5m pensions backhanders".

Then, just weeks after *Noseweek's* story, came the announcement in the *Government Gazette* of 31 October 2003, (*Gazette Notice* 3145 of 2003). Oom Malan's farm Otthilie was Number 7 on a list of 24 farms promulgated as being under land claims.

Three days later, Eli Ströh's son Aggie wrote to Malan's attorney Ben Hattingh confirming that "I will contact the premier and get his final decision regarding the farm Otthilie". The letter goes on to inform Hattingh: "The person at the Land Claims Commission is one Mr Mike, contact number 082 562 1907; direct line 015 287 0808."

Noseweek continued to publish fresh revelations on the pension payout scandal: "Greasy Limpopo – Bulelani Ngcuka is investigating allegations in *Noseweek* about secret backhanders to Premier Ngoako Ramathlodi," announced *nose53* (February 2004).

By now, the Scorpions' interest was aroused, so it's hardly surprising that a new and highly innovative game plan emerged from those seeking personal enrichment on the back of the Otthilie land claim. On 12 December 2003 Mathuding Ramathlodi had abruptly pulled out as purchaser and, in a nomination and cession agreement, named a close corporation, Thaba Pula Investments, as purchaser in her place.

Thaba Pula plays a key role in this squalid saga: on 27 February 2004, Ströh and attorney Hattingh became its only two members. It is clear now that the close corporation was reconstructed as a discreet vehicle for this deal. (Hattingh would resign after the operation was concluded, on 21 January 2005).

Thaba Pula duly bought the farm Otthilie from Oom Malan on 10 May 2004, for R1.5m.

Hattingh had two partners at the Polokwane law firm of Espag Hattingh Attorneys – Johann van Staden and Josef Espag, neither of whom had any idea of Hattingh's interest in Thaba Pula – or that Hattingh had high hopes of the "killing" he and significant others were about to make.

The attorney wrote to the Polokwane branch of Nedbank on 4 June 2004: "You will recall that I have indicated

to you earlier that, from my interest in the close corporation known as Thaba Pula Investments CC, a substantial amount would be forthcoming shortly in consequence of a land claim instituted under the Land Claims legislation... The estimated repayment to me as a member, including the initial deposit that I have paid, out of facilities, is R750,000. The expected date of realisation thereof is September 2004. Against receipt thereof, I will settle my overdraft facilities and the outstanding bond on my property.”

Just three months after Thaba Pula Investments bought Otthilie for R1.5m, it sold the farm to the state for R2,850,000 (on 13 August 2004), making a cool R1.35m profit.

Who was the valuer who set the new purchase price at R2.85m?

You’ll have to guess, because the

valuation is missing from the files of the Regional Land Claims Commissioner.

By “chance”, R1.5m was the precise amount that Oom Malan had needed to clear his debts. But the sale of his farm that profited his attorney Ben Hattingh and the wily Ströh to the tune of R675,000 apiece, left him with no change. Not a cent.

There were some puzzling payouts. On 4 April 2004, four months after Mathuding Ramathlodi pulled out as the buyer of Otthilie, Ben Hattingh signed one of his law firm’s Nedbank trust account cheques for R261,806.57. The cheque, No. 009089, made out to NA [Ngoako Abel] Ramathlodi, was duly paid into Ramathlodi’s account with Standard Bank.

In an affidavit, Hattingh has stated that this sum was a refund of the R150,000 deposit for Otthilie. Plus

there was R121,324.30 that he said had been paid by Ramathlodi for transfer costs (in the refund cheque there were some deductions for costs and fees). But if Michael Toulou had paid the deposit, why “refund” that amount to Ramathlodi?

The matter of the R150,000 farm deposit gets even odder when we speak to Ströh. This money, he maintains, was held in his trust account all along.

“Ramathlodi paid R100,000 from Absa bank, and R50,000 was paid by a Greek person in Tzaneen [Michael Toulou].” This conflicts with the receipt showing that the entire R150,000 was paid by Michael Toulou Investments. Ströh maintains that he repaid that R150,000 deposit himself, direct to Mr Ramathlodi by cheque from his firm’s trust account.

That’s more than R400,000 paid to Ngoako Ramathlodi from the two trust accounts – the deposit apparently being paid twice! And in Tzaneen, Toulou, who owns a laundry and dry-cleaning business as well as a game farm near the Kruger National Park, adds to the puzzle when he tells *Noseweek*: “I never helped Ramathlodi with any money for a deposit.”

Eli Ströh Pty Ltd trades as Eli Ströh Property Services and its diverse activities include property development, auctioneering, property valuations and agricultural, commercial and residential sales. At first, 73-year-old Ströh denies knowing the attorney Ben Hattingh, but his memory miraculously returns and he confirms that he and Hattingh held 50% interest apiece in Thaba Pula.

Ströh also confirms that Mathuding Ramathlodi ceded her purchase rights on Otthilie to Thaba Pula.

“The owner, Mr Malan, stripped the farm,” he says. “He was going to stay and manage the farm for Mr Ramathlodi. Then we got a letter from Mr Ramathlodi withdrawing immediately because the farm had been stripped.”

Why did Ströh’s Thaba Pula only pay Malan R1.5m when the land claim promulgated in the *Government Gazette* 10 months before the sale, on 31 October 2003, had greatly increased its value?

“When I bought, there was no land claim gazetted against the property,” maintains Ströh. “They said there’s a land claim going to be registered, but it

Eli Ströh

was only announced in the *Government Gazette* after I had bought.”

That statement is patently untrue – and must place a question mark on anything Ströh says.

Greeted with disbelief, Ströh gets agitated. “Can I tell you how many farms I’ve bought in my life? Thirty-four! I already own R200m of fixed property; I own 10,000 hectares of farms; I’m a property buyer, a property speculator. I don’t own just one property, I own hundreds! If you are querying my credibility I will not further correspond with you.”

From fellow CC member Hattingh, now 55, and with his own law firm in Polokwane: “No comment.”

Scorpions investigators following the Nichol money-washing trail first appeared at the Polokwane offices of Espag Hattingh Attorneys early in 2005, and paid several return visits. When Hattingh’s partners Johann van Staden and Josef Espag questioned him about his membership of the Thaba Pula CC, he told them he and Ströh were going to farm together.

In October 2006 the partners asked Hattingh to withdraw from the partnership. Hattingh responded with a high court action challenging the terms

In his judgment (the other two judges concurring) Judge Eric Leach said: “Through a series of transactions, some involving the wife of the Premier, Thaba Pula had acquired land earmarked for land restitution. It paid R1.5m for the land but shortly thereafter sold it to the state at almost double that price... Not only were the circumstances of the purchase and resale of the land somewhat suspicious, but on an occasion in 2005, when it was mentioned that members of the Scorpions were present at Eli Ströh’s business premises and had asked to see all documentation relating to Thaba Pula, the respondent (Hattingh) promptly left his office, taking the firm’s Thaba Pula file with him”.

Judge Leach found that, without recourse to oral evidence, the partners had failed to show any misconduct on Hattingh’s part in relation to “the Thaba Pula incident”. However, on other matters, including taking fees from estates that Hattingh was administering without the consent of the Master, the attorney’s actions amounted to gross misconduct and the partners were fully entitled to request his withdrawal from the partnership.

Next round, in proceedings that will rivet the nation and hopefully clarify the role of Ngoako Ramathlodi and his wife in the Oom Malan farm scam, Malan is suing Eli Ströh, Ben Hattingh, and (simply because this was a partnership, so he must do so), Hattingh’s former law-firm partners, for R1.3m, which is the profit made by Thaba Pula on the sale of the farm. The case has been set down for trial at the North Gauteng (Pretoria) High Court for 9 September.

Van Staden and Espag – and perhaps even Oom Malan – are determined the whole shoddy story should be revealed, and will subpoena Ngoako Ramathlodi, his wife Mathuding “Ouma” Ramathlodi, Tzaneen businessman Michael Toulou, and Mashile Mokono, Regional Land Claims Commissioner at the time of the R2.85m resale.

Today, at the age of 78, Oom Malan has nothing, and cuts a pathetic figure. His wife Isabella died four years ago and he lives in a tiny room on the farm of his son David.

His attorney Herman Prinsloo says: “When Oom Malan sold the farm for R1.5m he was unaware that a land claim had been announced in the *Government Gazette* 10 months



Ngoako and Mathuding Ramathlodi

previously. Hattingh knew that the farm was going to be gazetted.

“Someone then must have valued it at R2.85m, but we don’t know who. Oom Malan lost basically everything, because that R1.5m was utilised for all his debts. The basis of our claim is that Hattingh, as Malan’s attorney, had a duty not to conflict his own interests with that of his client, which he neglected.

“And Eli Ströh, if he was wearing his hat as an auctioneer, couldn’t buy something at his own auction. And as an estate agent, he had a duty to disclose any secret profit he made from any sale.

“Oom Malan heard about it because Eli Ströh boasted to everybody: ‘This is the fastest million I ever made!’”

In a 2006 affidavit by key player Habakuk Shikwane, used by the Scorpions to obtain a search warrant for the homes of Ramathlodi and his friends Solly Mohale and Gideon Serote, Shikwane alleged that Ramathlodi received a R2m loan from Nichol that he never repaid. Michael Toulou got R785,000 – which the Scorpions believed he received on behalf of Ramathlodi. ■

The statement is patently untrue and places a question mark over anything Ströh says

of the partnership’s dissolution. He won. In 2009, Van Staden and Espag successfully appealed to the Supreme Court of Appeal, before three judges who found that Hattingh had made himself guilty of gross misconduct, and the partners’ action in requesting his withdrawal was lawful.



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Critics
who question
the product's
safety are
threatened with
defamation
charges

EYEWASH

WHO'S GOT TIME for R&D these days? Certainly not Solal Technologies, a company that distributes, *inter alia*, a complementary medicine called Lutein & Zeaxanthin (Eye Formula). The blurb says that it's for "lutein and zeaxanthin deficiency" and that it's also "highly protective of the eye and assists with age-related macular degeneration (AMD) and cataract". On top of that, "lutein and zeaxanthin also have cardiovascular and anti-carcinogenic effects". Good stuff then – but does it work?

It seems that clinical trials have not been done on humans. When the UK Advertising Standards Authority had to deal with an advertisement for a similar product called Bright Eyes which claimed it promoted eye health, it made the following finding: "We noted that a further study concluded that higher lutein and zeaxanthin intake reduced the risk of long-term incident AMD. However, we considered that Metabolics (the UK distributor) had not proved that a

supplement containing these ingredients would be absorbed and utilised by the body in the same way as the ingredients in their naturally occurring states... we did not consider these studies sufficient evidence to substantiate the claim that the formulation of the ingredients in the Bright Eyes product maintained eye health. We considered that, in order to substantiate the claim, we would need to see robust human-based trials that showed that the formulation of the ingredients contained in the Bright Eyes Formula kept eyes healthy."

When the product found its way to South Africa, consumer activist Harris Steinman posted the finding on Camcheck, a blog that "highlights various issues related to complementary medicine, pseudoscience, and what constitutes good evidence before a therapeutic product can be regarded as safe or to have efficacy". Steinman asked: was the UK ASA setting the bar too high?

Brent Murphy, a pharmacist employed by Solal Technologies, had this to say: "In the same way as people are criticised not to refer to the *You* magazine as if it were a medical journal, I would advise you not to refer to the UK ASA as if it were one too.

"Neither the *You* magazine nor the ASA are medical authorities. There are many good references showing the benefits of lutein and zeaxanthin for eye health. I have compiled a 52-page document with some of the research... Since we are speaking of eyes, I think the saying that there are none so blind as those who will not see applies to you."

Steinman's response: "The point about the UK ASA is that they get independent experts to review the evidence before making a decision. They are acutely aware that if they get the decision wrong they can be challenged in a court of law – hence their decisions have to be backed by very credible assessment. I do agree with Brent Murphy that 'there are many good references showing the benefits of lutein and zeaxanthin for eye health', unfortunately there are many good references that show there is no – or minimal – benefit. The fact that there is such contradictory research substantiates the simple fact: we do not have conclusive evidence!"

Professor Roy Jobson of the Faculty of Pharmacy at Rhodes University, then enters the fray: "The main point

made by the UK ASA, as I read it, was that no evidence was provided to show that the specific formulation being advertised, called Bright Eyes Formula, had the claimed effects. In fact, they said they "would need to see robust human-based trials that showed that the formulation of the ingredients contained in the Bright Eyes Formula kept eyes healthy... It seems that neither of the companies – Metabolics in the UK, or Solal in SA – have done the research needed in human beings to provide robust evidence for the claims, or that their

It seems that clinical trials have not been done on humans



respective products are adequately absorbed in humans."

Murphy's riposte: "Must every manufacturer of oranges prove that the vitamin C contained in their oranges prevents scurvy? No. They can rely on generic data published in medical journals on other brands of oranges. Generic evidence is quite acceptable. It is the standard the world over. Solal relies on generic evidence which is quite acceptable and is standard practice in the food, generic medicines and complementary medicines industry. And the evidence is compelling."

Says Jobson, pointing out the obvious: "Your product is not a food. You have created a new medicine by combining lutein 6mg and zeaxanthin

2mg into a capsule... and recommended a dosing regimen of 1-2 capsules a day for adults, and half that for children.

"How were these amounts and dosages determined? And how do you know that they have any effect? How do you know that children should take only a half dose to achieve the same blood levels of the substances? Maybe they should take a quarter dose – or a dose based on weight or BMI. Your... product does not, in fact, seem to be supported by any 'acceptable' generic evidence that I've seen."

Time for a new name: a Rob Sykes then writes in: "I had a rather unpleasant surprise when, the day after I had been diagnosed with AMD, I found your discussion on lutein and zeaxanthin supplementation. My question to both of you is: since the supplementation may or may not be necessary, should I 'blindly' go ahead and purchase an expensive and unproven supplement, in case? If I do, can the pro-supplementation lobby give me an unequivocal assurance, backed by robust human testing, that there are no negative side-effects or consequences of such supplementation?"

Murphy's had enough of this lark by now: "Best is, do your own research and make up your own mind."

Sykes's astonished response: "I was under the impression your company promoted the supplementation based on your knowledge of the efficacy and safety in humans.

"I am surprised that you recommend I do my own research, as I would have expected you to have performed this task before recommending your products to consumers."

Meanwhile, there is an article entitled "How Solal uses legal threats to stifle legitimate criticism" on the website, www.quackdown.info. The author, Marcus Low, details complaints lodged at the Advertising Standards Authority (ASA) about Solal's adverts. Low says that Solal's lawyers threaten defamation charges against anyone who questions the company's products.

"These defamation threats are clearly spurious," says Low. "I suspect they're intended to intimidate critics and quash criticism of Solal's numerous unsubstantiated and misleading advertising claims."

So does *Noseweek*. ■



THE NEW FWORD

IF SHELL'S Karoo fracking application succeeds, it won't be because of public apathy. Not only are "names" like Johann Rupert, Lewis Pugh and David Kramer strongly opposing the application, but the Treasure the Karoo Action Group (TKAG) has submitted a formidable objection document. Headed "A Critical Review of the Application for a Karoo Gas Exploration Right by Shell Exploration Company B V", the 104-page document was prepared by energy lawyer Dr Luke Havemann, UCT law lecturer Prof Jan Glazewski, and environmental consultant Susan Brownlie. The writers say they have received specialist input from a host of academics on topics that include groundwater, water resources, energy policy, public health, palaeontology, heritage, archaeology, astronomy, biodiversity, and even ornithology.

Hydraulic fracturing – or fracking – involves injecting vast quantities of water containing a liquid chemical mixture into deep boreholes to create sufficient pressure to cause fracturing of rock layers up to 5km underground. The point? To establish whether there are gas shale deposits. Shell has applied to undertake fracking in a 90,000km² area of the Karoo over a period of up to nine years, and it has filed a draft Environmental Management Plan (EMP). The plan envisages that as many as 24 such boreholes will be drilled, and that an enormous amount of water will be needed. This in an area that is one of South Africa's driest!

The review claims that a number of Constitutional rights are affected by the application – particularly the right to "secure ecologically sustainable

Fracking report savages Shell project

development and use of natural resources, while promoting justifiable economic and social development" – a right recognised in several court cases, including the Constitutional Court's well-known 'Fuel Retailers' decision".

Other Constitutional rights are affected too. Even if Shell does acquire the property right to explore and mine the Karoo – protected by section 25 of the Constitution – this right must be tempered in accordance with developing legal norms. For instance, there's the right to just administrative action contained in section 33, which means that, with such a complex matter – where a number of national and provincial government agencies are involved – comprehensive, well-informed and integrated decision-making is required. There's the right to access information contained in section 32, which our courts have said is intended "to ensure there is open and accountable administration at all levels of government" – a vital ingredient in South Africa's new constitutional culture and in an open and

democratic society". And lastly there's the right to sufficient water, in section 27(1).

Not surprisingly, water features heavily in the review. The authors' first concern relates to the amount of water required by fracking, with Shell apparently being quite vague as to where this will come from. The review makes the point that fresh water is South Africa's most critical natural resource, under enormous pressure from a growing population and development. It is anticipated that by 2025 water demand will exceed supply. The second concern is that fracking poses dangers to the quality of the water, as potentially toxic chemicals are introduced to hold the fractures open. The review points out that groundwater in the Karoo – used for domestic, livestock and irrigation purposes – is of a good quality, and that it generally occurs within 50 to 100 metres of the surface. Any deterioration in the quality of this water will have a significant effect.

The review authors argue that it's highly unlikely the fracking proposal represents the "best practicable environmental option" for the affected area as required by the National Environmental Management Act 1988 (Nema), which stipulates that options like preserving the status quo be amongst those considered. Or that the proposal complies with the need to put people at the forefront of environmental management, and the need to integrate environmental protection and economic and social development.

The review argues that, given all the concerns about Shell's proposal, and given Shell's poor track record in places like Nigeria, a strictly risk-



averse position should be taken.

The review cautions that fracking is uncharted territory, as it has never before been done in South Africa and there's no policy in regard to the exploitation of shale gas. There is, say the authors, insufficient information on where the drilling is to occur, the source of the water to be used, the nature and the quantities of the chemicals to be used, the health and water contamination risks posed, and the implications of climate-change on water resources in South Africa. There is, therefore, not nearly enough information for anyone to make an informed decision. At the very least, argue the authors, there should be a moratorium pending further studies. What the authorities certainly can't do is leave it to a future authority to deal with the environmental implications. The authorities also can't look at this in a vacuum. Even though this is only the first step in exploiting gas, the authorities should consider the "end game" position, the level of resistance and the potential Achilles heel of providing water.

The review notes that fracking is of major concern worldwide – in the US, the Environmental Protection Agency is conducting a study to determine, *inter alia*, the risk of pollution to aquifers and the risk of air pollution. There are moratoriums in place in the states of New York and Maryland, and a total ban on fracking in New Jersey. The UK has decided to await the outcome of the US study, but has expressed concern about the amount of water required (in rainy old Britain!).

The review is critical of the state's ability to monitor and enforce compliance with any conditions imposed on

Shell, pointing out that the capacity of the key authorities involved is poor – both the departments of Water Affairs and Mineral Resources are severely under-resourced, whereas the Petroleum Association of South Africa (Pasa) does not have the necessary environmental management inspectors to enforce compliance.

The review claims that although Pasa will be very much involved in the decision-making process, it is clearly conflicted. Why? Because, while Pasa is required to perform the functions of the state under the Mineral and Petroleum Resources Act 2002, and therefore must "protect the environment for the benefit of present and future generations, to ensure ecologically sustainable development of mineral and petroleum resources and to promote economic and social developments", Pasa's mission statement says it will "actively promote exploration of natural oil and gas resources".

There is also too much fragmentation in the decision-making process, says the review. As was stated by (now) Chief Justice Sandile Ngcobo in the Fuel Retailers case: "Thus economics and ecology must be completely integrated in the decision-making and law-making processes, not just to protect the environment but also to protect and promote development".

Likely negative impacts of fracking on the biodiversity and heritage of the Karoo, says the review, are that on a socio-economic level it is the poor who often experience the economic costs of eco-system degradation most directly, because the majority of poor households depend on natural resources. There is, therefore, a substantial risk

of "inequitable distribution of impacts arising from the proposed activity, and of vulnerable rural people having to bear the negative impact".

The Karoo, says the review, is unique, in that it provides inspiration for artists and writers, and has small, tight-knit communities. There is an unacceptable risk of fracking having an "irreversible negative impact on the sense of place of the Karoo and on the lives, health and livelihoods of its communities".

If that's not enough, there's also some energy policy in the review. The authors make the point that renewable energy is the trend, and whereas shale gas is a non-renewable resource, the solar resource in the Karoo area is infinite. It says the conversion of shale gas into electricity would produce greenhouse gas or emissions.

There's some economics too – the claim of employment creation will be minimal and commercial viability of shale gas is, at this stage, uncertain.

There's even some astronomy. It's felt fracking would adversely affect astronomy, especially with the Karoo being the home to the SA Large Telescope (Salt), and a likely home for the Cherenkov Telescope which, together with the Karoo Array Telescope (Meerkat), is a major project in which the government has invested over R1 billion). And, of course, the Karoo is a strong contender as the site for the Square Kilometre Array (Ska) radio telescope, which promises "to revolutionise science". It is argued that atmospheric pollution, dust and light, generated by fracking may pose a threat to these projects. Over to you Shell! ■

MALICE AND MUDDLING

SOME readers may have gathered from our last issue that we believe former Fidentia CEO Arthur Brown to be innocent of all wrongdoing. We would not be so foolish as to prejudge a case before the courts like that. What we did do was report on some of the serious issues raised by Brown in an application now before court, relating to his – and any accused’s – right to due process and a fair trial.

Of particular interest was the case he made against the media; a case the media must still answer.

Noseweek indicated that the criminal investigators and prosecuting authorities accused by Brown of prejudice and unprofessional bias, were yet to respond to his application to have his prosecution stayed. They have since done so.

Brown’s application to have all charges against him permanently stayed on the grounds that he has suffered irreparable prejudice, has been set down for argument before Western Cape Judge President John Hlophe in the High Court, on 16 May, and should have been adjudicated well before the criminal trial which is set down to commence in August.

The prosecution delivered their final charge sheet, as ordered by Judge Hlophe, in the last days of February. It is materially the same as was reported in *nose138*, but with one important addition: a new corruption charge “involving” R1.2 billion of widows’ and orphans’ money that was administered by a company called Matco. (Matco was taken over by Fidentia and renamed the Living Hands Umbrella Trust.)

The figure of R1.2bn, or R1.4bn, or R1.6bn of widows’ and orphans’ funds that was – by various accounts at various

times – either “stolen”, “misappropriated”, “missing”, “unaccounted for” or simply, in some undefined sense, “involved” in the case against Brown, remains controversial – with regard to the criminal prosecution, the role (and interests) of the Fidentia curators and outcome of their curatorship. As regards the latter: if the funds were not all stolen or unaccounted for but invested in assets controlled by Fidentia, then any loss to the widows and orphans (and other investors) will, to a greater or lesser extent, be determined by the curators’ management of those assets and their commitment to realising them for optimal amounts, should they be sold. To put it crudely: the more loss a curator can attribute to criminal activity of others, the less he/she has to account for in their curatorship.

(Consider, for instance, the special report filed in February last year in the Fidentia curatorship file at the Master of the High Court by Rudi Bam, the former Fidentia director believed to have been the whistleblower who first informed the Financial Services Board of alleged irregularities at Fidentia. In it, Bam accuses the curators of having “grossly mismanaged” the company’s affairs and alleges that they have sold its assets at “deeply discounted” prices – to “related parties”.)

The issue becomes still more problematic when it emerges – as it now has with greater certainty in the papers just filed – that the same curators are also, in fact, the investigators providing the evidence on which the State has based its criminal prosecutions – and that those investigations are not always to be relied upon. *Inter alia*, it emerges that both the figure of R1.2bn and the rapidly aborted corruption charge were based on incorrect

information provided by curator George Papadakis and his forensic audit firm in the forensic report used by the prosecutors to found the charges they have brought. Both are demonstrably faulty.

In the meantime, prosecutor Bruce Morrison’s response to a complaint about those damning press reports was: “I cannot account for inaccuracies in the reporting. Moneyweb, e.tv, and the various newspapers are themselves responsible... for the accuracy of their reporting... I deny conveying false information to the media... I might have referred to the fact that a sum in excess of R1.6bn was missing. It was at an early stage of the investigation and the figure was an estimate”.

The new R1.2bn charge against Brown suggests a last-minute attempt by the prosecution to justify the repeated claims that he had “stolen” at least this amount from widows and orphans. (See *nose138*)

In his latest affidavit, Morrison persists with this claim: “In respect of the Matco/Living Hands charges, involving some R1.2bn... [Brown] has been charged with stealing millions from widows and orphans”.

Morrison was deputy director of public prosecutions in the Directorate of Special Operations (DSO) in the Western Cape, and was lead prosecutor in the Fidentia-related investigations. He left the DSO at the end of January 2009 to become co-ordinating manager of Gobodo Forensic Investigative Accounting, a firm headed by one of Fidentia’s joint liquidators, George Papadakis. Gobodo was also one of the largest fee-earners, and therefore one of the parties that benefited most from Fidentia’s being placed under curatorship.

Note that the charge finally produced – by Morrison’s successor – relating to the R1.2bn, refers to corruption, not theft. This corruption was alleged merely to “involve” R1.2bn, it was not alleged to have resulted in the loss or “disappearance” of R1.2bn.

Even so, when Brown appeared in the Western Cape High Court on 11 April, the new corruption charge was promptly withdrawn. Prosecutor Jannie van Vuuren said “new evidence” did not support the charge. (See box.)

■ For a more detailed account visit www.noseweek.co.za.

FEE FOR ALL

THE LATEST curators’ report filed with the Master of the High Court reveals that R52.6 million of Fidentia’s funds has been spent on the curatorship: R11.8m on the two curators’ fees alone. In addition, Papadakis’s company, Gobodo Forensic, was paid nearly R5m; Gihwala’s law firm, Hofmeyr Gihwala was paid nearly R14m in legal fees (this excluded the additional R12.4m paid to advocates) and R2.1m paid to the Financial

Services Board.

This does not include the costs of operating the Fidentia companies.

The Living Hands Umbrella Trust (LHUT) that manages the widows and orphans’ trust funds has a total capital claim of R1.13bn against Fidentia Asset Management, as at the date the company was placed under curatorship. Since then the curators have paid LHUT R109.2m from income earned.

COMPUTER

WHEN a car is written off, the insurer determines its value by referring to the motor industry bible – the *TransUnion Mead and McGrouther Auto Dealers Guide*. If that venerable publication says your car is worth R100,000, that's what you should be paid out. Simple. But things are, of course, never simple.

When Mark Bryant's 2005 Mercedes 270CD Avantgarde was involved in an accident, he submitted a claim to his insurer, Budget Insurance. Budget wrote the car off and Bryant waited for a payment of R168,800 – the value ascribed to a car such as his, which fell into the “average mileage” category, defined as 135,400km: high mileage is defined as 176,000km. Bryant's car had had 137,357km on the clock.

But R168,800 is not what Bryant got, Budget deducted 5% – R8,440 – and paid Bryant R160,366.

When he queried this with Budget's Claims Technician (seriously), Aleena Raghunath, who insisted that her computer put his car in the high mileage bracket and that was that. (Rather like the *Little Britain* retort of “Computer says nuu”).

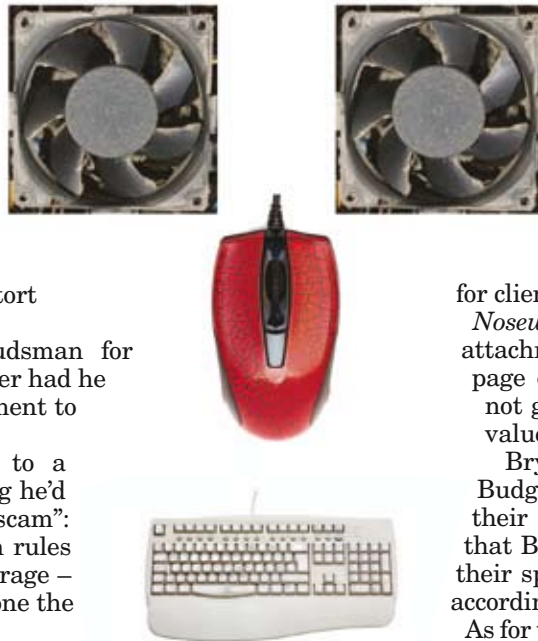
Bryant complained to the Ombudsman for Short Term Insurance (Osti). No sooner had he done so, than Budget upped the payment to R168,800.

So what gives? *Noseweek* spoke to a broker, who pulled no punches, saying he'd seen this before – that it is “an easy scam”: direct insurers could make their own rules about settlement values, and Joe Average – without the proper info – would be none the wiser.

“If Budget wrote off 30 cars per month and deducted 5% for mileage, the chances of this being picked up were minimal... on an average R80,000 settlement they would save R4,000. Multiply that by 30 = R120,000.”

When *Noseweek* asked Budget for comment, their response was delivered by Martin Janse van Rensburg via a PR firm. He said “the allegation that direct insurers frequently make false deductions for high mileage... is completely false and unfounded”. In Bryant's case the *Auto Dealer Guide* had suggested a 5% deduction, as the mileage was higher than average. He attached a clearly computer-generated document entitled “Auto & General Business Insurance: Mead & McGrouther – Auto Dealers Guide” which referred to Bryant's mileage as being high

It says NO!



and subject to a 5% discount, bringing the payout down to R160,366.

Janse van Rensburg said Budget had adjusted Bryant's payout back to R168,800 “without any pressure from the Ombudsman's office who at no point instructed us to settle this amount... we decided to do this for client satisfaction”.

Noseweek's broker source described the attachment as “an Auto & General-originated page on which they print M&M – it does not give half the info of the official M&M value page”.

Bryant was more forthright: “Obviously Budget's version of M&M is loaded on their computers... it must be assumed that Budget's parameters have been set for their specific use but, as such, are incorrect according to industry norms.”

As for the claim's having been settled to keep him happy, Bryant said he wrote to the Osti on 7 February – and on 21 February the Osti informed him that Budget had 30 days in which to reply... It was on the 21st that Budget informed him that the balance of R8,434 would be paid into his account. “It is extremely coincidental that they phone and offer me settlement on the same date (Budget) received a mail from the Osti.”

Shortly before going to press, we received a further email from Janse van Rensburg: “It appears that in Mr Bryant's case, our system produced an incorrect result... Please note that when Mr Bryant pointed out this error to us, a settlement was reached and no deduction made for ‘higher than average’ mileage.”

It was a one-off error then; what a relief. ■

No sooner had he
complained to the Ombud
than Budget upped the
payment

LEGAL TENDER?

NOT MUCH ESCAPES the tentacles of corruption in these parts but if there's one tender process that must be squeaky clean, it's surely that of the National Anti-Corruption Hotline run by "professional services firm" Deloitte.

However, there's one man who is highly suspicious of the most recent tender-winner to operate the service – so much so that he's laid a complaint with the Public Protector. The complainant, Brian Adams, is CEO of Quiver Management Solutions (Pty) Ltd, which offers a "hotline product" called Be Heard. Adams is one of those who lost out in the tender process.

The case he's put to the Public Protector is as follows:

The tender to operate the hotline for a three-year term was put out in May 2010. Adam's Quiver put in a bid but they heard zip. Then, without explanation, the tender was again put out in September 2010. Again, Quiver put in a bid, then found out that the company had been unsuccessful and the contract had again gone to Deloitte.

Surely Deloitte has proved itself

1999, and that he was instrumental in Deloitte's winning the National Anti-Corruption Hotline contract in 2002. He also claims he ran the hotline for eight years, together with Deloitte employee Linda Park who now works for Quiver.

Adams says that since he left Deloitte (without a restraint), he's improved the product "considerably" – for example, by adding an "0800 Wheels" component for the public to report bad driving and inappropriate use of government vehicles. He says he is "recognised as having set a new benchmark in the industry".

However, technical proficiency is exactly where Quiver's bid failed.

Adams has established that the bids were first considered on technical grounds (although he can't see how, because there was no inspection of the products, simply an assessment of documents) and that those who scored fewer than 35 points out of 60 were immediately eliminated, putting five of the seven bids out of the running. The committee then physically inspected the products of the remaining two. The score sheets show that Quiver scored 34 points on technical grounds – with one panel member giving Quiver a score of 2 (which was "average", measured against 5 for "excellent") in all three

capable of running this thing?

Well, says Adams, Deloitte certainly didn't beat Quiver on technical grounds, "because I wrote the book on hotlines". Adams, a former director of Deloitte, says he developed Deloitte's hotline product, Tip-Offs Anonymous, back in

categories, namely technical compliance, quality of infrastructure, and experience in managing call centres. Adams calls this incomprehensible in his submission to the Public Protector.



(He ran the self-same hotline for eight years.) His conclusion: "If one of the panel members awards us 2 out of 5 in each section, then they've either not read our proposal or may have a bias against us or in favour of the bidder."

Funny, says Adams, that Quiver's bid failed by just one point, thus relieving the committee of the obligation to consider it in terms of price and BEE compliance – two areas where Quiver would have done very well, as it was 40% cheaper than Deloitte's.

Quiver would have charged R131,774.50 per month, as opposed

of the documents submitted... therefore it was decided that the National Anti-Corruption Hotline tender, advertised in May 2010, should be re-advertised... in keeping with the DSBC mandate of exercising control over the supply chain processes".

Ramafoko told *Noseweek* that Deloitte did submit a bid the first time, but offered no explanation as to why it was deficient. He said seven parties had submitted bids the second time,

but he would not divulge their names.

Why had Deloitte won? "Deloitte Tip-Off Anonymous won the tender because they met all the necessary requirements contained in the Terms of Reference and scored the highest points during the adjudication process".

Deloitte's Durban office (which runs the hotline – call 0800 701 701 to report corruption – was invited to comment but chose not to do so.

Over to you, Public Protector! ■

**They've either
not read
our proposal or
have a
bias against
us**



to Deloitte's R217,512.22. This would have meant a saving of R3,086,557,92 over a three-year period. As for BEE, Quiver has a 40% black shareholder, Antonio Pooe.

And why, asks Adams, was this contract put out for tender a second time? Did they not

pick the right party the first time? And how can you consider such things without even inspecting the products?

Noseweek's questions were addressed by Humphrey Ramafoko of the Public Service Commission. The reason there'd been two separate tender processes, was that "the Departmental Standing Bid Committee (DSBC) was not satisfied with the quality and completeness

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THE DECISION by the Department of Home Affairs to cancel IT company Gijima's "Who Am I Online" contract was, it is said, based on a legal opinion. But *Noseweek* does not doubt that the department was as much influenced by a report by the Auditor General which has never been made public. This is despite calls on the government by opposition parties to do so.

Marked "Strictly Confidential", it was written back in February 2009, but it has only recently come into *Noseweek's* possession. It makes depressing reading for anyone who belongs to that most-abused of minority groups – taxpayers.

The report starts by clarifying the AG's brief to investigate "the processes followed by the State Information Technology Agency (Sita) and the DHA in evaluating and awarding the Who Am I Online project tender".

It gives some background and explains that bids were received from 10 companies: Gijima, Arriva.kom, Pamodzi, Ideco Technologies, Marples Communication Technologies, Translogic Business Solutions, Emergia Solution, Unisys Africa, New Dawn Technologies, and One Source Business Consulting. Of these 10 bids, only two – those of Gijima and Ideco – were considered, with all the others failing to achieve the required score for technicality. Ideco had the highest overall score, but its bid was not accepted because its pricing for certain components like training was incomplete. Which would be reasonable, were it not that Gijima's pricing was also incomplete for certain components – like foreign language support and international supply and shipping costs. Both companies were sent a letter on 20 September 2006 that made it clear the omission was serious. "Your response must reach this office on or before 25 September 2006... your bid will not be considered without the above requested information". Neither

company responded. Yet Gijima was awarded the contract.

The report gives some useful insights into a world few know much about – where decisions are taken about how best to squander taxpayers' money.

First, bids are considered by a Bid Evaluation Committee and, in this case, the BEC was clearly flawed. It consisted of 13 people: eight from the DHA and five from Sita. Each member had to sign a declaration of confidentiality and one confirming they had no competing interests. Yet three members – Bertram Collins, Pat Nkambule and Des Arthur – failed to do so. The recommendation to appoint Gijima was signed by just five BEC members, despite the law requiring every member to sign simultaneously. The BEC's chairman, Coltrane Nyathi, was a consultant to the DHA, not an employee, making him ineligible for the post.

And the AG was clearly miffed that: "although specifically requested on numerous occasions, the individual BEC scoring sheets were not

Secret report
exposes yet
another case
of acute
tendernitis

Jonas Bogoshi

GIFTS FOR THE

provided for... this investigation”.

The BEC member who was the “designated official” for the project – then deputy director-general: information services at Home Affairs, Kgabo Hlahla – resigned from the DHA on 31 October 2006, three weeks after the BEC had made its recommendation. (Hlahla is now CEO of IT company Dawn2Dawn.)

Whatever. A BEC recommendation then goes to a Recommendation Committee (RC) comprised of nine Sita officials – the most noteworthy of whom was Jonas Bogoshi who “served on the RC that recommended GijimaAST as the successful bidder for tender 487 Who Am I Online, on 12 October 2006, (and) was appointed CEO of GijimaAST on 1 July 2007”.

Yes, readers you’ve read this right: a member of the committee that awarded a R1.9bn (soon to be R4.5bn) DHA contract to Gijima moved on to become CEO of Gijima less than a year later.

And the AG felt obliged to add: “No individual score sheets were attached to the BEC submissions to the RC dated 26 September 2006 in which GijimaAST was recommended as the preferred bidder. Therefore no evidence was available to confirm the RC had ensured the scoring was fair, consistent, correctly calculated and applied”.

Another irregularity highlighted by the report relates to one of Gijima’s sub-contractors. Gijima’s bid comprised a consortium of 11 companies, including SMEs who would get 30% of the work. One of these, Intelliform, failed to provide a SARS tax clearance certificate, as required of all bidders and their associates. In fact, the report notes that there appeared to be two different Cipro registration numbers for this company. In total, the report identifies 13 statutory requirements that were not complied with, and seven that were partially complied with.

On the issue of finances, the report is equally scathing. It says that the DG

Mavuso Msimang, allowed a master rental agreement for equipment to be altered. This meant that, “as of 30 September 2008, the department was invoiced for R30,708,319 (inclusive of VAT) for rental of equipment... not yet fully installed”.

The DHA, accounting for expenditure, said: “The R100m allocation from the National Treasury towards one of the Who Am I Online projects was on condition the department submits an approved business case. The department had already disbursed R73m at September 2008 with an additional commitment of R33m in cost already incurred, despite non-compliance with the stipulated requirements by the Treasury.”

What about that huge price rise from R1.9 billion to R4.5bn? The increase of R2.6bn was explained airily by Gijima as: an extra R558m for “requirements finalisation”; R39m for “technology changes”; R249m for “inflation”; R337m for “rate of exchange”; R797m for changes to “software and core hardware”; and R531m for “scope changes”. This left the AG to report: “The investigating team was not able to inspect the underlying reasons for the increase”.

The AG’s report concludes with a number of recommendations – one of which was clearly considered by the DHA but ignored when it decided to stick with Gijima: “The Minister should determine the basis of the tender to GijimaAST, given that Ideco was rejected although pricing in both proposals was incomplete and both entities did not supply the requested information. Once this matter has been clarified... a determination will need to be made on the status of the current agreement with GijimaAST”.

Another (pitiful) recommendation was: “The Minister should limit fruitless expenditure on the payment for rental for equipment that is not utilised. Furthermore, the department should ensure that the equipment is installed and operational”. Duh! ■

The billion-rand price yo-yo

ROBERT Gumede’s IT company Gijima, formerly known as GijimaAST, secured a contract from the Department of Home Affairs (DHA) to implement a Big Brother-like population monitoring system, with a special emphasis on the 2010 World Cup. Its R1.9bn bid was accepted back in September 2006, although the tender was only awarded in October 2007, and the contract signed in July 2008. – when the price suddenly shot up to R4.5bn. Just beforehand, in June 2008, then Minister of Home Affairs, Nosiviwe Mapisa-Nqakula, asked the Auditor General to investigate the awarding of the tender.

(Why allow a contract to be signed when you’ve ordered an investigation?)

On 1 October 2008, the AG was also asked to investigate by HP Chauke, Chairperson: Parliamentary Committee, Home Affairs. He queried whether officials from the Treasury and the Department of Public Service and Administration were involved and whether the Acting Chief Financial Officer had powers to sign.

In April last year, when it became evident that Gijima would not be able to deliver on the border-control component of the system in time for the World Cup, the DHA repudiated the contract. (The department also claimed that the accounting officer did not have the authority to sign the contract on behalf of DHA.)

The usual high-priced legal sparing followed, but in March this year a settlement was reached. The contract would be reinstated, but the price tag went down from R4.5bn to R2.27bn, with Gijima writing off some R373m – including the reversal of R260m in invoices.

Speculation about the climb-down included the suggestion that the government regards Gijima as too big to fail, and that Gijima regards the government as too big to piss off. (Gijima apparently gets no less than 47% of its work from the state.)

The settlement knocked Gijima’s share price and begged the questions: if Gijima could simply halve its price, had it brazenly overcharged or was it taking a loss to keep its biggest customer happy?

GIVER

SOMETHING

SNIFF THIS

FISHY

THE CITY of Cape Town boasts being the best-managed council in the country under the control of the Democratic Alliance, but *Noseweek* can reveal a very fishy tender award – as has become the norm in almost every other council in the land of tenderpreneurship.

Late last year the city illegally awarded the contract for a R400-million tender to a Johannesburg company, ICT-Works, for the Integrated Rapid Transport (IRT) system – even though their bid was disqualified in the first round of adjudication.

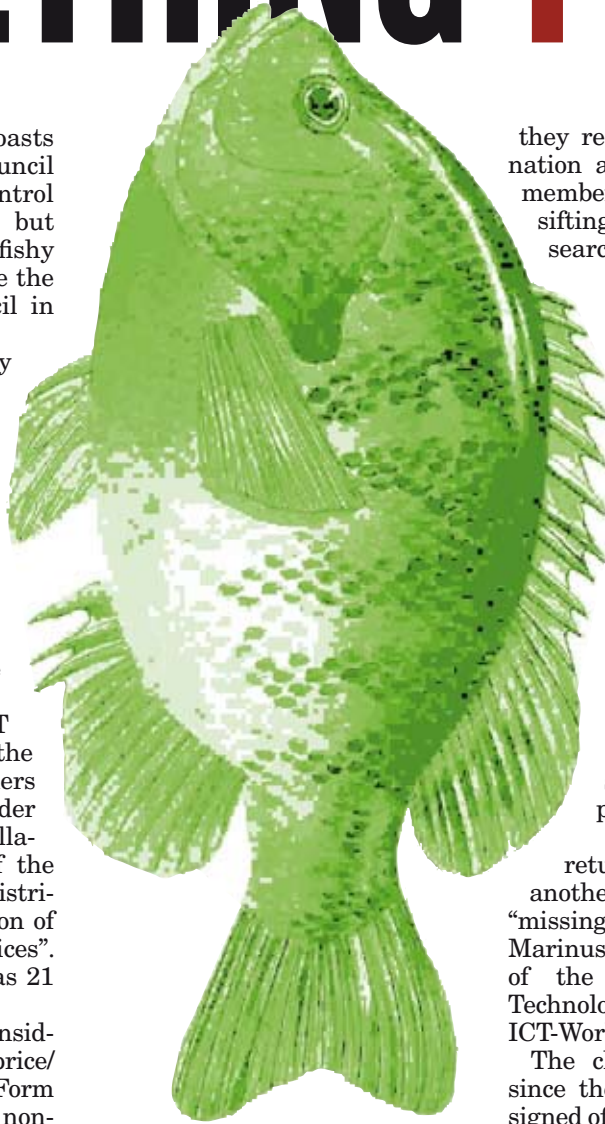
This brazen disregard for the rules that everyone else has to obey has spawned calls for the Auditor General to scrutinise all tenders the city has awarded in the past year.

Wanting to implement the IRT system in time for the World Cup, the city called for bids on two IRT tenders around the middle of 2009. Tender 24G was for “Design, supply, installation, testing and commissioning of the IRT fare system, the supply and distribution of fare cards and the provision of maintenance and other related services”. The closing date for submissions was 21 August 2009.

The rules say a tender will be considered invalid if the tender offer (price/amount) is not submitted on the Form of Offer; if it is not completed in non-erasable ink; if the Form of Offer and Acceptance has not been signed; or if the Form of Offer and Acceptance is signed, but the name of the tenderer is not stated or is indecipherable.

After the close of tenders, the city invited all involved to attend the opening of the sealed bids on 4 September 2009 by the Supply Chain Management Bid Adjudication Committee, whose members included, Walter Marinus (chairperson), Linda Dlungana, Garth Johnson and Johan Hubinnger.

The gathering was all ears as the tender numbers were called out – but there appeared to be a problem: when



The un-fare IRT fare bids

they reached Tender No. 24G, consternation appeared to grip the committee members, who spent several minutes sifting through the bid files, apparently searching for something.

In the words of someone present: “After several minutes of shuffling and whispering, Marinus announced that they would skip that particular tender and proceed to 25G, which was also related to IRT.”

This was irregular, but none of the bidders suspected anything amiss in what appeared to have been an open and transparent environment. But they were wrong. According to a another source, as the committee proceeded with the second IRT tender, one of its members could be seen by everyone in the room still shuffling the papers of the file pertaining to 24G.

When the committee finally returned to the skipped tender, another round of searches for the “missing” documents ensued before Marinus decided to call out the names of the bidders: GijimaAST, Lumen Technologies cc, IBM South Africa – and ICT-Works.

The chairman then announced that since the committee could not find the signed offer from ICT-Works – as required by Tender Rule F.4.5 – their bid was invalid.

At that point, a group of people approached the committee members to inform them that the missing documents were on a CD that had been enclosed in a package. The committee, reminded them of the indelible ink requirement and the chairman again declared ICT-Works’s bid invalid.

The committee proceeded to Lumen’s bid, which seemed to comply with all the requirements, and called out their offer of R314,204,689.20. Third was Gijima’s quote of R108,720,000, and finally IBM, whose bid had no quote so it, too, was

disqualified.

Chairman Marinus then announced the official close of tender 24G – and that only two valid bids – from Lumen and Gijima – would progress to the second stage, the technical presentation.

When the two qualifying bidders were called in for the second stage, they were taken aback to discover that ICT-Works was still in the running – despite all that had been said and gone before. Lumen Technologies immediately sought clarification from the city and received a response from Ian Bindeman, the city's manager in charge of tenders.

In an email dated 16 October 2009, copied to council employees Jonathan Louw and Errol Ricketts, Bindeman told Lumen: "Of the four submissions received, the tenders of IBM (no Form of Offer) and ICT-Works (Form of Offer not signed) were declared invalid."

So who was responsible for re-validation of the bid by ICT-Works?

No one from the city council has been willing to provide answers. All queries have been referred to the city's attorneys at Webber Wentzel.

In a sworn affidavit filed by Myron Pullen, who represented GijimaAST at the tender opening session, he said that at the close of business that day, representatives of ICT-Works and of Absa (funding ICT's bid), engaged Walter Marinus outside the chamber – a fruitless encounter as Marinus reportedly told them the tender had been closed without them.

They then tried to persuade one of the consultants appointed to assist the city (with technical evaluation), Christhoff Krogscheepers, to intervene, but he said he was merely a consultant and had no authority to do so.

Although none of those mandated by the city to adjudicate the bids at the opening stages had included the ICT-Works/Absa bid, someone higher up the ladder saw fit to validate the already-disqualified bid – without telling other bidders.

Lumen Technologies – bidding in partnership with Questek Transit Technologies – was only officially told of the validation of ICT-Works' bid on 24 August last year, nearly a year after the initial disqualification.

Eventually, in November, the city announced on its website that the seven-year 24G contract worth R376,285,716.09 plus another annual sum of R37m, had gone to ICT-Works. And 25G – worth R194,845,482.38 – for the "Design, supply,

delivery, installation, testing, commissioning and maintenance of the IRT control centre hardware and software systems" went to Lumen/Questek.

When Lumen appealed the award's having gone to the disqualified ICT/Absa, the city – through their attorneys Webber Wentzel – "without prejudice", warned Lumen that persisting with their protest would jeopardise their 25G contract.

Lumen Technologies may have been scared off, but perhaps the Auditor General will crack his whip and impose some propriety on the tender train. ■

Perhaps the Auditor General will crack his whip



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HOLD THAT TIGER!

Is China
in Africa
a purring
pussycat – or
a fearsome
predator?

ON THIS point all sources are agreed: the Chinese tiger is headed our way – with a smiling President Jacob Zuma happily on its back for the ride! But on the question of whether the golden-eyed cat with its smiling passenger is a fearsome feline on the prowl, or just a loveable purring pussycat coming our way, opinions are divided.

Money, money, money! is the mantra recited by lobbyist/facilitator M K Malefane, when promoting the China-Southern Africa trade fair scheduled to open in Johannesburg in mid-May. Hundreds of Chinese officials and industrialists are signed up to attend the fair – headlined “China is coming to you” – and, says Malefane, they have billions of dollars to lend and spend here! To him China is not only a loveable pussy – it’s a rich and generous loveable pussy. He’s the one doing the purring:

China has already overtaken Britain, the US and France as South Africa’s single biggest trading partner. According to Malefane, the current trade fair or “expo” could result in “one of the biggest injections ever” of Chinese money into the region.

The trade fair follows just a month after Zuma flew to China for South Africa’s formal admission to BRIC (the economic block formed three years ago by Brazil, Russia, India and China) – which is now known as BRICS.

All that local businessmen and politicians who plan to attend the expo (naturally in the hope of securing a cut

of China’s *largesse*) need do – according to a pamphlet specially prepared for the guidance of those proposing to attend the expo – is be polite, print up some business cards with gold lettering, throw a welcoming banquet for their Chinese guests – and then line up for two days of one-on-one networking sessions.

Nosweek readers might be surprised to learn that it is Julius Malema who has the far more sceptical and, dare we say it, more sophisticated view of our and other African governments’ rush to take a ride on the tiger. (See box.) For now, his views are neatly summed up by that old limeric:

*There was a young lady of Niger
who smiled as she rode on a tiger.
They returned from the ride
with the lady inside
and the smile on the face of the tiger.*

So, what has the rest of Africa’s experience been?

Dr Marco Sanfilippo of the European University Institute in Florence, who has made a long-term study of China’s foreign direct investment in Africa, says China’s priorities in Africa are to source raw materials to meet the increasingly sophisticated consumer demands of its own rapidly growing middle class, and to find markets for its surplus production of cheap, “low-end” goods for which there is a declining domestic demand.

In November 2007, Scott Johnson writing in *Newsweek* reported: “Chinese companies are sucking up oil from Sudan, cutting timber in Guinea and mining copper and zinc from the Congo. Beijing recently bought a major stake in South Africa’s Standard Bank

to fund infrastructure projects throughout the continent.

“China has opened more embassies in Africa than United States has.”

According to Sanfilippo, China has traditionally targeted for its loan offers those African countries with “fragile” economies: those unable to raise loans from the World Bank, the IMF or major Western countries – either because they are politically “untouchable” (such as Zimbabwe and Sudan) or because they could not meet the usual financial conditions for such loans (such as Angola and the Democratic Republic of Congo).

China’s own competitive edge came from its having a vast pool of unskilled labour with no trade unions. As a result, workers were prepared to work long working hours, for ultra-low wages, under conditions that took little-or-no account of their health and safety.

The Chinese workforce did have one huge benefit: employed in manufacturing goods for western markets, they acquired new skills in using ever-more sophisticated manufacturing technology.

But African workers are unlikely to benefit to any significant extent from the current wave of Chinese loans and investment, since its investments in Africa are directed largely at sourcing raw materials. Relatively low levels of technology are used in mining, so that the local labour force is unlikely to acquire any new skills.

Wages and working conditions in the mining sector are also traditionally the least regulated, so that wages are likely to be low. If the investor in mining is not required to process or “beneficiate” the ore mined in the source country before exporting it to China, there will be little benefit to be had by Africa from Chinese investment in mining.

Even when it comes to investment in other sectors of the economy, countries seeking such investment are often persuaded that in order to attract investment they must deregulate wages and remove health and safety measures that



Julius Malema’s BRIC-bat

I’M STILL to be persuaded of what South Africa’s role in BRICS is to be, since we are nowhere close to those countries, both in terms of population and the size of their economies.

Adverts promoting South Africa as the “gateway to Africa” are just making us vulnerable [to criticism] and should be stopped. People use us to get into Africa, take out the mineral resources, raw as they are, and leave. The Chinese are number one in doing that. As things are now, they don’t only take our minerals raw, they also bring [their own] labour. They just open a Chinese town on their arrival and then they provide everything. You are literally not getting anything out of Chinese involvement.

At least colonisers of the past utilised our people, even if the working conditions were not good.

We have still to hear what contribution we are going to make to BRICS. The only thing we might contribute is a better political character. Other than that, they are just going to swallow us. As a small country amongst some of the biggest economies and populations, our contribution might be meaningless.

We are still to be educated by our leadership on really what the benefits to South Africa are of our participation.

■ Edited extract from a speech to the Jewish Students Society at University of Cape Town as reported in the Mail & Guardian Online.



Jacob Zuma meets Chinese Vice President Xi Jinping in Cape Town last year

are costly to comply with – as Zambia was persuaded to do to attract Chinese investment.

The potential political backlash from such measures has also meant that the Zambian government has become increasingly secretive about the terms of the deals it has struck with China.

Says Filippo: “China will respect local laws, but where they can influence the political elite of the host country to relax the laws, they will do so. In China itself, they are increasingly applying new technologies and more environmentally friendly manufacturing practices because their own population has become more sophisticated and aware of these issues – but abroad, I suspect they won’t, since it’s more costly.”

And when China provides funding for major infrastructure projects, such as roads and railway lines – usually

needed to get the raw materials mined to the coast for shipment to China – it invariably makes it a condition of the financing package that only Chinese contractors may bid and Chinese labour must be used.

Angola, for instance, has traded off its oil concession with infrastructure development. The BBC’s Lucy Ash reported in 2007 that: “Since 2004, Angola has taken out \$8-12 billion in loans from China. Thanks to its huge oil deposits in the Gulf of Guinea, the former Portuguese colony has become China’s biggest African trading partner. In exchange for Angola’s oil, energy-hungry China is helping to repair the country’s infrastructure.

“Although Beijing insists its credit comes with no strings attached, the deal in Angola is that 70% of tenders for public works must go to Chinese

firms. That means tens of thousands of jobs here for Chinese workers, engineers, planners – and even doctors.”

In her investigations, journalist Ash had noticed that all materials used in construction, from bags of cement to scaffolding poles had been imported from China. She also reported that apart from the security guards at the gates and two women employed to wash vegetables and clean latrines and bathrooms at various construction sites, the rest were Chinese.

Kenya, too, has been held to similar Chinese loan conditions. Not just public contracts are affected; even private companies are being forced by politicians to “go Chinese”.

The country’s largest mobile service provider, Safaricom, whose biggest shareholder is Vodafone Plc, has been fighting with politicians about its procurements. This arm-twisting of the mobile provider was revealed in one of the US diplomatic cables released by Wikileaks.

A cable headed “Doing Business the Chinese Way” told how “Chinese firms selling into Kenya’s information and communication technology (ICT) sector are throwing a lot of money around... Putting aside corruption, Chinese ICT vendors are difficult to beat on price and quality, and therefore often win government procurement tenders. However, companies that buy Chinese equipment often find that they end up paying the piper later due to poor after-sales service.”

It quotes Michael Joseph, the former CEO of the mobile phone company, as saying: “The Chinese are re-colonising Africa for natural resources”. According to the cable, “Joseph went on to describe the use by Chinese ICT vendors of concessional credits from the Chinese government to lock up contracts...” When there are equipment problems later, he said, the Chinese “run for the door”.

Safaricom reportedly found itself in hot water with politicians when they cancelled a contract with a Chinese company. “Safaricom purchased equipment last year [2006] from Huawei, but the deal was too good to be true. Huawei effectively reneged and only delivered half the equipment promised in the contract. Joseph went to China personally, eventually got the Huawei CEO to admit that the company had lied, and then forced it to cancel the contract.

“When he returned to Kenya after

cancelling the Huawei contract, he was summoned to the office of Mutahi Kagwe, the Minister of Information and Communications, and told that the cancellation put all Chinese foreign assistance to Kenya at risk. He also received phone calls from different ministers with no responsibility for ICT who insisted that he reconsider the cancellation. One was the Minister for Immigration, who hinted that Joseph, a foreigner, might have work-permit problems if he cancelled the contract.” (A copy of the cable can be viewed on *Noseweek's* website.)

The experts *Noseweek* spoke to were marginally more optimistic about Chinese investment in a stronger, more

Companies that buy Chinese equipment often find that they end up paying the piper

sophisticated economy, where they had to do with a government that was a tougher negotiator.

And, as Malema, too, noted: a body representing the larger Southern African region was probably in a more powerful position to extract better terms than each country individually.

Provided, of course, that corruption did not nullify all such considerations – and corruption is the one big economic reality which all the researchers seem so far simply to have ignored.

And one thing the Chinese still do is subscribe to Chairman Mao's first principle: China does not interfere in or judge other countries' politics – or tolerate interference in its own. So if a country's government happens to be corrupt, that's not China's concern. It

might even be to China's advantage, which is all that matters to China. Hullo, is that Chancellor House?

A press release from the organisers of the SADC-China trade fair in Johannesburg says the list of Chinese participants is headed by the China Coal Group and the Sinopacific Shipbuilding Group. Also high on the list are CRBC International, a major road and bridge construction company; China Gezhouba, a company specialising in hydro-electric projects; the China International Water and Electric Corp; and the China Railway Construction Corporation. No fewer than 21 Chinese mining enterprises were said to be participating.

As Dr Sven Grimm, director of the Centre for Chinese Studies at Stellenbosch University says in a recent report: “Chinese companies – like others – invest for their own benefit. It is the task of African government to create and reinforce the framework conditions that both attract foreign direct investment and make it beneficial for the greater good of society.”

To conclude, a cautionary reminder from Dr Sanfilippo: “Negotiating with a potential Chinese investor or business partner is not like negotiating with a western multinational, whose prime objective is to earn profits. In effect you're negotiating with the might of the state of China. Its main or immediate aim is not profit, but to serve priorities determined by long-term national economic policy”.

China wants to secure an adequate supply of raw materials. Food. Work for its labour force. A market for its surplus production.

Most of the Chinese companies coming to South Africa are state owned. Even the so-called private ones function strictly in terms of national policy. It is not for merely symbolic reasons that China invariably concludes a whole range of state-to-state agreements with the host government before the business-to-business talking begins. Ultimately the Chinese government will be providing the loans and finance – and setting the conditions for those loans. Those might include relaxing labour regulations: politically, probably the most sensitive issue. It depends on how desperate we are for those loans. And, of course, if profit is not China's main objective; if it wishes simply to secure a reliable long-term supply of raw materials, then maybe betraying our own labour force won't be necessary. ■



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Legal recourse

ATTORNEY FRANK RAYMOND is aggrieved by allegations about him in connection with rogue builder Pierre Kotze (*nose136*). *Noseweek* related how Chris and Anthea Solomon had struggled to get justice against Kotze, because the builder's attorney, Raymond, had managed to string the case out for eight years.

According to Raymond the allegations about him are "defamatory *per se* and carry the additional sting that [he] lacks integrity; is dishonourable, untrustworthy and dishonest; acted with bad faith or negligently in prosecuting the relevant matter and is not a fit and proper person to practise as an attorney".

The complaint relates to the following statements in the article:

■ "The Solomons' attorney, Ludolph Joubert, claims Kotze's attorney Frank Raymond managed to delay the matter by often being late or unprepared (Raymond denies this, claiming he was always ready and the delays were caused by the Solomons' legal team).

The complaint refers to this sentence: "... whilst noting our client's denial... reported the defamatory statement in a slanted manner so as to question the veracity of our client's denial". It goes on to say that Ludolph Joubert has since denied having made this claim, and it attaches a letter from Joubert in which he says: "We never indicated that Mr Raymond intentionally delayed the matter. There was one incident where Mr Raymond was involved in another matter in Grabouw and he informed the magistrate that he would be late. On another trial date he requested that the matter should only start at 10h00 because he had other commitments... My client was very unhappy with the delay and complained about it... we never said that Mr Raymond was not prepared for trial. Mr Raymond made it quite clear that he was no expert insofar as building plans are concerned and found it difficult to understand the different

versions of the plans. As a result there was very lengthy cross-questioning which caused a 13-day trial. The lengthy trial was not due to Mr Raymond being late or unprepared, but rather an accumulation of factors which caused a very long trial."

The complaint goes on to say *Noseweek* didn't check this with the presiding magistrate, and it attaches a letter from magistrate J van Reenen, in which he says: "Kindly take notice that it is not my style to comment on newspaper reports generally. However I am somewhat perturbed by a statement made that attorney Frank Raymond delayed the above court case in that he was always late and unprepared. As

It's about an ineffective legal system rather than a single lousy builder

the presiding officer I confirm that attorney Frank Raymond was thoroughly prepared and always attended court proceedings timeously".

Noseweek's response: We disagree that there was any slant to our sentence. As for Mr Joubert, what he is saying now is rather different to what he told our reporter during a surprisingly lengthy telephone discussion – *Noseweek* is quite satisfied that what he said is accurately summarised in the article. As for the magistrate, the magazine isn't in the habit of asking judicial officers for comment, if for no other reason than they are unlikely to do so (a fact confirmed by the magistrate). *Noseweek* is, however, happy to publish his statement now. One further comment: doesn't preparation for trial include getting up-to-speed

with the subject matter, so the case doesn't have to occupy a court for 13 days while you learn how to read plans?

■ "Eventually Raymond did serve an appeal notice on the Solomons' attorney, but when this didn't go any further, Joubert made inquiries at the Western Cape High Court and established that no appeal was ever actually lodged. The Solomons were so angry at what they saw as a blatant attempt to further delay the matter, they tried to lodge a Law Society complaint against Raymond, but they were told the complaint had to go through their own attorney. Joubert told *Noseweek* that he thought he had written to the Law Society

about Raymond – although, he said, he had been much more focussed on pursuing Kotze."

The complaint is that "our client was neither informed nor afforded an opportunity to respond to [these] allegations". On this charge *Noseweek* pleads guilty. Raymond was asked to respond, and did so. The article should have read:

"Joubert made enquiries at the Cape High Court and established that no appeal was ever actually lodged at court (Raymond denies this, saying he did lodge an appeal, but that he then withdrew as attorney of record because Kotze wasn't paying)." The words in brackets were cut in the editing process. We apologise and are happy to put it right.

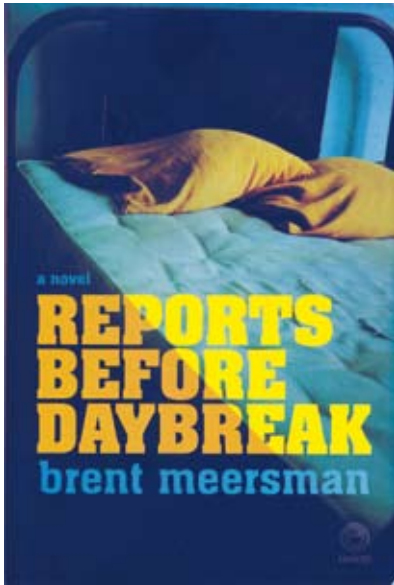
Finally, Joubert now denies having lodged a complaint with the Law Society. In the attached letter he says: "We could not find, on our file, a complaint to the Law Society and thus we are of the opinion that Mr Raymond would never have received a complaint from the Law Society."

No surprise! This was part of the Solomons' frustration – they were fobbed off by the Law Society, and when they instructed their own attorney to file a complaint, they got no feedback. When we spoke to Joubert he was noticeably vague on this point. We have no doubt that the complaint was never lodged. The article was, of course, more about the ineffectiveness of the legal system than a single lousy builder. ■

Escape from Hell

THOSE WHO WISH to forget may falter at the outset of Brent Meersman's new novel. But stick with it: he turns out to be a useful story-teller.

Reports Before Daybreak twines the young lives of assorted characters into the historic archive of the South African revolution – from the dawn of the Republic in May 1961 to the release of Nelson Mandela. The device of culling actual headlines and quotations to provide chronological context for each chapter takes a bit of getting used to, but, once the rhythm is established, it works.



Daybreak is a timely reminder that the nation survived a high-wire escape from hell. For the present, anyway. Many of the privileged classes, blindfolded by the previous regime and social conditioning, had only a dim notion of the boiling fury of the workers.

Meersman supports his tale of Dickensian complexity with vivid

Len Ashton
reviews

Reports Before Daybreak
(Umuji – Random House Struik)
By Brent Meersman



insights into the lives of ordinary people, workers and other classes. As with Dickens, the writer seems aware that the upheaval of those years of change was not only political: in South Africa it echoed the Western experience of often-violent adaptation to industrial revolution.

Today, the populace is impatient of self-seeking politicians' reminders of The Struggle. The caravan has moved on, and tolerance of heroic rhetoric is fading. Delivery is the issue.

So it falls to this novelist (no axe to grind) to recall those extraordinary times, to refresh the memory and inform the ignorant of the major dramas of the formative past. We may not yet have found paradise, but the horror that loomed before the previous regime collapsed needs remembrance. As do the peace-makers. We owe them enormous gratitude. Things could so easily have gone totally pear-shaped.

Meersman traces the intricate links that bind individuals in this fragmented land, and uses those connections to prove the subtle interdependence of communities.

The superficial differences in this wildly disparate population would seem set to keep the tribes, of whatever colour, at arms' length forever. The novel shows that, willy-nilly, we survive by common human understanding, despite profound misconceptions.

The adventurous young characters

in *Daybreak* range from rural tribal folk to desperate shack dwellers, rich and poor whites, and a peppering of academics.

Young black freedom fighter and bewildered white troopie conscript must live by common consent, but they are totally uncomprehending of that fact, and of each other.

Today, politicians' attempts to force *gemutlichkeit* between races and communities may have their successes, but in reality the issue is one of learning mutual respect for difference. Which takes a long time. And the world is not exactly brimming with examples of such successful accommodations. Meersman does not offer futurist prophecies. He is concerned to tell a tense tale of survival. ■

Reports Before Daybreak is published by Struik with a published price of R195. It is available from Loot.co.za for R163. We accept payment by Visa, Mastercard, or direct deposit to our ABSA bank account.

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Main street Elukwatini

The bank in this one-horse town treats its customers like cattle

milking LINING UP TO BE

FIRST NATIONAL Bank's sales pitch says "How can we help you?" Well, these over-charging robber barons should, instead of paying some ad agency to come up with this crap, rather invest that money in giving the people of Elukwatini a proper branch.

For those of you who do not know where Elukwatini is, it is what many of us sophisticates would call a backwater village or a one-horse town. In this case it is actually a several-cows town – meaning, until quite recently it was not unusual to have to wait for cows at the main CBD robots to cross before you could proceed.

But now the cows are no longer a problem, because this backwater has blossomed over the past three to five years; so much so that the likes of FNB, Absa and Standard Bank have found it financially viable to open up in Elukwatini.

But what does FNB invest in? A so-called "satellite branch". A bit like a make-do spaza bank, only the clients pay the same amount of banking fees as those who bank in their so-called

main branches.

As a result, the residents of Elukwatini must, on a daily basis, endure long queues – and I mean lines that would even set Shabby Shaik's medical condition on edge.

My little *Guardian* has observed this horrendous lack of efficient customer service at the Elukwatini FNB branch for nearly two years.

After (sometimes) hours of waiting, customers are herded into the tiny branch, one by one like cattle; once inside, the space is so small, customers are virtually climbing on top of each other.

And get this: while my little newspaper was taking photos of the long, slow-moving line, we were accosted by a security guard who demanded to know why we were taking photos. This idiot then frog-marched me inside the branch where I was confronted by the bank manager. She refused to divulge her name – but she did demand to know: "Who gave you the right to take photos of the bank?"

She was quickly reminded of the freedom of the press, but more



Bheki Mashile's **Country Life**

importantly, this writer took that opportunity to confront her with some questions of his own: Why do the bank's customers always have to endure long, slow-moving queues, and haven't you noticed that the customer base has outgrown the so-called satellite branch, and have you reported this to head office, and if not, why not?

She refused to comment and asked us to leave the bank. We left, but not before I had pointed out to her that it was the security guard who decided to infringe on my newspaper's constitutional rights of press freedom that brought us inside the bank.

And not before I had thanked the guard for his stupidity that had paved the way for my little *Guardian* to finally confront the evasive manager regarding the bank's inefficient customer service.

Anyone can see that the Elukwatini customer base has grown immensely over the last few years. This is not just evident from the large number of shoppers at the crossing (Elukwatini's CBD), but also from the numerous developments taking place.

For a major corporate entity like FNB not to realise that it must provide bigger premises and an increased staff component to better serve this community is appalling.

Once again let me remind you, these poor country folk are paying the same bloody outrageous banking fees that customers in urban areas are paying. For crying out loud, they deserve proper, efficient service.

For those at FNB who haven't noticed, the place is also bloody hot, as in Sahara or Gobi desert hot. Who the hell wants to be standing out in a damned line for hours on end in these conditions?

So, I say to FNB, you ask how you can help me, well, you can't, since I don't bank with you, but for Godssakes help the people of Elukwatini – provide them with a proper branch,

That's not the end of my story. As the salesman says, there's more – and it gets worse. (You know as well as I do that every act of stupidity always gets worse.)

It would appear that the training provided to the security guards employed by Roman Security of Secunda – the ones contracted to guard the Elukwatini FNB – can rightfully be described as a master's degree in stupidity.

My own personal experience of them is nothing compared to what befell staff members of the Elukwatini Pick n Pay supermarket.

According to Pick n Pay management, on 8 February, two of the supermarket's staff members were robbed at gunpoint outside the FNB because the Roman guard on duty refused to allow them into the bank.

The robbers are said to have taken the R400,000 store deposit that the employees were carrying, as well as their vehicle. The vehicle was later found abandoned on the Lochiel Road, leading to Swaziland.

Elukwatini police confirmed that a charge of robbery had been laid by the supermarket.

Pick n Pay said the security guard had refused to let the employees in because they would be jumping the queue. He is said to have then decided to ask the people in line if they would allow the Pick n Pay employees to jump the queue. "This security guard blurted out for everyone to hear, 'Pick n Pay wants to go inside. Is it OK with you if they do so?'"

"Right after he said that, two individuals suddenly appeared from the queue and pulled out pistols, robbing the two employees of the money and their vehicle," said Pick n Pay management.

Talk around here is that either the Roman guards are the most incompetent people in the security business, or the fact that the one on duty on 8 February finds it necessary to announce out loud that Pick n Pay wants to enter the bank to make a large deposit, when there happen to be two armed robbers also waiting in line is, dare we say, maybe just a little suspect?

Ah! Yes, my country life, I love it! ■

The over-charging robber barons should, instead of paying an ad agency to come up with crap, invest in a proper branch



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Harold Strachan

NOTTOO long ago, now, at a time when today's mature readers were still a bit youngish, certain lads, robust in body and mind, having hit the age of 18, would be whisked off to a place called The Border, and some such lads having hit the age of 20 would return with a condition known as BB, which is to say *Bosbedonderd*. BB comes from lying on this side of a *klompie bos* with an assault rifle whilst an unfriendly gent with a hand grenade lies on the other, and if he doesn't come and do this thing tomorrow, that's because some Cuban MiG is on its way, loaded to the gun'ls with naphthalene palmitate, which is to say napalm, and it's all for you.

Way before that, I had an RAF instructor whose job it was to teach me the techniques of bombing cities by night, only whenever we came within range of Joburg with all its lights blazing he would go and sit with his parachute next to the aircraft escape hatch because Joburg looked so like Berlin with all its buildings blazing.

Er... said he, don't talk about it. Okay, sir, said I, because I supposed if the RAF got to hear about it they might take him off instruction and send him back to bomb Berlin some more. His condition was known to the RAF as LMF, Lack of Moral Fibre, you see. To aircrew it was known as Flakhappy.

Way way back, before even I was born, my Oupa Van came back from commando duties in *die Engelse Oorlog* with a condition known as *Veldbevok*, or *Blokhuisbevok*, which came from ducking between such blockhouses in search of a bit of ammo and something warm to wear and maybe a horse. Even a dead horse would do. For biltong. Settle down now? To what? Diamonds. Diamonds became the lure of a new life. With a few pounds in a pocket of his *verweelbroek*, he set course sou'westerly where the diamonds were and a rough life with the *kêrels*; diamonds are a man's best friend. After a few years of silence he was presumed dead.

My Ouma, now, she was a Kapenaar, a Du Clerq from Klein Drakenstein, so technically she was a British subject living in a Boer republic, and she ducked the war entirely. Back of her Pretoria house she established a genteel atrium of rooms to let, with a nice polished stoep all the way round and in the enclosed space, an orchard of

great delight: apricots, figs, pomegranates and *kaalgatperskes*, fragrant, cool and peaceful. I must say, without Oupa. But into this discreet milieu suddenly one nice morning he reappeared, back from the grave, his clothing dirty and dangling, filthy, and stink, man, stink!

In a trice he set up in Ouma's orchard a pickled fish business with a big

bucket, many old planks from a demolition site for fuel, two pounds of curry powder and a quantity of Cape *stokvis* that everybody declared was in fact

Magaliesbergse *stokvis* i.e. rinhals. His recipe was fairly homely: half-fill the bucket with fish, scaled and disembowelled. Fill $\frac{3}{4}$ with water. Boil. Add 1 cup salt and 14 onions, cut up. Fling in 1lb curry powder. Serve

hot with $\frac{1}{2}$ loaf bread and Madame Balls Patent 98-octane Pretoria peach blatjang (finances allowing). A merry enterprise. Oupa sang his diamond-field ditties as he stirred up these ingredients with one of the planks:

*Tarara boem-die-ei,
Oom Paul het 'n vark gery,
Afgeval en seergekry,
Tarara boem-die-ei.*

But really the pong was something cruel. The post-war dispossessed came from every corner of Pretoria, according to wind direction, all sang Protestant hymns, all day, all stank, man, stank!

Ouma's genteel tenants started drifting away, some just shut their doors and windows and thanked God it was winter. My Auntie Aggie went into retreat to Know the Truth as Christian Scientists do; all evil things are Error, a mistake, and if you knew this truth hard enough the evil would disappear.

But Oupa Van persevered in the biblical miracle of the fish, the loaves and the multitude, the fearsome conflict between scriptural and metaphysical truth filled the aether with crackling static energy, huge leaden cumulonimbus clouds roiled up over Pretoria, great hailstones flailed the darkened city, lightning struck as the horrified populace smeared themselves with sheep dip and covered the mirror with brown paper to deflect the bolts. Science and faith strove for possession of the soul of personkind.

When Auntie Aggie, looking drawn, emerged a week later from knowing the truth, old man and fish were indeed gone and the air murmured with the ambient melody of the last movement of Beethoven's *Pastoral Symphony*. Oupa van Tonder was last seen headed sou'west where Kimberlite and companionship are a man's life and love. ■

Flakhappy



Illustration: Harold Strachan

Great hailstones
flailed the
darkened city, light-
ning struck as the
horrified populace
smeared themselves
with sheep dip

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Boxed ads are R250 plus VAT per column cm (min 3cm deep).

Payment by cheque should be made to Chaucer Publications (Pty) Ltd, PO Box 44538, Claremont 7735.

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Payment online at www.noseweek.co.za

Email ads to ads@noseweek.co.za

Further info Adrienne 021 686 0570

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Although noseweek does reject obviously questionable ads, it can't run checks on every ad that appears in the magazine. The magazine doesn't endorse the products or services advertised and readers are urged to exercise normal caution when doing business with advertisers.



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