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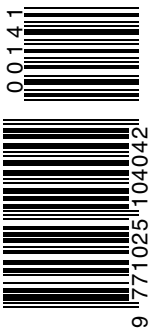
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SCAMSTERS TO REPAY
R600 MILLION

141 | JULY 2011



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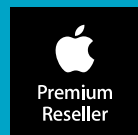


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Spot the difference

YOUR cartoon figure enjoying a cushy prison experience on the cover of *nose140* looks disconcertingly like Trevor Manuel. Do you know something we don't know? Are you trying to break the news really gently? What surprises does *nose141* have for us?

Ben
Rondebosch

Blinkered

BAUSCH and Lomb, a recognised pharmaceutical company, sells eye vitamins called OcuVite, that contain similar ingredients to Solal which was criticised in *nose139*. They claim dietary studies show that their vitamins assist in eye health and may prevent macular degeneration.

A dangerous stage in science seems to have been reached where organisations like Quackwatch (with fundamentalist beliefs intolerant to anybody's perceptions but their own) have taken it upon themselves to criticise, ridicule or demonise anything outside their ambit of understanding, especially if it concerns supplements, while companies like Bausch and Lomb escape their myopic vision.

"Robust human trials" on various drugs and their manufacture have resulted in untold misery and death through the side-effects (every fourth person taking properly prescribed drugs, according to FDA stats) while natural products and supplements have to date not caused a single death world wide (also FDA stats).

Scientists who promote intolerance and create doubt in the mind of the public by publishing one-sided and biased views, are creating the impression that

nature needs the approval and validation of scientists.

Dr Barbara Zeisler
By email

Dr Harris Steinman's response: Bausch and Lomb's claims about the product are based on very little evidence – certainly not sufficient to support them.

Requesting "adequate" evidence that these ingredients/products work is



not to ridicule or demonise complementary medicines, nor to support fundamentalist beliefs or Big Pharma products. My principles are simple: to ensure that consumers' health is protected and that they are not unwittingly paying for ineffectual products.

Consumers may blindly believe in a product as a result of advertising and therefore not seek out other forms of treatment that are of proven benefit.

Comeuppance?

A FEW comments on the "Victory for Vuyo" story in *nose138*.

- In Grade 10 at age 18, after having failed twice sounds like a man not too keen to learn: definitely a disruptive influence.

- There are many structures that he could have followed to resolve

the grade to move on.

- He ended up in this muddle of his own doing: he lost his leg, messed up his life and now the taxpayer has to fork out to help him.

Petros
Pretoria

You might have had a point or two, except there is no evidence to suggest Vuyo was a disruptive influence. As for his age: in countries such as the UK and Kenya, adults are actively encouraged to attend school, where the presence of a 65-year-old is said to have a beneficial and calming influence in a classroom of teenagers. Surely being chased down a school corridor by an incensed teacher intent on a physical assault so terrifying that Vuyo leapt from a balcony to escape can't be excused? – Ed.

Catch of the day

YOUR story about FNB getting all confused about the cost of forex transactions got me worked up all over again ("Fob Off" – *nose140*).

The treasurer of a body I serve as chairman recently tried to cash a cheque, as she's done for many years, at her local FNB branch in Randburg. FNB refused, saying cash cheques can now only be cashed at the branch where the account is held. Since she works a long way from that branch, we'll have to make some other arrangement for our funds.

Most banks seem to have systems that enable any branch to verify the account balance and signatures on the cheque, but that would be giving customer service.

Of course, with only around R375,000 in that account, it might just be that we're too small fry for them to care.

Henry Watermeyer
Lyndhurst

Sick trick

TO WHAT lengths will medical aid funds go to avoid paying out claims?

At the end of January I went for my annual pap smear checkup. I paid the doctor then submitted my claim to Medshield for reimbursement. The first time they rejected the claim they said my gender was incorrect! I sent a copy of my ID book and resubmitted the claim.

The second rejection stated that the ICD codes were incorrect but they were not at liberty to tell me what they were or should be. The doctor's rooms confirmed that the codes were all correct and contacted Medshield who agreed.

I resubmitted the claim. The third rejection stated "insufficient funds in savings". We do not have a linked savings account as this is a hospital plan (Core Plus option) and it should be covered under their Always There programme. Again I resubmitted the claim, quoting from their benefits book: "Pap Smear (1 per female beneficiary 13 years and older per year)".

The reason for the fourth and final rejection was – wait for it – "Misprint in brochure. Always There programme not offered on this scheme. Please also note the disclaimer on the brochure on page 8: "These

benefits act as a summary and do not supersede the Annexures, Scheme Rules, Membership Rules and Scheme Protocols'."

Shirley Woodward
Constantia

High and mighty

YOUR reports on the incompetence of – and ripoff charges by – certain Mercedes Benz dealerships (*noses138,140*) are supported by my own experiences.

The Mercedes dealership, John Williams Motors in Welkom, quoted almost R20,000 to replace the shocks on my ML 500. In the end I bought a set on eBay and had it fitted, all for R6,000.

Separately, I asked them whether I could change the tyre size on my car, and for a quote to replace my spare key. Three months later, still no answer. Thanks for nothing MBSA.

(Apparently it is easier to get a license for an automatic weapon than to get a spare key made.)

Anton
Welkom

Dead yet not buried

I WAS interested to read the article, "Computer Says No" in *nose139*.

A couple of years ago my

daughter rear-ended her vehicle whilst driving her BMW in rainy weather at moderate speed. The main damage to the BMW was some crumpling of the fenders, bonnet, grille area and bumper. It definitely looked repairable, so we were shocked that it was declared a write-off.

Some months later, my daughter saw her BMW – perfectly restored – parked in Sea Point. It seems that insurance companies sell "written off" vehicles to new owners.

I am sure that this practice is perfectly legal and done by all insurance companies, but one suspects insurance companies sometimes do what is more advantageous to themselves rather than to the insured.

Jim New
Cape Town

Box bullies

IN NOVEMBER 2009 the *Sunday Times* reassured me I need have no fear about all the summonses and final notices for TV licence fees between 1991 and 1995, but even if they have no legitimacy, they're scary.

I have a file of their veiled threats since 2002. They don't read letters. When you phone, they understand perfectly and will fix it but don't – the TV was rented.

How much are They raking in from all those

final notices, letters and, lately, SMSes? Is it easy to get people's cellphone numbers from Big Brother (please try). Who is getting paid at Rica? Who is scamming whom and with whose collusion? Do they ever take people to court? "They" are Van de Venter Mojapelo Inc, PO Box 953, Randburg. Tel. 087 805 4900 Fax. 086 730 6350 email: sabc@vvm.co.za. Their SMS reply number is vvmnc – tel: 087 805 4941.

I do wish you could find a great septic tank in which to dump them.

E Kranenburg
Baardscheerdersbos

See noses123 and 128 for all we have managed to establish so far about this dubious operation. – Ed.

Chapter and verse

IN SLOW-MOVING traffic, I noticed a rear windscreen sticker on the car in front of us, which read: "Pray for Our President Zuma, Julius Malema, and Robert Mugabe. Psalm 109:8".

My husband's Bible was on the dashboard. He opened it to *Psalm 109* – and burst out laughing. It reads: "Let his days be few; and let another take his office."

Let us all bow our heads and pray.

Beatrice
By email

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Saab: why the sudden candour?

IN MAY, Swedish defence supplier, Saab was still steadfastly denying that bribes had been paid to secure its contract to supply 28 JAS Gripen fighters to the South African Air Force – just one component of the massively corrupt arms deals concluded by the Mbeki government in 1999.

Then, suddenly, in June, Saab admitted that R24 million had been paid by its South African subsidiary Sanip in “bonuses and salaries” between 2003 and 2005 to advance the deal. But Saab president and chief executive Haakan Bushke still denied responsibility, saying in a statement: “A person employed by BAE Systems [Saab’s British partner in the deal] has, without Saab’s knowledge, signed for us an unknown contract... signed us up [for] until now unknown transactions”.

Why the sudden turnabout? The most obvious reason was that Sweden’s TV4 television channel said it had evidence that Saab had promised to pay South African defence consultant Fana Hlongwane, who also served as a consultant to the Swedish firm, millions of euros in bonuses if Pretoria did not back out of the Gripen deal.

Hlongwane was an adviser to then-Defence Minister Joe Modise at the time of the arms deal.

The erstwhile Scorpions, acting on a request from the UK’s Serious Fraud Office, raided Hlongwane’s Joburg home and his Zimbali Estate in KwaZuluNatal in 2008 in search of documentation related to the arms deals.

But there are other, more persuasive reasons why Saab now might just be willing to come clean: for a start, Saab’s confession follows the announcement by the Hawks that they had closed their investigation into the arms deal. (The DA has called on Parliament to summon the head of the Hawks, Anwa Dramat, to explain the decision to close the remaining two legs of the investigation. The Hawks are yet to appear before MPs to explain the closing down of the probe, despite repeated requests from the standing committee on public accounts. Meanwhile the government is rushing ahead to get the Protection of Information Bill passed by Parliament.)

In Britain, not long before, the prosecuting authorities concluded a deal with BAE that ensures nothing more will be said – or done – by UK authorities about bribes paid by BAE in South Africa – and elsewhere.

An even better reason: just one week before the dramatic confession by Saab, BAE Systems announced it had sold its stake in Saab for £152m (R1.7 billion), marking the end of a 16-year-long relationship between the two defence contractors.

The relationship had already started going chilly in 2005, when BAE reduced its 35% stake in Saab to 21% – and started promoting the Eurofighter, a direct competitor to the Gripen. (BAE was increasing its focus on the US market. It is now among the top 10 defence firms operating there.)

BAE has been very seriously implicated in wrongdoing in the last decade and has recently paid a number of plea-bargained fines amounting to nearly \$500m.

This has seriously damaged Saab’s prospects, especially in its bids to sell the Gripen. Even Norway, which invested in its development, dumped the Gripen in favour of the Lockheed Martin F-35 (which arms-deal critic Richard Young describes as “in any case more modern, more capable and less expensive”).

Saab can still sell the Gripen to “second world” countries, but even there it will be helpful if it can pass the blame for past corrupt payments on to a competitor. BAE is clearly not only the correct culprit to blame, but perfectly placed in space and time for such blame.

Whoever doubted that the arms dealers have the world’s politicians in their pockets – our own President Zuma taking pride of place among them.

And then of course, there are the bankers. Pop into the nearest reputable DVD-hire shop and take out *Inside Job*, a feature-length documentary narrated by Matt Damon, in which all is revealed about the Icelandic bank collapse, and President Obama’s multi-billion-dollar bailout of some of the world’s most disreputable bankers – with taxpayers’ money.

When you are totally depressed, take heart: clearly the arrival of WikiLeaks – and Anonymous – could not have been better timed.

God knows, we need them! Turn to page 36 to understand why.

For a bit of local solace, turn to our cover story on page 8, to rediscover that brave individuals can and still do make an enormous difference for good – yes, even men and women in government service!

The Editor

Home Affairs: Lost in space

DESPITE the many promises made by officials and politicians, service delivery at the Department of Home Affairs has not improved, a well-known firm of immigration attorneys has advised its clients in a special newsletter.

In an attempt to deal with widespread corruption, Director-General of Home Affairs Mkuseli Apleni, towards the end of last year, withdrew the delegation deployed to its regional offices to finalise temporary residence applications. All of these applications were then dispatched – and in some cases, not dispatched – to a Home Affairs central processing hub at Waitloo in Pretoria where a processing team was ostensibly dedicated to dealing with these applications.

A track-and-trace system was implemented – which, in an ideal world, would have allocated a number to each application as soon as it was received and through which it would have been able to follow the path of the application from beginning to end.

However, say attorneys Julian Pokroy

and partners in their June newsletter, reality does not match the dream conjured up by spokespersons for the department. Large numbers of applicants were not informed of their track-and-trace numbers, neither were their legal representatives. These applications, in most instances, then simply became “lost” in the system.

To complicate matters further, a call centre operation, remote from the Department of Home Affairs, was contracted to deal with enquiries.

Up to the time of writing, the call centre has been “an unmitigated disaster” says Pokroy. This of course needs to be seen against the background of “lost” files, failure to allocate track-and-trace numbers, and the fact that the call centre operators are not case managers dealing with individual applications but merely a conduit for enquiries.

In most instances where “lost” files are noted relating to enquiries made to the call centre, immigration lawyers have lodged copies of original applications and copies of original receipts issued to applicants or their representatives. Often

this has had to be done two or three times – still with no results.

“In many cases, threats of litigation have ensued and while all this sounds cumbersome and painful (which indeed it is) our office has managed to get the bulk of our outstanding applications finalised, we are happy to say,” says Pokroy.

Two months ago Apleni issued press statements announcing that all the backlogs had been cleared. But, says Pokroy, these statements bear no relation to reality.

In fact, an attorney in Cape Town has been driven to bringing a high court action against Apleni, as director general of Home Affairs, asking the court to compel the department to finalise more than 400 applications made by that legal practice alone.

Spurred on by the media statement, the department’s processing hub has begun an exercise to “clear” the backlog: this, says Pokroy, entails many permits being refused on totally unreasonable and unsubstantiated grounds, just to clear them off the backlog list. ■



STENT

LOCAL HERO

Eastern Cape health director-general Dr Siva Pillay

Threats and gunmen have not deterred Dr Siva Pillay's brave mission to clean up Eastern Cape healthcare, writes Chris Bateman

A CORRUPTION cleanout by Eastern Cape's health director-general Dr Siva Pillay has landed eight of his top healthcare administrators in court so far and could eventually restore nearly R1 billion to his budget – but it's an exercise that has endangered his life and that of his family.

Angry syndicates are believed to be behind a shadowy car park confrontation where several men in a green BMW blocked Pillay's exit, one of them approaching his bakkie on foot, hand on a holstered weapon. Pillay happened to have two trained Alsatian dogs in his bakkie awaiting a routine evening walk and ordered them to attack. They put the panicked would-be assailants to flight.

The incident happened about 9pm on 25 January this year in the deserted car park below the health department's head office in Bisho.

Pillay said that incident was followed by a verbal threat made in front of witnesses by the husband of his sacked chief financial officer, at the provincial legislature in April. "Basically he said I must not forget that this is Bisho and some of what I sow, I shall reap. He said the pit was getting deeper and deeper; that they were digging for me; and when they buried me nobody would ever get me out".

Late last year Pillay received a phone call saying "we know your wife is here at Brands Supermarket buying beds". Pillay's wife received a similar call, telling her she was being watched at the supermarket. "She told them that, regardless of anything they might do to her, I would carry on.

"I'm not worried; it's a sign of desperation on their part. In any case I'm a Buddhist and a veteran soldier. I'm

not going to live my life thinking about them all the time," he said, adding that the incidents appeared to be part of a wider pattern of intimidation.

Pillay's Education counterpart, Advocate Modidima Manny, uses full-time police bodyguards ever since receiving several similar threats, although these have more to do with public outrage at failures to provide textbooks and stationery, and the suspension of the school transport and nutrition programmes. Unlike Health, the Eastern Cape's Education Department is returning to the National Treasury hundreds of millions of rands earmarked for infrastructure development that remained unspent by the end of the financial year.

Pillay is the driving force behind a new multi-agency corruption-busting unit in his department and has sworn to continue the crackdown and overhaul his historically corrupt and ineffective healthcare administration. Already he has reversed more than 1,000 irregular staff promotions and payments worth about R600 million, for which he faces union court challenges.

Pillay's sacked chief financial officer, Phumla Vazi, has appeared in the Regional Court in Zwelitsha (King William's Town) with seven other senior healthcare and procurement administrators, all facing one charge of fraud and another of corruption. They allegedly flouted tender procedures, paying out R200,000 for work that was "never done". All have pleaded not guilty in a trial that began last year.

The latest crime bust by the corruption task team involves at least eight – and possibly many more – private dispensing doctors who allegedly bought discounted drugs, worth an estimated several million rands, from a theft syndicate at the Mthatha



Picture: Daily Dispatch

Medicines Depot. When Pillay ordered a stocktaking audit at the depot, it was petrol-bombed. This badly damaged or destroyed about a quarter of its R13m-worth of drug stocks. It is one of only two in the province (the other is in Port Elizabeth) supplying all public sector healthcare facilities.

Pillay ordered the audit after receiving repeated complaints from clinics and hospitals that drug stocks had run out and unsuccessfully tried to change the security guards there a day or two before the torching.

Back at Bisho head office, a director in the Eastern Cape's infrastructure department was sacked after a lengthy internal hearing involving a R11.5m tender for the revitalisation of Cecilia Makiwane Hospital in Mdantsane near East London. The man, who may not yet be named as the Hawks are probing criminal charges against him, took Pillay to court in a failed attempt to overturn an internal finding that he irregularly increased his own employment contract from three to five years.

Major-General D Badi, the Eastern Cape's Deputy Provincial Commissioner for Priority Crime Investigation (the Hawks), told *Izindaba* (the South African Medical Journal) that a forensic audit by PriceWaterhouse Coopers (PwC) involved four cases of tendering for work at Cecilia Makiwane Hospital and various district health clinics in 2009.

The first case involved the sacked official and was now at "an advanced stage as a criminal matter".

"We're doing it with a prosecutor from Pretoria and the National Treasury, but as the others come up and get passed on to us by PWC, we'll investigate charges," he said. Asked about the other tenders he said, "they were supposed to have delivered goods or to have made renovations at a number of clinics around the province".

The private auditors have been working on the four cases for nearly a year.

Both Badi and one of the Hawks investigating officers confirmed that there were other corruption and fraud cases being probed at the health department, but that these were "at an early and sensitive stage".

Pillay, who took over the hot-seat in February last year, said he "came into the job, with my eyes wide open... I knew what was going to happen... I didn't come in expecting a bed of roses".

The alleged lucrative discount drug

wholesaling scam emerged after several stings where Hawks members posed as buyers. One suspect (who has received an undertaking of indemnity for future testimony against his co-accused), sold drugs to various dispensing doctors.

"We had intelligence that there was a large consignment due to go out so we asked to do an audit. They told us to come back later when they were ready, but we said, no; we're doing it now. I asked for the security guards to be changed over that weekend, but they didn't and the place got firebombed," Pillay said.

He said he was securing the permission of national health minister, Dr Aaron Motsoaledi, to conduct surprise

When Pillay ordered an audit of drug stocks, the depot was petrol-bombed and destroyed

inspections at the premises of "certain dispensing doctors", in terms of the Medicines and Controlled Substances Act, to check whether their stocks were legitimate. Pillay hopes it will speed up the process by using the offices of the Health Professions Council, (HPCSA), and the Pharmacy Council. The doctors involved, at the very least, stand to lose their dispensing licences,

but it is likely the HPCSA will eventually refer the matters on for criminal investigation.

Other efficiency and clean-up measures include cancelling and re-advertising tenders for the Cecilia Makiwane Hospital revamp (those that have now been accepted are R120m cheaper than earlier bids); building dams and digging wells (not the health department's core function and usually done by Public Works) wherever health facilities need them; doing a province-wide gap analysis (23 of the 1,000-plus healthcare facilities have no electricity and seven do not have water, electricity or telephones); actively head-hunting doctors (120 found and placed) and specialists (48 found and placed) last year; and revitalising primary health care by increasing support services (ambulance fleet increased from 58 to 460 vehicles and 25 more patient transport vehicles and nine more mortuary vehicles bought in over the past 12 months) plus speeding up blood and pathology services.

Skills upgrading programmes meant that, for example, in emergency medical services, 312 ambulance staff who were not "fully compliant" for their jobs were now properly trained, another 200 had been employed, and another 150 posts were being advertised.

"This means that where we had only one driver per vehicle (meaning patients were unattended in the speeding ambulance), every vehicle now has two people," Pillay added.

He stressed that his province was not just about fraud and corruption: "I honestly believe there are enough good people who want to make a change and make things work better".

For the first time in eight years the Eastern Cape will not be returning money to the National Treasury allocated to it in the guise of the infrastructure grant. It is spending R1.9bn on renovating seven key hospitals and building an eighth (to be called St Elizabeth's at Lusikisiki).

Pillay a former parliamentarian who was born and bred in the Eastern Cape, was recruited by national health minister Dr Aaron Motsoaledi during a discussion in the corridors of parliament about seemingly intractable Eastern Cape healthcare delivery problems.

■ *Published with the permission of the South African Medical Journal, Izindaba, where it first appeared.*

MOTHERWELL'S ONE-WOMAN POWERHOUSE

DOCTOR Elizabeth-Mamisa Chabula-Nxiweni, 64, is a one-woman phenomenon; she graduated top of her med-school class, gave birth to the two youngest of her 10 children while studying, pioneered institutionalised safe circumcision-training among local traditional surgeons and created the Emmanuel Haven, a 175-person HIV/Aids day-care facility and crèche in Motherwell.

Port Elizabeth's Municipal Health Chief, who doubles up as a Presbyterian minister, has waged a protracted and lonely campaign for safe male circumcision in the traditional, patriarchal rural Eastern Cape – a mission which is finally saving multiple lives, thanks to her efforts.

The Haven, soon to be a 100-bed step-down facility, is also a government-accredited ARV site, catering to 2,000 outpatients. It boasts a "community awareness" radio station, an eye clinic and a 1.65-hectare hydroponics vegetable garden – all initiated by Chabula-Nxiweni.

She is no stranger to the fast-moving rough and tumble of South African politics where, as a former ANC activist with political-prisoner family, she has more than held her own. Two years ago, when listed by Cope for national Parliament, her ANC-led municipality promptly sacked her, citing imbedded conflict-of-interest legislation. She took them to the High Court and won, reoccupying her Public Health Executive Director seat, which she still holds today, plus recouping two months' of illegally withheld salary.

It's her uncompromising belief that "the truth will always win," that enabled her to engage, battle with and/or win over a formidable array of traditional surgeons for whom culture and traditional gender roles were non-negotiable.

"I would tell them there's nothing wrong with custom, but children are dying, there's HIV, bleeding, using the same instruments, doing it too fast – and (the self-interest deal-sealer) – you (the traditional circumcisor) can have an open wound and get HIV-infected blood splashed on it," she says. The last snippet of information usually got the attention of the most

A remarkable woman conquered male prejudice to win international plaudits for her innovative clean circumcision campaign.

By Chris Bateman

Dr Elizabeth-Mamisa Chabula-Nxiweni

hardened traditionalists, she chuckles.

Yet it was a mixture of persuasion, deep respect for cultural and gender practices and her calling to alleviate human suffering that gradually began making a difference in Motherwell, where Chabula-Nxiweni set up private practice in 1988 after graduating from Medunsa and completing her internship in Umtata.

The pivotal event was a visit by four fathers to her practice during that year's December holidays' initiation season. Her youngest brother, David, freshly released from political prison, told her he suspected they were the fathers of young, seriously ill initiates.

"I refused to see them because I knew that if it came out that they'd seen a (medical) doctor, let alone a woman, they would be immediate outcasts."

But in one of those strange First-World-meets-Third-World ironies, the men immediately threatened to take her to the Medical and Dental Council for

numbers at Chabula-Nxiweni's surgery or the local clinic every Sunday for almost two years. Her opponents dubbed them sell-outs (*Imncibisi zomNxiweni*) or the "Surgeons of Nxiweni" – a derogatory term relating to their being led by a female.

Among the early standard operating procedures she introduced were "obligatory" post-circumcision medical check-ups and parents or guardians' signing permission for traditional circumcision (parents often found themselves financially beholden to the traditional practitioners, who at that time charged R80 for surgery and R120 for the nurse).

Chabula-Nxiweni's efforts received worldwide attention when she was invited to make a presentation at a conference on traditional circumcision held in Washington DC in 2002. She spoke on the link between HIV and traditional circumcision, little knowing then about

circumcision in the Motherwell area.

A single mother (she was divorced early on in her marriage and raised and educated her 10 children on her own), she is now chairperson of the Emmanuel Haven Board which employs over 400 caregivers, home-based carers, gardeners and radio station staffers.

"The personal spiritual gain from the Haven is much higher than any money. I've achieved what I wanted to, which is to say thank you to the community of Motherwell for supporting me in my practice for 20 years and getting my kids educated".

Four of her children are medical doctors (one due to write his orthopaedic exams this year), three are chartered accountants, another is close to becoming an actuary, one has just completed his BComm and another is an industrial engineer.

How did she do it?

"I attribute it to God, a good gene mix and laying solid foundations and value systems in the home.

The last snippet of information usually got the attention of the most hardened traditionalists

refusing patients treatment. She relented, returning to her surgery under cover of darkness to treat the boys.

"I was shocked. One boy was dehydrated, one had a gangrenous penis, another sepsis. They had used potato peels, coals and brown paper and (mistakenly, non-medical) leaves as wound dressings."

Six months passed before the next batch of boys came in and she could "no longer ignore what was obviously a serious and ongoing societal malady. Chabula-Nxiweni was the health desk incumbent on the local male-dominated and ANC-aligned Motherwell Community Development Forum, and that very week had secured their grudging permission to begin talking to local *iNgcibisi* (traditional surgeons) and *amaKhankatha* (traditional – male – nurses) who accompany new initiates as healthcare minders during their bush retreat.

In 1991 the Motherwell Traditional Surgeons Attendance Association was formed after traditional surgeons and nurses had begun meeting in growing

the 60% preventative efficacy of a properly controlled and managed surgical snip.

The funding began to flow. Showing great tactical nous, she persuaded the US Agency for International Development (USAID) to donate via Medunsa, the SA Research Institute, to inject funding via the University of Port Elizabeth, and various other funders to work via her *alma mater*.

"I gave them all my material and they replicated my work. I wasn't documenting and researching," she explained, adding that this also avoided any financial misappropriation or mismanagement "landmines".

Her culturally and traditionally sensitive engagement protocols (her father, a Malawian, was a traditional healer) – such as only male doctors doing "bush visits" to initiates – became widely used as each institution devised training academies for traditional practitioners.

Chabula-Nxiweni is particularly proud that since 1991 there has not been a single recorded death or botched

"I was firm but not cruel to my kids and laid down the terms of reference clearly; my job was to provide a home and food and pay for their education, and their reciprocal job was to read their books and pass".

As for safe male circumcision and proper wound management, it has done more good than she ever believed possible.

"In this big sea of medical intervention and knowledge I have one drop and that to me is very satisfying. I don't even want to be recognised, but I recognise myself for me; I have that one drop."

The ripples from that drop continue to save and change lives daily – recognised in a slew of awards locally and internationally. These include the the 2007 World Leadership Award: health category; Nelson Mandela Municipality (for the Emmanuel Haven); the Impumelelo Innovation Trust Award (again for the Emmanuel Haven) and SABC 2's Tribute Achiever Award last August for wound management during traditional circumcision.

Some drop indeed. ■

Netcare's Richard Friedland



Picture: Avusa (with additions)

LISTED healthcare group Netcare is not known for its philanthropy; rather more for its obsession with the bottom line. So it was a surprise to many when South Africa's largest hospital group (54 private hospitals, 73 acute-care private hospitals and 91 medical centres) seemingly discovered a conscience and started a free HIV-treatment programme for the indigent.

US government funding for the programme – a total of \$18.7 million (R128m) in annual grants over five years – was provided by the President's Emergency Plan for Aids Relief (Pepfar), launched by President George Bush in 2003 in response to the HIV and Aids pandemic. (Altogether, by 2010 South Africa had received approximately \$6.2bn (R42bn) through Pepfar.) But five years on, and amidst extreme acrimony, Netcare's programme ground to an abrupt (unreported) halt.

Today a legal battle is raging between the group and the senior manager it appointed to manage the US donor

money. After nearly 12 years with Netcare, 44-year-old James Gregory is out of a job as he prepares his charge that Netcare misappropriated more than R27m of Pepfar's grant.

This latest anything-for-profit claim comes just eight months after Netcare admitted to participating in an illegal organ-trafficking scheme. The international scam in which poor Brazilians and Romanians were paid \$6,000 (R41,000) or less each for their kidneys to be transplanted to wealthy Israelis. Approximately 250 of these illegal operations were performed in Netcare hospitals between 2001 and 2003, generating an estimated R50 million in fees for the group. A much-criticised plea bargain concluded earlier this year allowed criminal charges against the parent company and group chief executive Richard Friedland to be unconditionally withdrawn.

The latest scandal was born back in 2004, when accountant James Gregory was special projects manager for Medicross Healthcare, Netcare's primary care division. He reported to

Netcare accused of pocketing millions from US government anti-Aids grant



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Medicross CEO Dr Elbert Steyn, and one of the projects Steyn gave him was to assist in preparing a proposal to Pefpar to supply a confidential HIV-screening facility and treatment for government employees who didn't want to declare their HIV status to their employer.

The proposal was duly submitted through a moribund wholly-owned Netcare subsidiary, HIVCare International (Pty) Ltd, and the scheme was to operate only in the Free State. Why? The superintendent-general of the Free State's department of health, Dr Victor Lithakanyane, gave the project his enthusiastic support. Just before the US funding came through, Lithakanyane was rewarded with an executive directorship at Netcare, where he is now responsible for group operations.

HIVCare was pitched as a public-private partnership between Netcare, the Free State health department and Pefpar, with the US's Centre for Disease Control office in Pretoria acting as managing agent. The first year's Pefpar grant of \$1.3m (R8.9m) ran from 1 June 2005, and the medical staff at Medicross's newly-refurbished medical centre in Bloemfontein stood by to receive the province's reclusive HIV-struck government employees.

But the take-up was disappointingly low. So James Gregory had the idea of switching the patient base to poverty-stricken indigent HIV victims. This was before the national strategic treatment plan came into operation and the Free State Department of Health had long waiting lists of people wanting treatment.

The 30-plus health department clinics around Bloemfontein began to refer patients on their waiting lists to the Medicross medical centre in Bloemfontein's College Square. As word spread, a trickle became a flood. But after several months, Medicross's mainly Afrikaans, conservative white patient base complained about the "scruffy and smelly" indigent hordes packing their marble-clad waiting room. So HIVCare was evicted, to take more down-market rented quarters next to the town's taxi rank. Medicross doctors attended on a rota system, although there was a further hiccup when patients complained that the (white) doctors literally refused to touch them – so the programme hired a black doctor.

When Netcare's grand philanthropic gesture began, the group was headed by its co-founder Dr Jack Shevel, whose view – shared by Elbert Steyn – was that although it might not make any

money, the HIVCare project would do some good for the community and would be good publicity for Netcare. However, in September 2005 Richard Friedland, who had been opening up Netcare's presence in the UK, took over as group chief executive.

"All of a sudden the focus was changed," recalls James Gregory, who was on a salary of R700,000 a year. "There was a whole pile of changes. Steyn and Friedland didn't see eye to eye. Friedland was only interested in money, making the Netcare group more profitable.

"Once they decided on a profit margin, I was instructed to start marking things up. The instruction was that we, HIVCare, had to show a profit.

"Initially the services we were providing to the donor programme had been budgeted at cost. Now we had to mark up those services. The order came from Jacques du Plessis, CEO of the Medicross primary care division. Du Plessis reported directly to Friedland."

This presented a major problem for Gregory, who was well aware of the US government's Title 45 Code of Federal Regulation part 74.81: Headed "Prohibition against profit" it says: "No funds may be paid as profit to any recipient even if the recipient is a commercial organisation."

Pefpar requires a minimum of 5% spend by successful grant applicants. In other words, if they give R1m, the recipient must put in R50,000. One of the factors that led Pefpar to approve HIVCare's application was Netcare's pledge to put in not 5% but 30%. "Good cost-sharing," commented the Centre for Disease Control, recommending approval of the application.

"In fact Netcare put in nothing," says Gregory. "They said its Netcare 911 would be providing millions of rands' worth of free patient transfers in support of the programme, and that Netcare hospitals would assist with other services, including hospitalisations. However, Netcare 911 did nothing in support of the programme and the local Netcare hospital refused to accept patients because they were asked to provide free care initially. It accepted zero patients during the entire five years of the programme. All patients were sent to state facilities."

Anti-retroviral drugs that were handed out free by HIVCare to its indigent patients were supplied by Medicross's Pharmacross, who from the beginning had been notching up a profit

for Netcare by billing HIVCare at a 20% premium.

"That profit-gain to the pharmacy, for the five years that the programme ran, pretty well kept Medicross in Bloemfontein alive," says Gregory.

Quite early on Medicross acquired Prime Cure, a group that operated clinics in townships across the country. The Pefpar funds continued flowing to HIVCare, but the programme, which had already shifted from Netcare to Medicross, now fell under Prime Cure. Because all the financials were consolidated, however, the profits continued to end up with Netcare. And the programme was going well. By February 2009, 4,526 people had been provided with HIV-related palliative care; 7,535 had been tested; 3,888 were receiving ARVs.

However, Pefpar's auditors, Price-WaterhouseCoopers, picked up that HIVCare was showing a profit, when it shouldn't, so a new accounting system was proposed: the number of patients every month would be multiplied by a theoretical cost of treatment, including drugs, nursing time, cost of case management – plus an amount for indirect costs such as head office overheads. James Gregory says that Prime Cure boss Dr Johan Pretorius then ordered the theoretical cost total to be marked up by 40%. This was billed to HIVCare and paid from Pefpar funds each month.

Says Gregory: "Because the provision was well in excess of patient requirements, the sum accumulated in the books."

There was no separate set of accounts for the donor programme, whose

business was consolidated with the loss-making Netcare travel clinics and Prime Cure's occupational health business. "It became evident why," says Gregory. "The excess profits, the provision that they were writing back from HIVCare, covered the losses of the other two business units.

"Because they'd included the indirect costs and then marked it up, it was in essence a double-dipping exercise. This is outside of the money they were making on the drugs. Of the money supposed to be going towards treat-

Netcare ended up getting 40% of the money intended for HIV patients

ment of indigent HIV patients, 40% was ending up in the pockets of Netcare."

Pretorius was replaced as MD of the primary care division by Dr Charmaine Pailman and an order went out that Gregory was to make a quarterly presentation to the Netcare main board on the profitability of the donor programme and its value to the group. There were only two of these reviews, but Gregory says that Netcare CEO

Friedland was present at both. Gregory recalls: "One of the directors made a rough count and said: "Ah, 80% of our profit from HIVCare is coming from the donor fund!"

However, the auditors remained concerned and Gregory says that by 2010 it became apparent the group would have to repay misappropriated money to the donor fund.

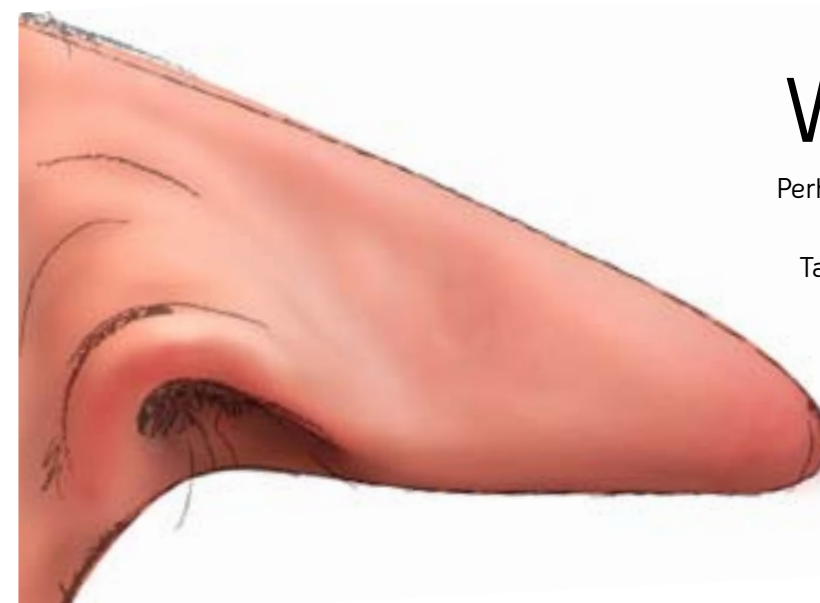
"Pailman got quite frantic and wanted to allocate part of the expenses of the rest of Prime Cure against the donor fund. If they put more expenses against the provision, there would be less they would have to repay. The amount repayable at that stage for the 2008 year was R9m.

"I was called to two meetings with Pailman. I told her: 'This is unethical and it's probably going to be fraudulent'. She said: 'No, we must continue. We'll find a way'.

"At a third meeting with Pailman, her financial director David de Villiers and the financial manager of Prime Cure [Renee van Vuuren] I was instructed to prepare a schedule of all the expenses for the Prime Cure group that could possibly be allocated against the donor fund. I said to Pailman that I was not prepared to lie to the auditors."

On 9 February last year De Villiers emailed Gregory: "James – can we wind down this project in three months if we have to without affecting patients' lives? Where can they be transferred to and can we facilitate the transfer of the Pefpar funding to another entity if we decide we have no appetite for a no-profit organisation?"

In April last year Gregory was called



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to Netcare head office, ostensibly to discuss a new service contract between HIVCare and Netcare. He was ushered into the boardroom by HR general manager Anita Tyldesley. Pailman joined them and Gregory was given a notice of suspension for alleged gross negligence in managing the donor programme. He was relieved of his laptop and access card and escorted from the building.

The chairman of the internal investigation was Netcare group HR director

Peter Warrener. Before his 22 June 2010 disciplinary hearing, Gregory wrote to Warrener: "The allegations are part of a programme of obstruction and victimisation against me and have been made in an attempt to intimidate me to leave the company prior to the finalisation of a certain audit."

Warrener refused permission for Gregory to be legally represented at the hearing, so Gregory declined to attend and was unable to testify in his defence. The verdict was guilty of negligence in

his running of the Pepfar programme which "specifically made no provision for any profit to be made by the company". The lack of a proper system "led to the inaccurate accounting of revenue and subsequent identification of 'profit' which should not have existed and which was not able to be realised."

Gregory was found guilty of four other offences, including negligence by not making regular drawing of donor funds and gross negligence in failing to submit a fresh \$15.3m ((R105m) tender proposal to Pepfar before the due date of 15 March last year.

He tells *Noseweek*: "As a result of the trumped-up nature of the charges I am presently engaged in litigation with Netcare, after making a protected disclosure under the whistleblowers provision of the Labour Relations Act."

At the end of May this year Netcare offered Gregory four months' salary and his already vested share options in settlement. Gregory refused the offer; he wants two years' salary (R1.4m) plus his share options (valued at R800,000).

Last month Gregory wrote to Pepfar's managing agent, the Centre for Disease Control. His letter, headed: "Re fraudulent activity on Cooperative Agreement 024562/05 - Prime Cure" says: "The net result of these activities has been the deliberate and intentional misappropriation of funds from the USG [US Government] to Netcare by senior staff even after they have been informed that the nature of the transactions was fraudulent. My own role in this has been to identify the proposed allocations as fraudulent, to advise the primary care MD [Charmaine Pailman] of that fact and further to refuse to cooperate with the senior managers of the company in the misleading of the auditors."

The CCMA has been unable to resolve the Netcare/James Gregory wrangle, so the matter will now be aired in the Labour Court.

■ In Netcare's interim financial results for the six months to March 31 this year, group revenue from local operations grew 7.6% to R6.5bn. Chief executive Friedland reported that following a strategic review the controversial primary care division had returned to profitability, from a R5m loss to an operating profit of R8m.

■ Last year Friedland, 50, drew a salary of R5.5m - plus a bonus of R3.8m. He holds 8.4m shares in the group and options over another 3.4m at prices ranging from 436c to 838c. ■

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HEADS THEY WIN TAILS THEY WIN

Insurance giant Santam admits investing in a firm that investigates suspicious cases – both companies share profits if claims are turned down

DOES JSE-listed insurance giant Santam hold a stake in Censeo, a small, recently-formed company retained to conduct “merit assessments” on suspicious claims? And is there an incentive arrangement whereby Censeo and Santam both profit if these claims are reduced or rejected?

These sensitive questions are posed by Stuart Woodhead, a former loss adjuster who now works for Commercial Claim Services, a company assisting the insured with claims against insurance companies. A gamekeeper-turned-poacher, one might say.

Last September there was a fire at the factory of Multi Plastics Recycling CC, a small business in Springs run by Anton Rothman. A claim totalling R4.7 million was lodged with Santam, holder of 22% of South Africa’s short-term insurance market. Because this was clearly a case of arson, the file was passed to the company’s Complex Claims Unit. Which in turn passed the matter for investigation to the Pretoria-based claims assessment and verification company Censeo.

Censeo investigators suspected Anton Rothman of starting the fire. Rothman in turn claimed that a cheque book containing signed cash cheques had been stolen from his office and the fire had been started by the thief to cover up the theft. Cash cheques to the value of R65,000 had been cashed, said Rothman.

Noseweek does not attempt to go into the various and conflicting claims about who lit the fatal match. This

is about Santam’s slow-to-admit-to relationship with Censeo – and the startling claims and tactics of Stuart Woodhead.

On February 4 this year, five months after the fire, Woodhead wrote to Santam’s attorney at Deneys Reitz, Tony Hardie. “Notwithstanding every attempt by Censeo to come up with information that will allow Santam to reject this claim, they have failed, after about five months of messing around, to find a single scrap of evidence implicating Anton Rothman in the arson at his factory. To say that Anton would have benefited financially by this fire borders on the ridiculous and is the only way Censeo can hope that Santam will reject the claim in order that Censeo can justify their actions plus their fee.”

Woodhead adds: “Every week I am told that by the end of this week the matter will be resolved one way or the other... Little wonder short-term insurance has such a bad name.”

To put pressure on Santam for settlement, Woodhead then makes a threat of public censure: “If I can get the insured to allow me to do an article about this whole debacle, I will see to it that the general public are made aware of Censeo and Santam’s actions by referring the matter to *Noseweek*,” he wrote. “This I told you was not a threat, but a promise.”

Santam finally accepted liability for the claim in May this year when it settled for R2.2m.

But Woodhead’s suspicions regarding Censeo had intensified. On May 9 he emailed Santam’s Complex Claims

Unit senior executive Louis LaCock: “Please advise, does Santam have a financial interest in Censeo? Also, are the investigators at Censeo working on a commission basis for either ensuring that the claim is rejected or reduced in value?”

He added: “I can agree that any claim merits investigation, but such investigation must be undertaken expeditiously and must be based on sound facts. Not a lot of nonsense, supposition and circumstantial evidence that never had a chance of being accepted in a court of law.

“Censeo told me at the outset that they intended recommending strongly to Santam that the claim be repudiated, even though they did not have a scrap of factual evidence against the insured.

“Not only is Anton Rothman told that he burnt down his own business, but it then takes some eight months before his insurer finally concedes that there is no evidence to prove his involvement.”

That email was copied to LaCock’s colleague in Complex Claims, Brian Lambourne, and to Tony Hardie of Deneys Reitz. None of them replied to Woodhead’s questions about Santam’s relationship with Censeo – which only increased his curiosity.

A week later Woodhead sent another email to LaCock and Lambourne. He thanks them for settling the building, stock, plant and motor vehicle claims but points out that R369,177 is still due to the insured, as ICW (Increased Costs of Working).

“By the way,” wrote Woodhead, “You have not reverted regarding Santam’s possible ownership of Censeo, nor whether Censeo are paid a commission by Santam to reject or reduce claims.”

Again, no reply to these questions.

Noseweek, not knowingly is then mentioned as a direct publicity threat. On May 26 Michael Gaines, Woodhead’s Durban-based partner in Commercial Claim Services, informs Theuns Kotze, head of specialist claims services at Santam, “You have seen fit to dismiss our open-handed approach, and whether this is just corporate arrogance or a lack of integrity, you have left us with no choice but to engage you publicly. We are today being interviewed by *Noseweek* and will be discussing all the issues that we raised with you in two recent claims, both of which you have simply dismissed out of hand. Perhaps once you realise that

we are serious in our efforts to engage you in a proper format, we can revisit the situation.”

Noseweek had indeed that day met the abrasive Stuart Woodhead in Johannesburg. Woodhead offered us his Multi Plastics Recycling file, made some remarks about *Noseweek*’s woeful ignorance of insurance matters, and announced that he naturally would require to see any story before publication.

Not so fast!
Mulling through the correspondence in the file, we felt uncomfortable that Woodhead had used the threat of exposure in *Noseweek* – which many would construe as blackmail – in an attempt

It takes eight months before the insurer concedes that there is no evidence

to extract a financial settlement from Santam. The Editor considered spiking the story.

Four days after the meeting, Woodhead emailed: “I know that you told me you would not let me have a preview of the article... but I still feel that before you go into print I should have a look at it merely to confirm that there are no glaring errors.”

On the same day, his colleague at Commercial Claim Services, Michael Gaines, emailed Santam’s Theuns Kotze: “Unfortunately it is now too late to stop the publication and we have made available to *Noseweek* all our correspondence and needless to say have expressed our view as clearly as we can.

“We are also concerned about the manner in which you are investigating



Machiel Reyneke



Stuart Woodhead

claims that you 'feel' need closer scrutiny," wrote Gaines. "It seems that you have taken a commercial interest in a private investigating firm, Censeo, staffed primarily by ex-policemen, and there is concern that you are in fact paying them a bonus for every claim which they successfully repudiate."

Regarding the Multi Plastics claim, Gaines wrote: "It is not that the merits did not lend themselves to investigation, it is the jackboot manner in which these investigations were carried out that is of concern... an insured is a commercial customer of yours rather than a potential criminal that needs to be subjected to incompetent police-type investigation."

"Perhaps it may be appropriate for me to make an anonymous call to your managing director's wife and make all sorts of unfounded allegations and encourage her to engage Censeo to prepare a docket of innuendo and unsubstantiated rumours designed to condemn your managing director. Hopefully, once you have seen the *Noseweek* publication, you will realise that we take our role seriously and this may encourage you to consider our submissions more objectively."

What of Woodhead and Gaines's claims about a surreptitious mutually-beneficial link between Santam (51% jump in headline earnings to R1.5 billion last year) and Censeo?

Censeo (Pty) Ltd began business on June 8 last year, operating from offices at Corporate Park, Irene, Pretoria. *Noseweek* called Johan Nel, its executive who ran the Multi Plastics investigation, hoping to learn more.

Is Censeo an independent company?
"Sir, with all due respect, I know exactly which case you're talking about and there is an attorney firm appointed to handle these matters," dodges Nel. "To be honest with you, I wasn't the assessor appointed on the claim, not at all. I was just overseeing reports and stuff and just basically did a simple clarification of the incident. Nothing else. Nothing more."

Santam's chief financial director Machiel Reyneke is initially equally evasive.

What is Censeo's status? Is it an independent company?

"It's a legal entity and it's got different shareholders and we've got an outsourcing arrangement with them to assist us in what we call a merit claim assessment," replies Reyneke. "That's the status. Why the question?"

Noseweek: "I understand Santam has

an interest in Censeo."

Reyneke (after a pause): "We've got a minority shareholding."

Noseweek: "I think it's described as an indirect interest. What does that mean?"

Reyneke (agitated): "Who described it as indirect?"

Noseweek: "Your 2010 annual report."

Indeed, tucked away in small print on page 158 of Santam's latest annual report for 2010, in Notes to the Consolidated Financial Statements, there's an analysis of investments in subsidiary and associated companies. Under the latter, with a heading "Indirect", eight Ptys are listed. Number 2 on the list is Censeo (Pty) Ltd. Proportion held by company: 37.5%. A note states that Censeo owes Santam R2m.

Noseweek repeats the question: Can

Reyneke is surprised that Santam's executives didn't reply to Woodhead

Reyneke explain what a 37.5% indirect interest means?

The chief financial officer has clearly decided to come clean. "What it means is that Santam has a wholly-owned subsidiary which is used as an intermediate holding company," he says.

What is that subsidiary called?

"It's called Swanvest 120. We hold a lot of our investments in that company. There's nothing sinister. I think in accounting terms, that (indirect) is the correct way of describing it."

Reyneke, who sits on the Censeo board of directors (he represents Santam on the boards of all group and associated companies) says he's surprised that Santam's executives did not reply to Stuart Woodhead's questions about

Censeo's ownership and those alleged incentive payments to scupper claims.

"We hold an interest in Censeo as a shareholder and we've got a service level agreement in place, a contract of arrangement between Santam and Censeo, whereby Censeo does merit assessments for Santam," Reyneke explains. "So there's a formal contractual arrangement in place and there is a remuneration structure in place."

"There are very strict quality controls, processes and procedures in place to ensure that the service level agreement is followed."

If Censeo investigates a suspicious claim, makes a recommendation and the claim is repudiated, would they benefit financially?

"The structure as I know it is there's a fixed fee per merit assessment," replies Reyneke. "I can check on that."

It looked as though Stuart Woodhead had got it wrong. Yes, Santam does have a (37.5%) investment in Censeo which they clearly don't like to advertise. But there's a fixed-fee system in place, no additional incentives for outwitting fraudulent claims. No funny business.

Two days later, however, Santam's financial chief Machiel Reyneke is back on the line. Censeo, he explains, "do the bulk of our so-called merit assessment work. Those are the claims

where it's not a simple case of paying when a claim is lodged. In a case like this (Multi Plastics) for example, there was alleged arson. So then you need to do a bit more investigation."

And incentives?

"I said it was a fixed-fee basis. There's a detailed service level agreement whereby, when these investigations are done by our outsource partner, if the recommendation is that we should repudiate, then there's a forum where that's discussed. At that forum, Santam decides whether we repudiate or not."

"In terms of remuneration, I have confirmed that it's mainly a fixed fee. But there is a variable component. The variable component is volume- and performance-based. I can confirm to you categorically that the investigators at Censeo are not working on a commission basis."

He's obfuscating. But what does volume and performance basis mean? "Censeo's total fee is predominantly fixed," replies Reyneke. "Then there is a variable component, which is both volume and performance based."

Good grief! To repeat: "What do you mean, performance based?"

We finally get it.

"There is a level of compensation to the extent that claims where we would

have been defrauded, for example, where they have shown up that the policy-holder claimed where he should not have claimed."

There you have it. After all this ducking and diving, Santam admits what it's already tucked away deep in its annual report – a 37.5% indirect investment in Censeo. And, when it comes to remuneration, if the Censeo investigators can muster evidence of a fraudulent claim, there's extra "compensation" paid for "performance".

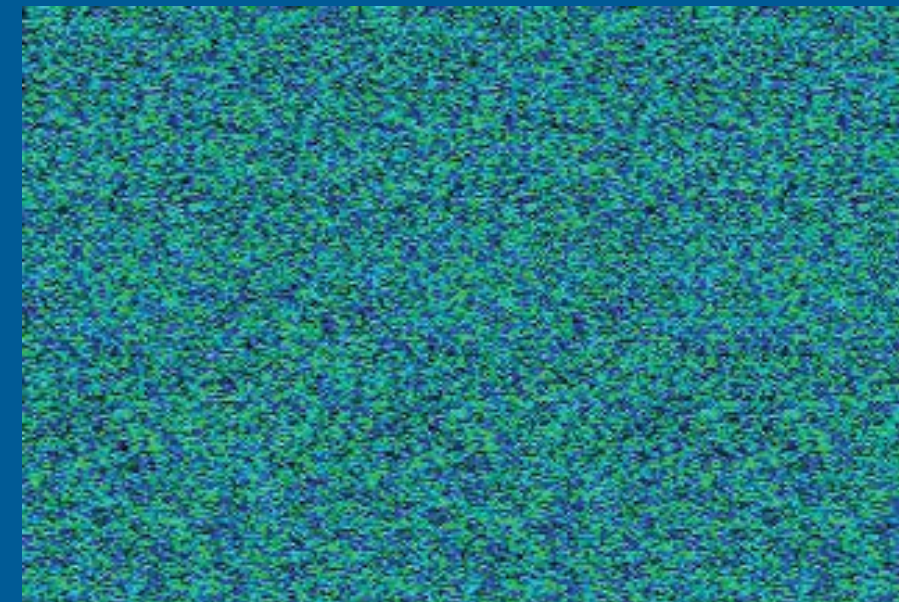
Noseweek asked Barry Scott, chief executive of the South African Insurance Association, whether all this is ethical and above-board.

Scott dodges the question and passes it to Vivienne Pearson, SAIA's projects general manager.

Pearson gives the usual meaningless waffle: "Should a policy holder have reason to question the decision regarding the non-payment of a claim by an insurer, the policy holder have (sic) many avenues of recourse..." (blah blah, bullshit, bullshit).

Stuart Woodhead was right all along. And, as it transpires, it was a great idea to bring the story to *Noseweek*. If you want the truth, that's where you'll find it.

■ *But we still don't like the black-mail bit. – Editor* ■



NUMBERS DON'T JUST GO MISSING

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GOTCHA COVERED!

Auto & General and the real meaning of insurance

AFTER *Noseweek's* recent article about insurance companies that save on payouts by bumping the insured vehicle into a higher mileage category ("Computer says no", *nose139*), people in the know have revealed that, with some insurers, their first response to a claim is "How can we repudiate?" rather than "How can we pay?"

Insurance companies do all sorts of interesting things – like impose 30% rejection targets, and offer their staff bonuses for rejected claims. One trick that's apparently popular in vehicle insurance is to reject claims where, at the time of the accident, the vehicle was being driven by someone other than the designated "regular" driver – somehow concluding that the client must have lied about who the regular driver would be when they took out the insurance.

Magdeline Ramatsobane Ledwaba of Germiston took out comprehensive insurance with Auto & General when she bought a new VW Polo 1.4 Comfort Line for R180 000 in March 2010. On the application form, she listed her cousin, Tebogo Ledwaba, as the "regular driver" – defined as "the

person who drives the vehicle most often and more frequently than any other person". The document warns: "If the details above are incorrect or you do not tell us when the details of the regular driver change, we may refuse to pay your claim".

Why did Magdeline list her cousin as the regular driver of her car? Firstly, because she'd only recently learnt to drive and was nervous of Gauteng's roads, especially with a baby in the car, and secondly, because she suffers from frequent back pain as a result of a Caesarean op, so it made sense for Magdeline – who usually commutes by public transport to and from work at Eskom – to be driven around at weekends by Tebogo, who was living with her in Germiston while looking for work in Gauteng.

Tebogo did find work, but it was in his home town of Polokwane. So in June last year he moved back there but would return to Gauteng for weekends when he continued to drive Magdeline and the baby around.

On 29 August Magdeline did drive to work and was involved in an accident that left the car a write-off. Auto & General rejected her claim on the

basis that they "...were not informed of the correct details of the regular driver". Magdeline lodged a complaint with the Ombudsman.

In response, Auto & General said Magdeline had phoned the company from the scene of the accident and told their employee that she had been driving – that Tebogo had been living in Polokwane for the past two-to-three months – and that she normally drove the car at weekends and sometimes during the week.

Auto & General said their investigator had gone to Magdeline's complex, where the managing agent had said he knew nothing of any cousin, and that only Magdeline drove the vehicle, described as a black Polo. They said their investigator spoke to a neighbour (who had lived in the complex for a month) who said she saw Magdeline drive the car every day, and that Magdeline in fact lived with her mother.

They claimed that when they phoned Tebogo about the accident, he'd had no idea what they were talking about and couldn't even give them his address in Johannesburg. They also said they'd spoken to Tebogo's employer in Polokwane, who said that Tebogo had been there since 2009, and that he drove a Jetta and never a Polo. They said they'd sent their investigator to Tebogo's place of work in Polokwane, where a security guard said Tebogo had worked there for two months and that he drove a Jetta and sometimes a bakkie, but never a Polo. They said their investigator also spoke to Tebogo in Polokwane, who told him he had been there since April and that he lived with his mother.

Magdeline must be the regular driver, concluded Auto & General, saying she had "intentionally misrepresented the correct information", and had they "been informed of the correct underwriting details, the premium would have been increased from R1 335.96 to R1 657.63".

It all sounds very thorough and convincing – until you read Magdeline's response, filed by Verity Granger, who runs a business that helps people with insurance claims. Dealing with the managing agent's supposed "evidence", she says the very same managing agent, a Mr Carstens, had stated in writing that "Ms Ledwaba only drives the vehicle occasionally and the security guards and some of the residents confirmed

same... Therefore A & G are either being dishonest or the investigator coaxed the managing agent into saying what he wanted to hear...

"Please also note that the vehicle is silver and not black which also makes A & G's statement suspicious."

As for the fellow-resident's evidence: "This resident's statement (if it is really true and not something A &

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response

G have fabricated) carries no weight whatsoever as Ms Ledwaba's mother resides and works in Polokwane".

On Tebogo's lack of knowledge: "Ms Ledwaba actually did advise Tebogo Ledwaba of the accident...When the investigator called him he asked if he knew of the accident his 'sister' had had. Ms Ledwaba is not Tebogo Ledwaba's sister but is in fact his cousin. Tebogo has three sisters none of whom has had an accident so how could he have known about an event

that had not happened?"

Granger's letter attaches a statement from Tebogo confirming that he is the regular driver despite his move to Polokwane, and that he is happy to sign an affidavit if required. It makes the point that there is absolutely no reason why the Polo should ever have been seen in Polokwane, as it's never been taken there. There's a letter from an Eskom colleague of Magdeline's, Palesa Mpailane, who confirms that Magdeline uses public transport and very seldom drives to work.

Granger makes the point that, in the course of their inquiries, Auto & General phoned another of Magdeline's colleagues, one Jackie Tladi, who confirmed that Magdeline uses public transport: something about which Auto & General conveniently chose not to make mention.

Granger's response ends strongly: "The above facts prove that Tebogo Ledwaba was the regular driver and drove the VW more than any other person... it is clear that A & G have fabricated a story that is very far from the truth in order to shirk payment of this claim... Auto & General have a reputation for rejecting claims each and every time that the named regular driver is not the driver at the time of the accident. It is unfair and unethical and, this way of doing business is a prevarication."

Magdeline, faced with the prospect of having to spend the next few years paying off a car she doesn't have (it was fully financed), is bitter: "Auto & General and their investigators use their tricky ways of asking questions to catch people out".

The Ombudsman normally takes between three-to-six months to hand down a decision. ■



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SMOKING GUNS

Tobacco companies are blowing rings around the law with subtle advertising and smuggling tricks

YOU may recall the illegal cigarette advertising campaign that recently came to a billboard, newspaper or radio near you, showing a man pointing a gun and the words “WARNING – The money you spend on illegal cigarettes, he could use to buy guns”.

And the billboard showing someone doing drugs and the words: “WARNING – The man selling illegal cigarettes to you may be selling drugs to your family”. The radio ad uses a number of different voices confessing: “I use my money to buy a pack of illegal cigarettes.

“I use her money to help buy

unlicensed guns.

“I use the money from selling the guns to order a shipment of drugs.

“I use the money selling drugs to pay someone to hijack cars.”

The sanctimonious advertorial bemoans the fact that the trade in illegal cigarettes has a negative effect on the tobacco industry, that this translates into

revenue losses for the government in unpaid taxes, and that the industry is therefore riding to the rescue.

Although they weren’t too keen to publicise the fact, British American Tobacco (BAT) – a company that enjoys over 80% of the cigarette market in South Africa, with JTI and Philip Morris sharing the rest – was behind the campaign.

The ads offended a number of people, not least because of the gross hypocrisy – We’re running this campaign because the country’s losing billions in tax revenue, but let’s not talk about the damage caused to the population

by our products.

Eight different people lodged complaints with the Advertising Standards Authority (ASA). A number of the objectors felt that the ads were racist, with all the baddies being of a darker hue. On 16 May 2011, the ASA handed down its finding, and it neatly managed to avoid any controversial issues. It simply found that the adverts contravened Article 3.1 of the ASA Code, in that they unjustifiably played on fear, with there being absolutely no proof of any link between illegal cigarette sales and serious and violent crime. BAT was ordered to pull the ads with immediate effect. BAT has appealed.

The ASA completely sidestepped what was probably the most interesting objection, namely that BAT was contravening Article 3.3 of the ASA Code, which says that “advertisements should not contain anything which might lead or lend support to criminal or illegal activities, nor should they appear to condone such activities”.

Where’s the illegality in dissuading people from buying illegal cigarettes you may ask? None at all, but that’s not really what BAT is doing, say the objectors. What it’s doing is promoting the sale of legal cigarettes, of which it is the largest manufacturer. And that contravenes the Tobacco Products Control Act of 1993. (The ASA avoided having to deal with this issue simply by claiming that it does not administer this Act.)

The Tobacco Products Control Act is pretty thorough. Section 3 prohibits the advertisement of a tobacco product through “any direct or indirect means”. The term “advertisement” is defined to include “promoting the sale or use of any tobacco product, tobacco product brand element...”, the term “promotion” is defined as “the practice of fostering awareness of and positive attitudes towards a tobacco product, brand element..., and the term “brand element” is defined to include any graphic arrangement, design, selling message, typeface, recognisable colour or pattern of colours.

BAT has been very sneaky here, say the objectors. For example, it has ensured that its ads are reminiscent of its biggest-selling product, Peter Stuyvesant, by making the warning messages look very similar to the health warnings used by BAT on its products: a blue-and-white colour combination and the word

“WARNING” in upper-case Helvetica type, surrounded by a border. This is nothing less than subliminal advertising. By suggesting that by buying legal cigarettes you are doing the right thing, BAT is fostering a positive attitude to its product, making use of “brand elements”.

If this sounds like psycho-babble, it does in fact have a name – neuromarketing – and there is some research to back it up. A Danish branding expert called Martin Lindstrom has written extensively on how tobacco companies have dealt with advertising bans by creating strong associations with simple design elements like colour. Dealing with Lindstrom’s research in a blog entitled “Are Tobacco Warnings Really Ads?”, branding type Roger Dooley wrote: “One of the startling conclusions from the neuromarketing study described by Martin Lindstrom in *Buyology* is that, not only are the government-mandated warnings on tobacco packages ineffective, but they actually promote smoking behaviour by activating the brain’s *nucleus accumbens*, an area associated with smoking”. In another posting entitled “Impossible Branding”, Dooley wrote:



“Researchers found that even though the signature Marlboro logos were gone from Ferrari Formula One Cars, merely seeing their bright red colour triggered tobacco craving in the brains of subjects who saw race car photos. And as for graphic warnings promising smoker’s disease and death, they too triggered cravings for tobacco”. Moving

Business by other means

THE TOBACCO industry likes to make a big fuss about the illegal cigarette trade. In 2010 the EU Commission and BAT made a joint announcement that they would work together to curb the sale of illegal cigarettes, most of which apparently come from China, Russia and Ukraine. The EU’s justification is that it apparently loses some €10 billion in revenue to illegal cigarettes every year. BAT’s justification: it loses some €120 million annually.

Back in 2000, however, a group called Action on Smoking & Health Canada made a submission to the World Health Organisation which contained some startling claims. It said that “through wholesale disclosure of internal tobacco industry documents arising from US litigation and the testimony of tobacco company employees, it has become clear that tobacco companies have been heavily involved in promoting, managing and controlling tobacco smuggling... it is... systematic and usually driven by complete avoidance of taxes”. Why? “The illegal trade is very

profitable because the companies are paid for cigarettes eventually smuggled, and smuggling has become an important marketing tactic for brands entering new markets. In addition, cheap cigarettes remove the price incentive to quit or not start, and high levels of smuggling help the tobacco industry to argue for reductions in tobacco taxes, giving a knock-on demand in the legal market.

“Furthermore, a company that does not ensure its brands are smuggled risks losing market share to those that do.” How? “The companies do not generally undertake smuggling with their own personnel... The evidence shows that companies treat smuggling as just another distribution channel and they manage it with third parties... there is evidence suggesting tobacco companies exert control over the price and availability of their products in the illegal markets...” Who? “The documents show that BAT acts through intermediaries... to ensure that its cigarettes are sold in the illegal markets”.

on to the proposed tobacco advertising legislation in Australia, Dooley wrote: "Whether he read *Buyology* or not, Australian Prime Minister Kevin Rudd (now ex-PM) seems to understand some of the neuromarketing principles at work here. He has proposed legislation to remove all distinctive branding from cigarette packages. No Marlboro logo, not even a red box, just a plain, generic-looking package with a hideous disease photo and a tiny text brand name... such a package would break the link between satisfying an addictive craving and the distinctive brand characteristics – colours, logos,

and find all the elements including the hidden excise stamp. It's an interactive thing – a bit like *Where's Wally* – and something the cigarette companies are very fond of now that they can't do traditional advertising. For example, they hand out place mats which are in fluid-filled plastic covers and have bubbles that move about when the mat is touched. Shop owners can leave these mats on their counters and they prove a source of great interest to customers, particularly children.

Was there a contravention of the Tobacco Products Control Act? We may never know, although a Joburg man,

the illicit trade in cigarettes... the ads were not intended to and did not advertise tobacco products'.

In the meantime, BAT has other issues needing attention. On 19 May, Judge Phatudi of the North Gauteng High Court turned down an application by BAT for an order declaring that Sec 3 (1)(a) of the Tobacco Products Control Act – the section that prohibits the advertisement and promotion of tobacco products – does not apply to "one-to-one communications between tobacco manufacturers, importers, wholesalers and retailers on one hand, and consenting adult

BAT wanted part of the tobacco control Act struck down because it denies freedom of expression

graphics etc – this legislation has not been enacted, and I'd expect the tobacco firms to fight it fiercely".

The objectors have more strings to their bow. They complain about ads like this one: "WARNING: If you answer yes to any of the following statements you could be in possession of illegal cigarettes: You paid less than R13.50 for a pack of 20s. There are no health warnings or the wrong health warnings on the pack. There is no excise stamp on the back. The readings on the pack are higher than 12mg Tar and 1,2mg Nicotine. The number +27 (0)11 720 3145 does not appear on the back of the pack". Not only does an ad like this advertise the cost of legal cigarettes, but it entices smokers to pick up a pack, examine it closely,

Lionel Greenberg, did lodge a criminal complaint at the Norwood Police Station back in March 2010, citing not only BAT but also Primedia and advertising agency Ogilvy. Greenberg – who has also brought a case against the Minister of Correctional Services for allowing smoking in prisons (seemingly undefended and due to be heard in June 2011) – told *Noseweek* that the police had not completed their enquiries because they were waiting for a statement from Primedia.

We asked Ogilvie and Primedia for comment – Ogilvy didn't return our call, whereas Primedia's regulatory affairs' manager Khaliso Mochaba said his company "agreed to flight the advertisements on the basis that they were part of a campaign to highlight

tobacco consumers on the other". Instead, it wanted an order declaring the section unconstitutional on the basis that it detracts from the right of freedom of expression.

When asked by the judge during the hearing what was meant by "one-to-one communications", BAT's counsel suggested that his client might want to approach people directly in smoking areas of restaurants. The judge dismissed BAT's application out of hand, pointing out that one of the objects of the act is, in fact, to encourage people to quit smoking. Dealing with the constitutional argument, the judge made the point that the limitation on freedom of expression imposed by the act was eminently reasonable and justifiable. ■

ON YOUR OWN

When things go wrong with your Pathfinder, it appears that Nissan doesn't want to know

NOSEWEEK has received a letter from Nissan's lawyers, objecting to our report in *nose140* about water leaking from the radiator into the gearbox of Ivan Visee's Pathfinder, and putting us on terms should we ever do it again without calling them first.

We haven't even bothered to reply, because, as it happens, we've had another, even more detailed account of the same problem – and the same consistently off-hand treatment from Nissan – from another reader: Richard Ashman in Pretoria.

"I've had several problems with Nissan as far as their service goes, because once your car is out of warranty, it seems like they don't want to help you. The first question when something happens to your car is: Is it still under warranty? If the answer is no, then you're left on your own."

In December the Ashman family were headed for their Christmas holiday in Mozambique. Just near Ponta do Ouro, at 3am on a notoriously unsafe stretch of road, the Pathfinder started cutting out. It cut out probably 27 times in 100 kilometres. They switched it off and switched it on, then it would start again.

"I was simply trying to get out of a dangerous area. I waited till 8 o'clock and phoned the Nissan agent from whom I purchased the car, the Hatfield Brooklyn branch. They referred me to the Menlyn branch. The Menlyn branch said I must contact the Nelspruit branch – who said I must contact the Durban branch. Durban said I must contact the Richard's Bay branch, who said I must phone Nissan head office. The standard line is 'Yes, how can I help you? Is your car under warranty?' No. 'Then I think you should rather contact...'

"When I spoke to the lady at Nissan head office her words were: 'Sir, I'm really shocked. I have no idea what to say but unfortunately I would recommend that you tow it in to the closest dealership'. I then arrange for people to drive behind us all the way back to

systems. They're not really designed for our conditions. The radiator rusts through or whatever and the water gets into the gearbox then the gearbox is irreparably damaged."

So Richard phoned Nissan and asked what should he do now?

"And the closest quote they could get for me was over R100,000.00 to replace the gearbox."

Doug's Gearbox Centre could get the job done in Cape Town for about R30,000. So that's what Richard opted for. But it meant flying his family back to Gauteng, and Richard having to fly back to Cape Town two weeks later to collect the repaired vehicle.

Incidentally, when they changed your gearbox, did they take out the cooler, your radiator and replace it? We asked.

"No, what they do is they take the... where the pipe runs into the radiator they block it off, they pinch it closed and they put an external little oil cooler on it which is a lot more efficient."

By now, that's standard procedure when dealing with the Pathfinder problem.

After all that, Richard gets to read *nose140*. Which is when he gets up enough steam to call the lady at Nissan head office once more. Please give me something in writing, he pleaded with her. Reply to my e-mail and say, "Please, Richard, take it to the closest dealer and get them to do this, this and this."

"She said, 'Why?'"

"I said, because I need proof that I'm going on what you guys are telling me. I want it in writing."

"She said, 'Sir, I don't think my bosses will let me do that'."

"Are you telling me that Nissan South Africa won't respond officially to me?'"

"No, because you're going to go to the press with it."

"Yes, but I'm the client."

"Get the *Noseweek* to phone us. Thank you. Bye."

They must be joking. We haven't got time to waste. ■

Gauteng. Next morning on my way to school to drop off the kids, the car cuts out and won't start again. So I tow it to the closest garage. They put the diagnostic machine on it, but can't find any fault. They suggest I try Nissan Sinoville, North of Pretoria. They, too, can find nothing, but suggest I replace the car's computer, on the off-chance that is the problem – for R20,000-plus. What sort of proposition is that?

"It's an intermittent fault: in the three months that I'd driven it around it only cut out three times. And it's never at the same time. So I then drive down to Knysna. As we're about 10km out of Knysna between Sedgfield and Knysna, my car's back window just fills up with oil and the gears don't work any more. No warning lights, nothing."

Could he have missed the warning lights?

"I'm a pilot, I don't miss warning lights."

Next day the car is towed to Doug's Gearbox Centre in George, who take the gearbox out and announce, "Sir, there's water in the gearbox". That's impossible, says Richard, I've never submerged my car.

"No sir, this is a common problem with these radiator-type cooling

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DUCKING AND DIVING

It's all very well winning in court – but squeezing the cash out of the guilty is another matter entirely

FAR BE IT from *Noseweek* to discourage readers attempting to use the legal system, but the process is demanding – high-priced attorneys; even higher-priced advocates; missing files; and the lottery that is the allocation of judges. Even if you get a judgment in your favour, you may still find it difficult to recover anything, especially if your opponent is someone who knows how to play the game. And if the Sheriff does little to help you, and the Sheriff's controlling body shows scant interest in your complaint – good luck!

Mynard Slabbert of Namibia has been battling to recover the legal costs he spent on getting a judgment against a former business partner, Riaan Botes of Paarl, for R2,326,531.

The two, both former Boland Bank men, had formed a company called Baobab Financial Services, where Botes breached his fiduciary duty by failing to disclose to his partner an interest he had in another business. (Slabbert was not the only shareholder left bruised by Botes).

Although Botes paid the bulk of the amount he was ordered to pay, it's the legal costs of R1,667,000 that Slabbert is struggling to recover. On the face of it, this shouldn't have been a problem. Botes is a successful man with a luxury home in Paarl's most prestigious suburb of Courtrai, a farm near Paarl, a property in Namibia (whence Botes hails), and lots of vehicles and other toys.

But Botes, it seems, knows how to play the legal game. Slabbert has been led a merry dance: he was dissuaded from attaching Botes's luxury home in Paarl on the basis of a letter from Botes's attorney, M C Bronn of Werksmans, Stellenbosch, dated 14 January 2010, saying: "Our client is committed to settle his full indebtedness in respect of the award... it is imperative for our client to be able to further encumber his house to raise the necessary funding to honour his obligation to pay the award, and should any steps be taken to execute the award by attaching and executing

against our client's house, the end result will in all likelihood be that the full award will not be settled in full".

Then in July Bronn followed up with this: "We confirm that our client is committed to settle his indebtedness arising from the arbitration award. Our client, however, does not have the necessary cash reserves readily available and needs to liquidate assets. In this regard he has already started to actively market his home in Paarl".

The promise was partially kept – the house was, in fact, sold but none of the proceeds found their way to Slabbert. And that may well be because it was sold on the cheap – for R3 million when, in Slabbert's view, it was worth at least R5.5m. There was a bond of R1.5m to be cleared and probably legal fees owing to Werksmans, the transferring attorneys.

There were two other properties, but these were both beyond Slabbert's reach: a farm outside Paarl called Friederichsruhe – where Botes farms tomatoes, his wife rents out cottages, and where there are trucks with signage reading "R Botes t/a Friederichsruhe Farm" in the name of one of Botes's sons, Omar Botes. There is a property in Swakopmund which, it seems, is in the name of another of his sons, Izan – which is a bit rich because as recently as March, the attorney MCBronn said in a letter: "Our client is prepared to pay the legal costs at the time the farm and/or the Swakopmund properties are sold... the farm is still on the market and the Swakopmund property can be put on the market".

Yet when Slabbert tried to attach assets at the Swakopmund house a few days later (to satisfy another Namibian judgment for over R3m), a Stellenbosch attorney acting for Izan Botes wrote to the Sheriff of Swakopmund saying his client had bought the house, furniture and other movable assets on 10 August and that the assets on the inventory were Botes's personal property "and not that of the execution debtor". The property, apparently worth R1.2m,

was sold for R17,000.)

But Slabbert's real frustration came when he tried to attach the movable assets at Botes's Courtrai house – which Slabbert had visited when the two were still pals, so he knew his ex-partner likes the good things in life.

When the deputy Sheriff of Paarl, F W van Greunen, submitted a return stating he'd attached assets worth R90,000, with an explanation that the major assets had been sold to Botes's son Omar for R80,000, Slabbert hit the roof. He promptly employed a private investigator who found Botes's assets without trouble.

In August last year Slabbert wrote to Van Greunen's boss, Sheriff SJ Duminy, attaching a list of vehicles which included two Land Cruisers that the private investigator had concluded belonged to Botes, estimated to be worth about R1.5m.

He wrote (translated): "I attach the private investigator's report on Riaan and Mathilda Botes' (married in community of property) vehicles and furniture... there are nine vehicles on the list, of which only one is on HP... the defendant lives in one of the most sought-after areas, on an erf of over 3,200m² with a house of 517m² and your deputy can only attach R90,000 of goods which includes two vehicles (the least valuable)..."

He said van Greunen had told him the furniture (not attached) was "in trusts", the vehicles were all on HP, and that he had only attached vehicles that had been on the premises... "whilst you and I know that he can attach all vehicles in the area..."

He said Van Greunen had told him he'd spoken that day to Bronn, the defendant's attorney. "It beggars belief that he needs to talk to the defendant's attorney at all... his task is simply to attach all the defendant's movable goods and remove them, not to get into debates with the defendant's attorney. He hasn't attached any of the defendant's tools, artwork, books (a large collection) firearms (various), photographic and video equipment, home-entertainment equipment including plasma TVs, sound-recording apparatus, computers and the like, fridges, stoves, microwave ovens, ovens, freezers and electrical equipment... there were large quantities of these goods when I knew the defendant... I ask you to require the defendant to point out the vehicles and to hand them over..."

"Will you please personally handle this matter or appoint another deputy... I never want to work with Mr van Greunen again... his swearing and blatant unprofessionalism – which you admitted to me was a problem – are unacceptable".

Slabbert's attorneys, Fairbridges, wrote to the sheriff in December, complaining that no action had been taken concerning the list and instructing them to "enquire from the debtor specifically as to the whereabouts of each vehicle" and to ask him "what property he has and where it can be found so same can be attached".

Some people know how to keep the sheriff at bay

Few other goods were ever attached, with Werksmans claiming in a letter in March: "None of the moveables as per the list... belongs to our client, and a full disclosure will be furnished at a later stage". That never materialised.

Meanwhile, Slabbert took his complaint to the South African Board for Sheriffs. On 21 September it was received by Mbulelo Dikgacwi, who took six days to hand it on to an investigator, Masoxole Zibeko, who did nothing with it because it was in Afrikaans, which he doesn't speak. Fumes Slabbert: "Was he under the impression his language skills would improve if he left it a bit longer?"

On 14 October Zibeko sent the complaint back to Dikgacwi, who processed it five days later. When Slabbert complained about this to Tandiswa Jacobs, the board's legal and compliance manager, he at least got some action. On 28 October she said in an email: "At this stage I can only offer my apologies as it is clear that the officers who handled your

matter did so in a grossly irregular and negligent manner. I assure you that disciplinary steps are currently being undertaken against them".

Slabbert thanked her, saying his respect for her office was restored as, unlike her colleagues in numerous phone conversations, she had not just offered "red tape and lame excuses".

But that was the high point. Slabbert wrote to Jacobs in January, saying Duminy had told him he'd assigned a different deputy to the case, who had managed to attach "loose household assets" to the value of R130,000 which had been "missed" previously.

"For that we are grateful," he said. But he complained that not one of the luxury vehicles on the list had been attached and Duminy had refused to ask the defendant to point out the vehicles, his standpoint being that "if the vehicles are not on the premises they visit, they cannot be attached".

"I argue that, as their conduct has been to our massive detriment and cost to date, nothing prevents him from visiting or calling the defendant, supplying him with the list of vehicles we know are registered to him, and instructing him to point them out or tell the Sheriff of the vehicle's whereabouts so that it can be attached."

Next, Jacobs appointed another investigator, Mbuso Maseko, but there was no progress – which led Slabbert to email her on 19 April, asking for the contact details of whoever took over from Judge Nathan Erasmus. "In spite of all types of undertakings and emails I received no assistance worth anything from the board, and I would like to escalate this matter," he said.

That's as far as the matter's gone. Jacobs hasn't responded to Slabbert and she failed to answer our queries too. MC Bronn of Werksmans also failed to answer *Noseweek's* queries (We understand he no longer acts for Botes). And if you're wondering how Judge Nathan Erasmus comes into this, he was until recently chairman of the Board of Sheriffs. He resigned from this post in January, but that's a story for another day. As for Slabbert, the only satisfaction he has is the knowledge that, slippery as Botes is, the Bank of Namibia did manage to catch him in 2006, when it attached a farm he owned in Tsumeb. And the knowledge that Botes would face criminal charges in the Paarl Regional Court on 23 June relating to his activities at Baobab. ■

ALPHEN REDUX

THE Alphen Country House Hotel has long languished timelessly under oaks in the Constantia Valley, evoking the Cape Dutch culture and wine-making tradition, and its Great Square is a national monument. It has hosted many famous guests - Mark Twain, George Bernard Shaw, Cecil John Rhodes and Jan Smuts among them - and the celebrity surgeon-general under Governor Lord Charles Somerset is said to have fought a duel on the steps of the Alphen, which boasts the only known portrait of the mysterious, talented Dr James Barrie, who spent her life masquerading as a man.



The historic home of the Cloete family has failed twice as a hotel – but there's talk of a resurrection

The 6.4-hectare Alphen estate, established in 1714, has been in the ownership of one family since 1814. So the bland statement issued in April by the hotel's operating company, Three Cities, saying it was no longer "a viable business opportunity" and that the company needed to make "progressive business decisions" and would be closing, left many Capetonians feeling a little sad.

It also left some people feeling well and truly screwed over, because the Alphen Hotel has now "failed" twice over the

past few years, and on both occasions suppliers have been left high and dry.

The owners – through a company called Alphen Farm Estate in Constantia – are Dudley and Nicky Cloete-Hopkins. Until recently they also ran the hotel. But in 2007 the family signed a lease in favour of a company called Alphen Hotel Operating Company to run the hotel in return for a monthly rental. But this didn't work out, and in May last year Andrew Hubbard, CEO of the operator's holding company, Queensgate Leisure Holding, notified the hotel's creditors that Queensgate had gone bust, and that they should deal with the liquidators, Progressive Administration.

When the creditors asked the liquidators whether it would be worth their while to liquidate the operating

company (Alphen Hotel Operating Company) of which Hubbard was also a director, they were told by Progressive Administration's Chris van Zyl that "it is essentially an empty shell and has liabilities and no assets... it is not even worth liquidating".

Long-time supplier of meat to the Alphen Hotel, Harry Sacks of Sacks Butcheries, lost R33,375.88. This hurt, not least because he had lost some R20,000 a few years earlier when Queensgate took over the running of the Avenue Hotel in Fish Hoek – and failed.

A short while later Sacks – in common with many other suppliers – received what looked like good news: a circular announcing that Three Cities and the Cloete-Hopkins family of the Alphen had entered into an arrangement whereby the Alphen Hotel would be managed and marketed by Three Cities (through a subsidiary called Flaming Silver Trading) as of 13 April 2010. The circular asked suppliers to send credit application forms.

Ah, an opportunity to make up some of that loss, thought Sacks. After all, Three Cities' website boasts that it is "Africa's exceptional hospitality group", that it "manages and markets over 30 quality tourism and leisure properties", and "continues to grow from strength to strength".

Sacks once again started supplying the hotel on credit. Then on 6 May Three Cities sent out a notice saying that in April 2010 Flaming Silver had assumed operational control of the Alphen with the best intentions of restoring the hotel to profitability. At the time, the notice said, Flaming Silver was in negotiations with the owner to enter into a lease and/or a management contract to operate the hotel. This was never concluded. Three Cities meanwhile, the document explains, undertook to provide professional interim hotel management services. "Unfortunately the economic climate and the inability of the hotel to fund essential upgrade/refurbishment prevented the anticipated financial turnaround," it says.

"Three Cities Management indirectly funded the operation through the supply of key staff and unpaid management fees and operational expenses, and to date over R200,000 is owed to Three Cities Management..."

"(The company) decided in March 2011 that it could no longer fund the hotel operation and withdrew its management services... the hotel could no longer fund itself, and Flaming Silver 352 (Pty) Ltd was forced to cease trading effective 31 March 2011..."

Three Cities Management said it was prepared "to forego payment of its entire debt... this will result in Flaming Silver 352 (Pty) Ltd being able to pay all creditors 30 cents in the rand in full and final settlement of its claims".

Yes, the company that the suppliers had assumed was running the hotel, Three Cities, was now telling them its subsidiary that was in fact running it – Flaming Silver (with the same registered address as Three Cities and shared directors in the form of Deryk Desvaux de Marigny, Murray Craig Jacklin and Michael Lambert) – had ceased trading; Three Cities was writing off its debt; and was offering suppliers 30 cents in the rand as a compromise.

How generous! And how irritating for Sacks, who was now in for R54,916.96.

What particularly incensed Sacks was that, whereas on most days the hotel ordered meat to the value of between R500 and R2,000, on 16 March – the last day on which he was asked to supply meat and a mere two weeks before the company ceased trading – the order was for R5,555.17. Sacks discussed the matter with a mate in the liquidation business, who advised him to take the offer on the basis that 30 cents is better than nothing.

Mike Lambert, CEO of Three Cities, gave us his version: When Queensgate went belly-up, *famille* Cloete-Hopkins approached us with a similar deal in mind, in other words a lease of the hotel. Three Cities was more interested in a management contract and the parties negotiated long and hard. Sticking points included the fact that the family did not have the money to do the much-needed renovations to the hotel and were therefore looking for an unrealistically high monthly rental to fund the renovations.

"In the interim, we at Three Cities

ran the hotel in a caretaker capacity. The hotel failed partly because of the recession and partly because it is urgently in need of upgrading.

"We pulled out of the deal after roughly one year. In the process we lost a lot of money: some R560,000 in management fees which we wrote off.

"We decided to offer the creditors a compromise because we felt it was the right thing to do. This exercise will cost us roughly R110,000. But the real problem is the staff – Queensgate took them over from the Cloete-Hopkins family, but we never signed contracts with them. We did, however, decide to offer them retrenchment packages based on one year's service, so basically, one week's wages.

"The employees are unhappy with this and the union is taking us to the CCMA, where we've asked that Queensgate and the Cloete-Hopkins be joined, as they were the employers for the greater period (some employees have up to 17 years' service).

"The really shocking thing is that the family offered to pay the union's legal fees in return for a promise not to claim anything from them.

"Nonsense," said Dudley Cloete-Hopkins when *Noseweek* spoke to him, "we most certainly did not do any deal with the union, and I have no idea what is happening with the retrenchment issue. When we signed the deal with Queensgate they took over our 50-or-so staff members, and we simply became the landlord.

"Queensgate fell behind on rent and went bust owing us a great deal of money. Three Cities then took over from Queensgate and they took over staff from Queensgate. When Three Cities pulled out on 31 March they owed us a considerable amount of money.

"As for the staff, we did have some discussions with Three Cities and they agreed to pay one week's wages for each year's service. They then changed their minds and decided to simply pay one week's wages.

"I don't know what's happening at the CCMA. And by the way, I must correct you on something you said when we started this conversation: the hotel's not closed."

Say what!

"No, we're in discussions with another company as we speak and we expect the hotel to be up and running again by the summer."

Tickety-boo! ■



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Home on the range

IT'S A RARE thing when a South African reader regrets the closure of a contemporary indigenous novel. Finuala Dowling casts her spell via a doughty character, whose gutsy grip on life earns respect. It helps a lot that, despite the woes of her heroine, *Homemaking for the Down-at-Heart* is wryly amusing.

Dowling would make a damn good reporter. She records the realities of suburban white survival with cool accuracy – and then suffuses the whole with her heroine's tenacity of purpose and decency. The moving tale of Margot Nelson's joys and sorrows, as she battles to keep afloat with a crew of curious dependants, is a tribute to this reluctant earth mother.

It's not easy parenting a budding teenager, nursing a demanding Alzheimer's-patient mother, and/or catering, by necessity, to the claims of a flamboyantly neurotic wastrel ex-husband. The extravagant

Len Ashton
reviews

Homemaking for the Down-at-Heart
(Kwela Books)
By **Finuala Dowling**

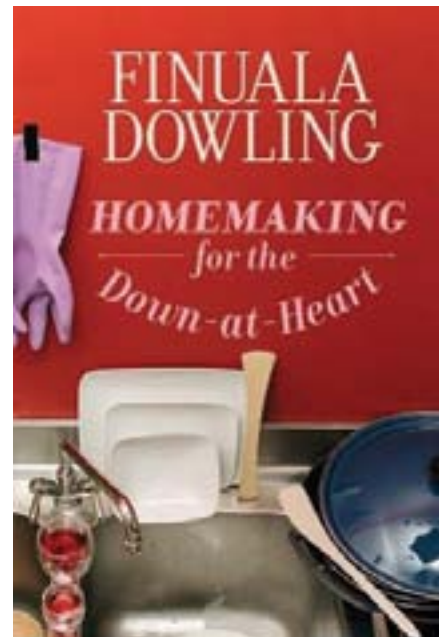
demands of this shamelessly self-regarding ex-spouse (he's an occasional small-time stand-up comic with a built-in self-destruct button) provide bizarre contrasts with Margot's determined realism.

She may detest the man, but their contradictory characters indicate why they got together in the first place. Unsurprisingly, the household suffers financial blues, and irrepressible romantic yearnings. All concerned are skating on thin emotional ice, and every day survived is a triumph over mutual misunderstanding. Just like real life. Margot's plight is engaging because she is articulate and truthful. And funny.

She loves her daft mother, adores and fears for her young daughter, despises her ex – and warily observes the possibilities and impossibilities of her relationship with an amiable displaced farmer. Then there's Mr Morland, a sometime seer and messy lodger who has been around for ever, by right of his dead mum's friendship with Margot's mad mother Zoe.

The supporting cast, includes a bunch of ghastly teenagers who must be placated for the sake of daughter Pia's social prestige, and various walk-ons familiar to the denizens of middle class 'burbs.

The vexed question of what to do for and about faltering elders, particularly when the beloved original personality has been supplanted by that of a virtual stranger, is aired with melancholy precision. There are no



easy answers, but it seems that there comes a time when even the most kind-hearted offspring is entitled to seek institutional help. The alternative might well involve taking leave of one's own senses. Besides, the life force demands that the individual take sensible care of self. And make the most of the passing days.

Margot is not crying alone in the wilderness: she earns a crust at night as a talk radio broadcaster, a lonely hearts comforter who often despairs of the callers – mostly misguided humanity who expect her to ease their hearts. So the daily round of demands is compounded by the moans of strangers.

Nevertheless, the night vigil does get her out of the house, and away from the depredations of the various resident parties, who often drive her to exhausted distraction. Miraculously, Margot retains the defiant bravery of the dedicated parent, and the born survivor's sense of the absurd. Somebody's got to keep the show on the road, even if you think the effort's going to kill you. ■

Sheer cheek: Qat-chewing taxi driver.



LERMANUS

AS HARD as *Noseweek* columnist Bheki Mashile may try to persuade us that hell is small-town new South Africa, Hermanus is determined to prove that small-town old South Africa is every bit as cretinous. Over the years we've met the characters – the municipal manager who left under a dark cloud, the newspaper editor who refused to publish anything critical of the municipality, the hapless mayor who was moved on to the anonymity of the National Council of Provinces. Now it's time to meet the man who some think is the real power behind the throne, a businessman by the name of Henri Lerm.

Lerm, a former mayor of Bloemfontein, was both a Nat and an independent Bloemfontein councillor before being persuaded by Patrick Lekotha that his future lay with the ANC (even if Lekotha's didn't). Lerm made a brief appearance in *nose119* as one of the three white businessmen who were seeking to annex a rock pool much favoured by black and coloured

children and convert it into a restaurant (this plan is still very much on the cards, and an appeal against the approval has recently been turned down by MEC Anton Bredell).

Lerm's main claim to fame in Hermanus is that he owns a hotel called Misty Waves. The hotel is run by Lerm's son, Clinton, a man who also runs the two tourism bodies of the area, the Hermanus Tourism Bureau (HTB), and the regional Cape Whale Coast Destination Marketing Organisation (DMO), which is funded by the municipality. Clinton is the chairman of the DMO and the deputy chairman and *de facto* leader of the HTB, whereas his mother (Henri's wife Maxie) is a director of both organisations. Maxie has also recently gone into politics. In May's municipal elections she was elected an Overstrand ward councillor and a few weeks later Henri was elected as one of her ward's committee members. The Lerm party of choice on this occasion: the DA.

The Lermes do not take kindly to criticism. When Chris von Ulmenstein, the

Echoes of TV soapie Dallas grip the quaint coastal resort

owner of a hotel called Whale Cottage, wrote in her blog that a Hermanus feature which appeared in the *Cape Argus* was in fact little more than a plug for the Misty Waves Hotel, and that this advertorial was paid for by the Hermanus Tourism Bureau, she got herself into real trouble.

This is the bit that did it: "The mother-and-son team of Maxie and Clinton Lerm are directors of the Whale Coast Destination Marketing Organisation (with Clinton Lerm as the Chairman of the DMO) to which the Hermanus Tourism Bureau reports, which reflects a total abuse of the Hermanus Tourism Bureau funds for own gain... Some of the locals in Hermanus joke that the town has already changed its name to Lermanus!"

When Von Ulmenstein discovered that there had in fact been no payment for the *Cape Argus* feature, she wrote this apology in her blog: "We apologise to Misty Waves Hotel for stating that Hermanus Tourism Bureau paid for their editorial". Not enough for the Lermes though, because

"I don't think you and I should enter into a competition on our relationship with God"

it made no specific mention of Clinton or Maxie, and, absurdly, no mention of the company that trades as Misty Waves, Zelpy 1776 (Pty) Ltd. So now Von Ulmenstein is defending a defamation action, in which Maxie and Clinton are each claiming R250,000 for damage to reputation, and Zelpy is claiming R300,000 for lost bookings and R500,000 for damage to business reputation. The matter is awaiting a trial date, but the issue doesn't go away – at the time of writing, there was a storm in the Hermanus tourism industry over a lengthy article that appeared in *Getaway* magazine, where Misty Waves Hotel was listed first in the accommodation section, followed closely by the establishments of the other directors of the tourism bodies, and Clinton Lerm's adventure company also received a prominent mention.

This prompted a well-known whale photographer to write: "This letter serves as a request and reminder for

those appointed to positions representing members of their business community, that the success of a town is not dependent on the minority ensuring their own survival and gain, but rather the forethought to consider that it takes a collaborative effort to secure and achieve sustainable survival and growth for all".

Another person to feel the wrath of the Lermes is the woman who was, until recently, manager of the Hermanus Tourism Bureau, Storm Kreuzsch. Her crime? Being insufficiently obsequious. When Kreuzsch was quoted in the local paper as suggesting that the new offices the municipality was negotiating for the HTB were a bit on the small side, municipal manager Werner Zybrands sent an email to Clinton Lerm expressing unhappiness about this "negative comment towards the municipality".

This led to immediate action, with Kreuzsch's computer being taken in for inspection, under the guise of needing a compatibility test. Voila! incriminating emails were found. A disciplinary

notice was drafted by a labour broker, Dan Acker, a boykie who apparently watches too much crap TV. Acker accused Storm of "aiding and abetting and/or colluding and/or collaborating with" outsiders, in an "apparent attempt to discredit and/or manipulate the management" and even of "sabotage and/or aiding and abetting in sabotage". In plain language, Kreuzsch was accused of saying unflattering things about the mayor, the Lermes and the other directors. The evidence: in an email discussing an event attended by the mayor, Kreuzsch said, "Mr Mayor first sang praises to himself, then to the Lermes"; in another, she said, "Neither my chair nor the mayor know how this office ticks"; in an email to a director called Percy Heywood she said, "I appreciate that you like the sound of your voice... however before one shouts one's mouth off...".

Kreuzsch was given the boot, but the right procedures were not followed, so

she took the HTB to the CCMA and on 5 May an agreement was reached whereby the HTB undertook to pay Kreuzsch R10,000 and made the admission: "The employer admits that the process resulting in the dismissal of the employee was fatally flawed and that her dismissal was consequently procedurally unfair".

When it became apparent that the Lermes and HTB chairman, Charl de Kock (who toes the Lerm line), were going to keep schtum about the deal, HTB member Pam Nel sent them an email asking, "Please will you explain to me why the results of the CCMA hearing this morning between yourselves and Storm are 'highly confidential' when it is clearly in nobody's best interest (other than yours) to keep it confidential?"

"As the ruling very clearly went against you (or there would be no need for secrecy) it obviously means that you were found to have behaved irregularly."

Nel also sent an email to the DA councillor who was due to be replaced

by Maxie Lerm, Francois Marais: "Your Ward 3 candidate has now officially been found to be party to irregularity on a public level in an elected capacity. Maybe you guys should rethink this huge mistake".

But it was Nel who had made the mistake. She received a threatening email from Henri Lerm: "It has come to my attention that a specific letter was being circulated by you with the intention to disgrace, dishonour and discredit my wife Maxie Lerm".

Nel then copied the email to another HTB member, Mary Faure, and what followed could only happen in small-town old South Africa.

Lerm: "What makes the Lerm family so great is the fact that they can crawl through the mud slung at them and reach the top with the grace of God?"

Faure: "I don't think you and I should enter into a competition on our relationship with God at this particular stage... If you would like to chat with me at any time in the future about the

grace of God I will be very happy to meet with you... I would like to suggest that Pam is entitled to her opinion. As a staunch supporter of the DA she has every right, and in fact responsibility, to voice concerns to Francois Marais, the outgoing ward councillor.

"The last few weeks have shown those concerns to be shared by many others." A theme explored further by Nel: "Your wife has her face on every lamp post in Ward 3. She has climbed into a position in which she will open herself to criticism... I had every right to voice my opinion about the candidate's nomination for election – and I did so in private, personally, to a trusted and respected ward councillor. That he saw fit to betray the private nature of our correspondence in such a blatant manner is something of a disappointment to me".

But Lerm was having none of this robust political debate shit. He insisted on Nel signing an undertaking in the following terms: "I the undersigned hereby apologise unconditionally for the statements I have made to discredit Maxi Lerm. I withdraw these statements entirely as it (sic) is totally void (sic) of the truth and I cannot authenticate, proof (sic) or substantiate the statements. I undertake to in future not be part of any malicious rumour concerning the Lerm family unless based on facts" – something Nel eventually agreed to, rather than take on a wealthy bully in court.

Nel's email to Marais had another unintended consequence. It deprived Kreuzsch of her R10,000 because now, the people running the HTB concluded that Kreuzsch had been talking and therefore violated some implied confidentiality.

On 8 May, wannabe TV cop Dan Acker wrote to Kreuzsch's attorney to say that the emails from Nel were "aimed at slurring my client's directors"; that Kreuzsch had "breached the clearly expressed confidentiality, purpose and spirit of the conciliation discussion and subsequent agreement" – something that contradicted her stated desire to put the matter behind her. This, he claimed, left the HTB no option but to "withdraw completely from the said settlement agreement".

But there was no implied confidentiality, answered Kreuzsch's exasperated attorney, she made it clear from the start that she had pursued this matter to clear her name. And besides, there was no proof that Kreuzsch had said anything. As Nel said in an email: "The only basis on which I wrote that letter was the swiftly circulating story of the smile on Storm's face as she came out of the hearing. Storm said nothing to me".

Rubbish replied De Kock, I was "conned" by Kreuzsch and her attorney into signing a document that didn't reflect the truth because I was told that it would be confidential.

Ja nee! ■



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This domain has been seized by Anonymous. Greetings ...

SCIENCE FICTION has become reality. Crippling cyber attacks on the internet-linked facilities of MasterCard, Visa, PayPal, Amazon and, most recently, Sony, by an underground group that calls itself, simply, "Anonymous" – either in defence of WikiLeaks, or to advance its cause in exposing the nefarious secrets of those in power – has actually got Nato exploring the possibility of military strikes on the sites from which the hackers are believed to operate.

In a report issued in May, Nato warned about the rising tide of "politically-motivated" cyber attacks, singling out Anonymous as the most sophisticated and high-profile of the known hacktivist groups.

The report describes Anonymous as an "ad hoc international group of hackers and activists said to have thousands of operatives [with] no set rules or membership". It goes on to claim that "the longer these attacks persist the more likely counter-measures will be developed and implemented, the groups will be infiltrated and perpetrators prosecuted". It then poses the question: "And what response mechanisms

should the Alliance employ against the attacker? Should the retaliation be limited to cyber means only, or should conventional military strikes also be considered?"

Have they simply all been spending too much time at their playstations? If so, Anonymous is still enjoying the game. "It" responded with a lengthy statement on its website (Google-cached version; the site was having server issues at the time of going to press) that says, in part:

"We do not wish to threaten anybody's way of life. We do not wish to dictate anything to anybody. We do not wish to terrorise any nation.

"We merely wish to remove power from vested interests and return it to the people – who, in a democracy, it should never have been taken from in the first place.

"The government makes the law. This does not give them the right to break it. If the government was doing nothing underhand or illegal, there would be nothing embarrassing about WikiLeaks's revelations... The resulting scandals were not a result of Anonymous's or WikiLeaks's

revelations, they were the result of the *content* of those revelations. And responsibility for that content can be laid solely at the doorstep of policy-makers who, like any corrupt entity, naïvely believed that they were above the law and that they would not be caught.

"A lot of government and corporate comment has been dedicated to 'how we can avoid a similar leak in the future'. Such advice ranges from better security, to lower levels of clearance, from harsher penalties for whistleblowers, to censorship of the press.

"Our message is simple: Do not lie to the people and you won't have to worry about your lies being exposed. Do not make corrupt deals and you won't have to worry about your corruption being laid bare. Do not break the rules and you won't have to worry about getting in trouble for it."

Hear, hear! Say all of us.

But then Anonymous goes on to warn, "do not make the mistake of challenging Anonymous. Do not make the mistake of believing you can behead a headless snake... If you cut down one Anon, ten more will join us purely out of anger at your trampling of dissent".

So now it's Nato that's on warning! Dear God, in the next round of this escalating war, are we any day now to expect Nato bomber strikes on Sandton where some too-smart-for-their-own-good computer geek is believed to lurk? Or maybe he or she lurks in Durban North, or in Claremont, Cape Town. Omigod, what if they have collaborators in all the aforementioned places?!

And there you were thinking that was all supposed to be taking place on your Nintendo. (We're boycotting Sony playstations since they pulled the plug on WikiLeaks.)

For Sandton and Gugulethu, Mowbray and Khayelitsha the real threat is, of course, on the ground and much nearer home. It might still be pre-digital – but it's as brutal and insane. The Zuma government has served warning on the press and whistleblowers: expose our dirty secrets – and expect to be locked up. How far off can military strikes by the fifth brigade be?

To quote Robert Mugabe: The gun is mightier than the pen! It also nullifies votes. ■

In the firing line



Steven Hargreaves

AH DILBERT, here's the question: will they think we were good Germans?

The things we have to do! All those little people crammed into their little jobs, their little boxes. And me, a manager, out of the box where I'm always urged to be, and where I prefer to be even if there's less space to hide. Right now there's a terrible überkonzentration of little people in their little boxes – all in the wrong places. But not one of them wants to move, can you believe. No one thinks logically. We say to them you've still got your job, it's just on the other side of the country. Think of all the possibilities, a whole new life, get out of your rut. It'll be invigorating, shake up the grey cells, help you live longer. But no. And then you've got no choice and it gets awkward and then it's as if there's a war on.

Actually there is a war on. We're not allowed to say it you know, but there is. Those Competition chappies don't like it when we talk this way. But what do they know? It's not a free market, it's our market. And when the Chinese and the Indians and Walmart try and take it away from you what is that if it isn't war? I admit it; we talk about ripping their guts out, cutting their balls off, crushing them like cockroaches. It's very motivating apart from anything else. Burn, burn, burn. But we always tell the secretary to keep it out of the minutes, in case someone gets the wrong idea. So when we say kill she knows we mean eliminate. But she also knows better than to minute "eliminate". The Nats and the truth commission taught us a lot. They thought "eliminate" would do the trick but their English wasn't up to it. No way you can say it means relocate or whatever. So we don't write down anything that isn't open to interpretation. You never know what a forensic auditor might think.

But it's easy to take things for granted. It seems quite obvious what "whatever it takes" means, for example. Someone once asked anyway and majordomo went all David Mamet on him: "If they have to work till midnight to get it done; no, if they have to work till fucking two, fucking three, fucking 24/7 I don't give a fucking fuck". This of course comes out in the minutes as "staff will be consulted on production strategies" – courtesy of the HR manager, who knows how to write



Himmler also liked things tidy and legal

things legal-like so the labour department doesn't get the right idea. Himmler also liked things tidy and legal. I don't suppose one person can keep their eyes on the big picture and the little details at the same time; every leader needs a wingman. Where would Milosevic have been without Mladic? Who else would have got on with the job of moving all those Bosniaks back into their own box?

It's been fun but I feel fate descending. Marionettes and martinets all lined up and what's to tell us apart? Who gave the orders? Who carried them out? Is there a difference? You won't find it in the minutes. Whose life got terminated because those boxes needed a tick? Who gives a damn?

"Listen," jokes majordomo, "someone's screaming in agony – fortunately I speak it fluently". Odd to hear Spike Milligan quoted for a gag when staff annihilation is the subject. The joke doesn't find its way into the minutes either. Let's keep things factual.

Yes, the facts. The lemmings at Lehman's and their legions of collaborators took the world over the cliff. Oops! Is that the end of it? No Nuremberg trials for the captains of industry? No gallows to punctuate the jobless queues? It's not so much that I want anyone to swing, necessarily. It's just that when the day of reckoning does come they'll be long gone and the sheriff will go after the pen-pushers, paper-shufflers and the guy who changed the oil. And I know that the "taking-orders" defence doesn't wash. The Nazis and the Nats took care of that. The thing is, I don't buy it either. Any more. When the court at The Hague eventually gets to hearing business crimes against humanity, I won't be able to plead "not guilty". My signature is on so many death warrants, scribbled in a hurry, carelessly enforcing the latest profit-plan. Mammon's willing executioner.

Ah, Dilbert, is it too late to become a Good German?

■ *Harold Strachan's on leave: to celebrate having last month been awarded an honorary doctorate by his alma mater (which 30 years ago fired him for his political views), Harold's booked into hospital for a double bypass op. Dr Strachan should be back on call in a month or two. – Editor* ■

A message from Anonymous ...

SO WE WOULD like to make it clear that we, in reality, pose no threat to the people of your nations. Anonymous is not a reckless swarm attacking the websites of governments and companies out of hatred or spite. We fight for freedom. For ourselves, and the people of the world, we seek to preserve the liberty granted to the millions of people who have found it on the internet.

In your draft, you mention the "data intelligence company" HBGary Federal, and how they were hacked by Anonymous. You use this as justification that we are a threat. What you conveniently fail to mention is that HBGary itself was engaged in illegal activity, including but not limited to: being contracted by the US Chamber of Commerce to spy on and discredit unions and progressive groups; being contracted by the Bank of America to launch a campaign of misinformation against WikiLeaks and it's

supporters (going so far as to blackmail journalists); developing a new type of Windows rootkit to spy upon individuals; and developing astroturfing software that could make an army of fake social media profiles to manipulate and sway public opinion on controversial issues.

That this company which "tries to protect the US Government from hackers" was partaking in such illegal activity against ordinary, uninvolved citizens, whether it be for "the aid of security" or not, is completely disgraceful and utterly unacceptable.

We care not whether the actions we have taken in this struggle have complied with laws of the United States or any other country. What your lot fail to understand is that we live in cyberspace. The only laws that apply are the laws set forth by our individual consciences. We break your nations' laws when we recognise those laws to stand between the people and their freedom.

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SMALLS



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Camps Bay 4 bedroom, 4 bathroom, pool. Poor man's "Falling Waters". Call 021 423 8115; pennyp@mweb.co.za

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Knysna Central Prime commercial building adjacent to mall 500m² + mezzanine. Call Steve 082 411 0950.

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OVERSEAS LAND FOR SALE

Andorra Residential land for sale. Call James Douglas +44 777 075 2202; james@bromptonprint.co.uk

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Clarens Near Golden Gate in the beautiful eastern Free State: Rosewood Corner B&B offers all you want for a break from it all. 058 256 1252.

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Hermanus Luxury homes for holiday rentals, 4, 6 and 10 sleepers. Kim 083 564 8162.

Plettenberg Bay Anlin Beach House B&B/ self-catering. Affordable four-star luxury, 100m from Robberg Beach; 044 533 3694; See our website for special offers: www.anlinbeachhouse.co.za; stay@anlinbeachhouse.co.za

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Noordhoek 2 bedroom self-catering apartment, sea and mountain views. Call 021 789 1269;

www.brynbrookselfcatering.co.za

Simonstown self-catering accommodation 3 bed cottage and studio apartment. Call Gary 083 658 8142;

kboden@worldonline.co.za;

www.simonstown.com/accom/whaetail/index.html

Eastcliff Hermanus Self-catering cottage, walking distance to town. Call 028 312 3617.

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Provence Cotignac, village house with stunning views, pool, sleeps 4-6; rbsaunders@cwgsy.net

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PERSONAL

To the ANC Message from the electorate is: "Carry on messing things up." – JPV

Beth When you love someone it makes you smiley and happy in your tummy. – Ian.

Keep nailing the bastards. – Prof EA.

To Kath and Bel You are my inspiration in life. – NW

The stars are matter

We're matter

But it doesn't matter

– Captain Beefheart RIP

TRAVEL, FOOD & LEISURE

Gourmet Wine Tours Educate your nose and titillate your palate. 083 229 3581; sflesch@iafrica.com; www.gourmetwinetours.co.za

Seychelles Fly and game fishing charters available on luxury catamaran. – Call Rick 083 301 1942.

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www.machinerygroup.com

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Art Works South African works including Wolf Kibel, Neville Lewis, Nerine Desmond, Kenneth Baker, Joe Maseko, Ben Macala and Frans Claerhout. Reasonably priced. Call 021 418 2320; 021 551 9917 A/H.

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The Office Factory Office furniture direct to you. Call William 011 466 8527; www.officefactory.co.za

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Safeco cc Head-to-toe safety protectivewear. Call 011 477 0190.

Belle Ombre Antiques 19 Main Road, Kalk Bay. Cape country antique furniture and African artifacts. Call 021 788 9802.

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