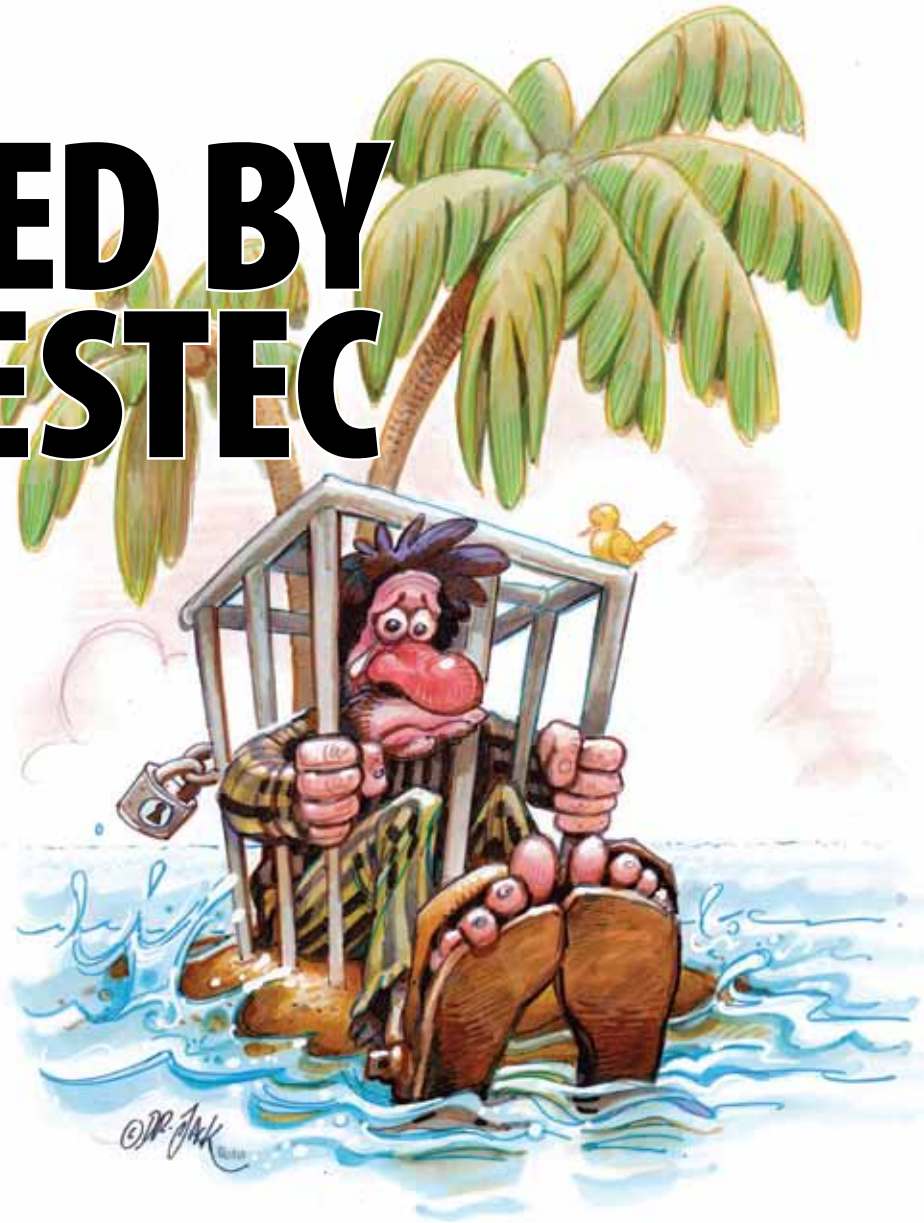


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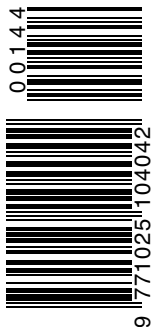
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Victim of Caster row reveals all

CLEANSING THE JUDGES' BENCH 30 SEX AND THE PSYCHIATRIST 10
 USELESS BUGGERS POISON CLIENTS 26 HOUSE OF ILL WILL 24

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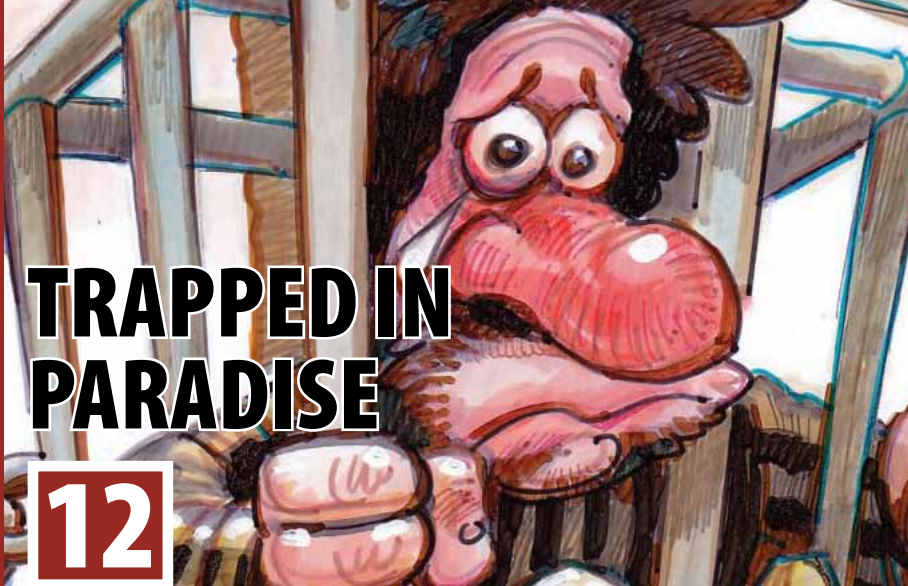
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noseweek
online



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Fair is foul

IT WAS like a breath of fresh air reading your cover story, (*nose 143*) on how easy it is to lie and obtain an interim order in terms of the Domestic Violence Act. Some kind of justice! I have been separated from my wife for three years; in that time I have been accused of being everything mentioned in your article and more.

I have been arrested on three occasions on orders issued by the Randburg Magistrate's Court – most recently, spending a night in jail. I am yet to have a magistrate find any merit in any of my arrests, come the return day. To date, they have all been thrown out of court: when the court day arrives – after several postponements – she simply withdraws her complaint, only to get another interim order a few weeks later. The next will be my seventh court appearance but I am yet to get to tell my story to a court.

Point being: there are guys out there who (as in my case) just want to see their children and aren't violent people, but are left with the stigma of being an abuser – by a woman who happens to be a great story teller, while being unable to produce a shred of evidence, so thank you for exposing some truth.

I will be appearing in court again in October, defending yet another interim order.

Enough is enough. This time I will be represented by Laurance Hodes SC. One of the points I intend challenging: until now it has been accepted that you cannot obtain a costs order in respect of Domestic Violence Act proceedings. I am using the best to try to achieve this, in the light

of events in my case. If we succeed, I believe it will be a first.

Dorian Cabral
Director: Xtreme Fitness
Waverley, Johannesburg

A mother's pain

I'M APPALLED by the story told by Bheki Mashile in his latest Country Life column ("Umjindi's dumbest", *nose143*). I can imagine that mother's pain after what Barberton General Hospital did to her son. I'm a mother of a five-year-old and wouldn't even know where to begin if it were to happen to him. It saddens me that even today nothing has been done to the doctor and the hospital by the Department of Health.

Gugu Motsoeneng
Alexandra
(See update, page 7 – Ed)

A capable cadre

YOUR VERY pertinent editorial contrasting the performance of Public Protector Thuli Madonsela with that of Auditor-General Terence Nombembe (*nose142*) raises more questions than answers regarding the failures of the AG, assuming this is not from an excessive workload or inefficiency.

When the AG addressed the Cape Town Press Club in November, I asked (while emphasising I meant no disrespect): was he another cadre deployed by the ANC?

In reply, he explained at length how he came to have the job – which was open to all – by applying for it, beating all other candidates, then having to stand before the scrutiny of Parliament and the pertinent committee before they

ratified his appointment.

While it may seem rich that the same ANC parliamentarians (who were allowed to get away with their Travelgate frauds) awarded him a 64% backdated pay increase, it is not necessarily questionable.

Anyway, as a CA (SA) and presumably still a member in good standing of the SA Institute of Chartered Accountants, any untoward behaviour would be swiftly dealt with by them.

DJ Lavin CA
Kenilworth

Would be, or should be, swiftly dealt with? – Ed.

Calling time

IN YOUR article headlined "Lords of the Wind" (*nose142*) you make reference to an announcement I made regarding a deadline for objections to proposed amendments to the Land Use Planning Ordinance 1985... to make provision for wind energy generating and solar farms as a "consent use" on land zoned Agriculture 1.

In a statement issued on 9 June I did confirm that I was considering the general amendment of all zoning schemes in the Western Cape... and that the closing date for comment was 17 June.

The impression created in your article is that the time set aside for objectors to act was only those few days between the date of my statement that you quoted and the closing date.

The proposals had, however, already been brought to the attention of all municipal managers in a circular, and had been published and advertised in the Provincial Gazette, as is legally required, on 17 May, giving objectors the





Can I take a message? He's just stepped out the office

customary month in which to lodge objections.

Anton Bredell
Minister of Local Government, Environmental Affairs and Development Planning, Western Cape

True, but c'mon, who reads the Provincial Gazette?
– Ed.

Blind spot

IT IS shameful that a company with the profile of Deloitte, an auditing enterprise supposedly of the highest integrity, can continue to pursue matters

in court in which there is clear “misdemeanour” by a senior employee (“Destroyed by Deloitte”, nose142).

No wonder their auditing fees are as high as they are – they’ve had to come up with some significant litigation fees over the last three-to-four years.

Here’s to Zanzibar!

Graham Anderson,
Durban

Squeezed dry

AS CAPETONIANS, we were surprised

that The Butcher Shop & Grill, Mandela Square, Sandton, was happy to see a party of six leave rather than serve them tap water in a jug.

We were told, “This is company policy. No, it does not have anything to do with your health, but if the other tables see we serve you water in a jug, they might also want it.” This despite the fact that we indicated that we would be ordering a couple of bottles of wine.

How sad to see a company so desperate to squeeze the bottom line! Can someone please tell them an estimated three litres of water is used to produce one litre of bottled water and that the plastic pollution caused by water bottles is a huge ecological problem?

Wilderness Safaris had the following information printed on re-usable

water bottles issued to us in Botswana: “Most water bottles are made from a crude oil derivative. Millions of barrels of oil and \$100 billion is spent on the production of plastic bottles. Despite our best efforts to recycle, 86% of water bottles end up in landfills.”

How can The Butcher Shop & Grill be so ignorant in this day and age? It seems the health of our planet will always play second fiddle to profit margins, which is why earth summits achieve so little.

Wouldn’t it be wonderful if many more people staged a walk-out if they are refused tap water? It is only when their profit margins are affected that these unscrupulous companies will change their policies.

Estelle Hopkins
Rondebosch

CONGRATULATIONS!

To new subscriber Albert Maartens of Durbanville, who won our August competition and will be winging his way to Zanzibar with a guest on 1Time airline.



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On the psychiatrist's couch

AT LAST *Noseweek* is able to provide you with the long-awaited update on Sylvia Ireland's complaint – first made to the Health Professions Council of South Africa in early 2008 – that she had been sexually abused by her psychiatrist, Dr Ray Berard, over a two-year period of psychotherapy.

The Berard case might, ironically, be lent some undeserved glamour by the forthcoming release of *A Dangerous Method*, a film based on the lives of the two founding fathers of psychotherapy, Sigmund Freud and Carl Jung. In the film, Keira Knightley plays Sabina Spielrein, an 18-year-old Russian-Jewish beauty, suffering from hysteria, who is treated by – and ends up having a relationship with – Jung.

In his *Introductory Lectures in Psychoanalysis*, published in 1917, Freud noted the erotic feelings his female patients exhibited toward him, labelling them transference. In later writings he clearly indicated that the therapist should not take advantage of the patient's "longing for love" and should abstain from sexual involvement. Freud also noted that the therapist had to struggle with his own countertransference love feelings.

In a letter to Freud in 1909, Jung claims that Spielrein was "systematically planning [his] seduction" and wins Freud's sympathy. But just weeks later, he concedes: "Caught in my delusion that I was the victim of the sexual wiles of my patient, I wrote to her mother that I was not the gratifier of her daughter's sexual desires but merely her doctor, and that she should free me from her."

In further justification, Jung told Spielrein's mother that he had moved from being her doctor to just her friend "the more easily" because he had not charged a fee.

Read *Noseweek's* update on page 10 and you'll see that in certain quarters nothing much has changed in 100 years. The sexual abuse of patients by their psychotherapists was from the start – and remains – problematic for the health professions to address.

In defence of Jung, his contemporary Bruno Bettelheim wrote: "True, Spielrein paid a very high price in unhappiness, confusion, and disillusion for the particular way in which she got cured, but then this is often true for the mental patients who are as sick as she was."

After his suicide, it emerged that Bettelheim had himself sexually abused patients and staff members.

John Kerr, in *A Most Dangerous Method*, writes of this history: "Jung was scarcely

the only therapist to become involved with a patient. Gross's exploits were legendary, Stekel had long enjoyed a reputation as a "seducer", Jones was paying blackmail money to a former patient, and even good Pastor Pfister was lately being entranced by one of his charges..."

In the 1970s, Masters and Johnson (in their classic report on Human Sexual Inadequacy) reported that a sizeable number of their clients had reported having had sexual contact with a therapist. They labelled such conduct "rape" in a widely reported address to the American Psychiatric Association convention in 1975.

A 1973 survey of 1,000 physicians in Los Angeles County found that 10% of psychiatrists and other physicians acknowledged "erotic contact" with clients, establishing the seriousness and scope of the problem.

"Since then, complaints... and malpractice actions related to sexual misconduct by therapists have steadily increased. There is no evidence, however, that all of this action, or even the refinements in ethics codes, have changed professional behaviour," noted K S Pope (in a widely acclaimed research paper titled "Therapist-patient sex as sex abuse").

By the mid-1990s more than 20 US states had introduced laws making it a crime for psychological counsellors to have sex with clients.

Until the recent past, women have largely been blamed for these events rather than seen as victims, mirroring similarly male-dictated responses to rape.

Pope notes the contrast between the detailed interest that (predominantly male) legal and mental health professionals have taken, in eliciting from patients who have been victimised, information about their "promiscuity", sexual history, "predisposing" clinical conditions, and so forth – and their less-than-vigorous efforts to obtain such information from professionals who have been sexually intimate with their patients.

When asked to explain why the US Psychiatric Association did not support the anonymous survey of its members (in the late 1980s), the chair of the Ethics Committee declared: "The association does not believe in asking its members for sensitive information about themselves."

Says Pope: "A certain critical level of visibility is necessary before either the profession itself or the community attempts to intervene in a meaningful fashion to prevent or remedy sexual misconduct with clients."

Noseweek is happy to help give it that visibility. (See page 10)

The Editor

Good-hearted lawyer steps up

A GOOD-HEARTED Mpumalanga lawyer has stepped forward with an offer to represent the family of the young boy who had his penis amputated by a doctor at Barberton General Hospital back in 2008. He was alerted to their plight after *Noseweek* columnist Bheki Mashile wrote about it in the *Umjindi Guardian* and in *Country Life*, (*nose143*).

Attorney Milile Maxosa Labe said: "When I read the story I was appalled, but moreover I was incensed at what obviously seemed like the hospital's 'cover up' of this tragedy."

The boy's mother said she had tried to have the hospital held accountable but did not know where to turn, particularly since her hopes for justice had been dashed when the Department

of Social Development failed to follow through on her complaint.

Labe has made a name for himself by representing clients whose Constitutional rights have been infringed, including several wrongful arrest suits.

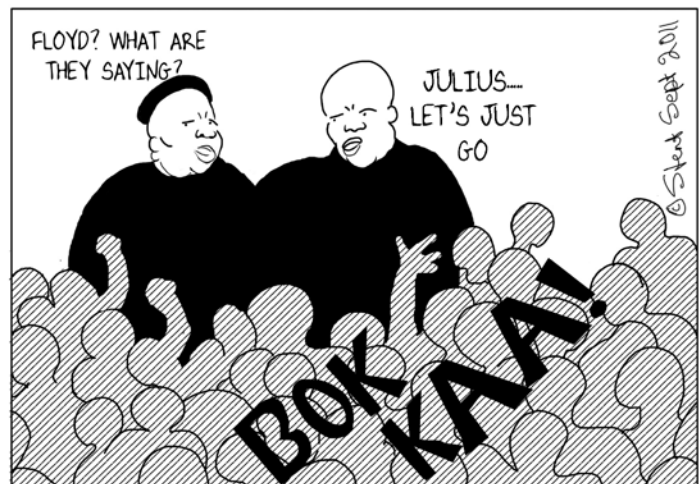
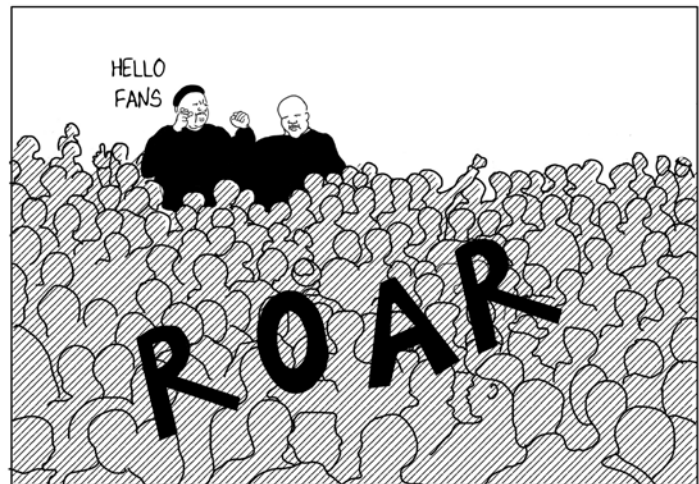
He is reported to have a 100% success rate in his wrongful arrest cases.

Labe said: "The other motivating factor is that we're talking about a poor young woman who could not – and even now cannot – afford legal representation. She, like everyone else, deserves justice. As such, I am doing this on a contingency basis and I am currently seeking the services of an advocate so we can take this matter directly to the high court."

Lawyer Milile Maxosa Labe



STENT



Diamonds are for five years

SSG TACTICAL, a division of the Specialised Services Group (SSG), assures clients on its website that it undertakes “a comprehensive interview process and extensive background check” before offering anyone a job.

“We verify all candidates’ identity... and undertake a fingerprint check to ensure they have no criminal records or outstanding police cases against their names.”

But what of Warren Goldblatt, the 47-year-old head of SSG, better known in the business world as a controversial and pricey firm of private spooks generally employed by the likes of Brett Kebble, Glenn Agliotti and Investec Bank?

He, it seems, lives a charmed life, with the authorities graciously turning a blind eye to his and his company’s peccadilloes, such as illegal phone-tapping, improper access to citizens’ bank accounts, posing as police officers and all the rest of their deviant ways. So it should come as no surprise to learn that in his youth Goldblatt was sentenced to five years’ jail for his role in a Namibian diamond scam.

It was on 24 May 1989 at Grootfontein, that the then-25-year-old Goldblatt and two others handed over R50,000 in return for 60 uncut diamonds with a mass of 207.72 carats, valued at R374,097.

The cop who snared them in a police entrapment operation had two parcels of diamonds on offer: one containing 248 gems and the other 60 specimens.



Warren Goldblatt and the long arm of someone-or-other

The illegal diamond buyers only had enough cash, R50,000, to buy the smaller parcel.

Six months later Goldblatt and his two accomplices pleaded guilty to purchasing and taking into possession uncut diamonds in contravention of s28(b) of Proc 17 of 1939 (SWA). Each was sentenced to five years’ imprisonment (two years suspended).

Also named in the case was Lydia van Broekhuizen, wife of the

sergeant-major of Goldblatt’s unit when he was serving as an army conscript, aged 19.

At the trial, Judge Levy accepted Goldblatt’s sob story that Van Broekhuizen had “enticed” him to engage in the illegal buying of uncut diamonds. Goldblatt “resisted this temptation”, but she persisted and “after six years he succumbed”. Goldblatt persuaded accused numbers 1 and 2 to join him in committing the offence. Accused no 1 put up the R50,000; accused no 2 had the expertise in respect of the gems.

The repentant first offender Goldblatt made a deal with the prosecution that after conviction and sentence he would testify against Van Broekhuizen, who was pleading not guilty but was duly found guilty as an accessory to the crime. Her sentence: six months’ imprisonment (suspended).

When Goldblatt and his two co-accused appealed against sentence, Justice Hendler rejected Goldblatt’s story of being “enticed” by the sergeant-major’s wife. Far from Lydia van Broekhuizen’s enticing Goldblatt, ruled the judge, it was Isaac Warren Goldblatt, who “attempted over a period of years to persuade her to promote a deal in diamonds”.

Goldblatt, said Judge Hendler, was at all times eager to purchase diamonds and in fact had “pestered” Van Broekhuizen for years.

The main reason for this “unfortunate conflict”, ruled the judge, was that at the trial, no evidence had been led and Judge Levy had relied mainly on “a few personal facts stated in writing”. Whereas at the appeal, evidence under oath, tested by cross-examination, was given by both Goldblatt and Van Broekhuizen, allowing him to more reliably decide who was most likely telling the truth.

The five-year prison sentences for Goldblatt and co were reduced to fines of R20,000 apiece, alternatively three years’ imprisonment, coupled with a suspended sentence of five years’ imprisonment. The R50,000 the young criminals had paid for the 60 diamonds was forfeited to the state. ■



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Sex-case psychiatrist finally to face charges

MORE THAN three years after Sylvia Ireland first wrote to the Health Professions Council of South Africa, angrily accusing her former psychiatrist Dr Ray Berard of Cape Town of having, for two years, used her paid-for therapy sessions for sex with her, the council has yet to conclude its investigation and possible prosecution of Berard.

Noseweek published an account of the relationship, supported by all the lurid evidence, in November 2008. Yet, three years on, Berard continues to practise as a psychiatrist in good standing, if not with the public, then at least with the statutory body responsible for maintaining professional and ethical standards in the medical professions.

However, the HPCSA has finally told *Noseweek* that they do intend subjecting Dr Berard to a formal disciplinary hearing – which is scheduled to commence in Cape Town in November.

Why has it taken so long?

“By their very nature, legal matters can be protracted,” said Bertha Peters-Scheepers, the HPCSA’s senior manager: public relations and service delivery.

An informal complaint was lodged with the council on 13 August 2008, but a formal complaint was only lodged by her on 16 March 2009.

Having received the practitioner’s explanation and further investigations, the matter was considered by the Committee for Preliminary Inquiry in December 2009 and was deferred in order to obtain medical records of the patient.

“There was then a dispute about consent to disclose clinical records. The matter was raised at a formal inquiry on 28 September 2010, but was postponed in order to secure original evidence. The earliest subsequent diary opening that suited all parties was during November 2011.”

In *nose109*, in an article headlined “Fashion, passion and the shrink”,



Noseweek reported the breakdown of the marriage of perfume megamillionaire Stuart Ireland, then 58, and his fashionista wife, Sylvia, then 46.

On 27 August 2008, Stuart had served divorce papers on Sylvia, ascribing the breakdown of their marriage to her excessive spending habits and two extramarital relationships. Curiously, in his divorce summons he identified only the man she had most recently and openly become involved with. The one he chose not to name was psychiatrist Ray Berard, who, over a two-year period, had acted as the couple’s marriage counsellor and as Sylvia’s psychotherapist.

Noseweek also reported how, while having an illicit sexual relationship with Sylvia, Berard had proceeded to forge a close friendship and business relationship with Stuart – to his still greater financial benefit: in April 2007, Stuart appointed Berard and the latter’s business partner Michael Edwards, directors of his company Prestige Cosmetics. Six months later, Stuart took both Sylvia and Berard with him on a luxury business trip to Cannes.

Meanwhile, Berard’s sexual obsession advanced to the point where he was sending her regular erotic SMSes, re-living the lurid details of their sex life.

Sylvia blew the whistle on Berard in February 2008, when she informed her husband, as well as Edwards, about the relationship, and shared some of Berard’s SMSes with them.

“I was angry and humiliated. He knew my situation and my insecurity. This was happening while he was prescribing drugs for me,” she told *Noseweek*. “For a long time I could barely speak on the drugs he was giving me, I was so dozy. In the beginning I was saying, ‘Thank God, I can sleep,’ until I realised what he was doing. It’s all about control. He abused his position of power over me.”

Sylvia Ireland

Noseweek reported in its 2008 story that when Sylvia declared her intention to blow his cover, Berard hastily told his wife and family about the relationship and then confessed to Stuart Ireland, before resigning as a director of Prestige. Shortly afterwards, Sylvia had written her letter of complaint to the HPCSA.

Later, in separate legal proceedings that Stuart Ireland instituted against Berard, he would allege that the psychiatrist had – from January 2006 until “approximately 19 April 2007” – charged him top fees for his wife’s weekly psychotherapy sessions while using them “to sexually abuse” her. As a consequence, Stuart wanted his money back, all R66,481.50 of it.

(It has yet to be explained why he limited the period to 19 April 2007 when Sylvia herself alleges Berard was using her therapy sessions at his rooms for sex until February 2008. A possible explanation is that Berard became Stuart’s new business partner at about that time.)

In any event, Berard, via his attorneys Slabbert Venter Yanoutsos Inc, “categorically denied” sexually abusing Sylvia or that his conduct towards her had been either unprofessional or unethical. Which was nothing if not disingenuous: in effect he was claiming that his professional relationship with her had ended when their sexual relationship began, and that it was consensual, not abusive. On the professional front, he claimed to have fulfilled his mandate, in that he “assisted Mrs Ireland to resolve the issues which had caused her to see him in the first place”.

There remained, however, the

evidentiary problem that the earliest recorded sexually explicit SMS he sent to Sylvia – as quoted in *nose109* – predates his last therapy bill by a few months.

In a letter to Stuart’s attorneys dated 12 May 2008, Berard’s attorneys tender the following explanation:

“Although our client was not seeing Mrs Ireland professionally, the billing staff captured the appointment and billed her. Our client is therefore liable to refund your client for the appointments billed after 19 February 2007 in the sum of R10,800 and we enclose our client’s cheque in this amount.”

In response to Sylvia Ireland’s initial complaint to the HPCSA, Berard’s new attorneys, MacRoberts, wrote: “...Our instructions are that it is in nobody’s interests ...for it to be aired and ventilated in any forum whatsoever. This can only cause severe heartache, harm, prejudice and unhappiness for all concerned. Our client sincerely believes... the parties should be allowed to get on with their lives as peacefully as possible.”

In the HPCSA’s initial charge sheet, sent to all the parties in September last year, it is alleged that shortly after he began treating Sylvia Ireland, Dr Ray Berard had started “an intimate physical relationship” with her which continued until his professional relationship with her ended in February 2008. The charge sheet alleges that by doing so, he acted unprofessionally. In addition:

- He abused his position of trust as a therapist;
- Did not, when the “love relationship”

started between them, immediately terminate his professional relationship with her and refer her to another psychiatrist;

- Behaved in a manner which brought the profession into disrepute.

The HPCSA’s code of ethics also requires medical practitioners to “Avoid improper relationships with their patients, their patients’ friends or their patients’ family members (for example, sexual relationships or exploitative financial arrangements).”

When the Pretoria attorney appointed by the HPCSA to prosecute the case, Teboga Malatji, requested access to Sylvia’s psychiatric records, her lawyer, Lauren Fine, objected:

“What is on trial is Dr Berard’s unethical conduct. My client’s psychiatric condition has absolutely nothing to do with his conduct.”

Malatji’s response: “A consensual sexual relationship between a doctor and a patient constitutes unprofessional conduct in the ordinary course but it does not necessarily lead to a harshest form of sanction, of suspension from practice or removal, unless accompanied by an abuse of a relationship of trust. To prove abuse we need clinical records and an expert opinion about the complainant’s state of mind at the time of the sexual relationship.”

■ Stuart Ireland died in November 2009 and Sylvia is still fighting his estate for a fair settlement. And Dr Berard? He’s still practising as a psychiatrist: he’s just moved his practice from leafy Tennant Road in Kenilworth to his home in leafy Ethel Road.

See page 6: Editorial



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CONGRATULATIONS TO THIS MONTH’S WINNERS:

- Lionel Ferreira – Pretoria
- Stella van Zyl – Queenstown
- Tshepo Makgato – Midrand
- Mr & Mrs Abrahams – Kuils River
- Estelle de Bruin – Muldersdrif



The pleasant Filipino couple looked genuine enough, but those pearly white teeth pack a nasty bite, writes **Mark Thomas**

THREE South African children under four were left stranded in Dubai after their parents were thrown into prison in Mauritius on trumped up charges laid by Investec's CEO on the island.

Investec has been left with egg on its face after the man who heads their Mauritius branch colluded with an old friend to channel billions of dollars – designated for investment in South Africa – to accounts at his tropical island bank instead. South African couple André and Rebecca Lategan – he, an accountant; she, an architect – had lived a quiet, modest life in Dubai for 12 years, running a successful design firm with several state-of-the-art Emirates building projects on their books. But their lives changed dramatically in October 2009 when André's old friend Dion Wilmans contacted him with a great business proposal.

Wilmans was into wind energy – being one of those trying to generate cash by establishing wind farms (see *Lords of the Wind*, *nose142*) and he hoped his friend might be able to find some well-heeled Arab investors for his two companies, the Swiss-registered Genesys Wind AG and the SA-registered Caledon Wind (Pty) Ltd, which planned to set up wind farms in KZN and the Western Cape.

Lategan said he'd give it a whirl, and within two months of circulating his friend's proposal through the UAE business community, Bingo! Lategan was approached by a Filipino couple, "philanthropists" Eddie Conde Gil and Elezabeth Samson, who said they had a substantial fund ("several billion euros and US dollars") to invest in humanitarian or environmental projects.

Lategan immediately alerted his old friend by email: "Euro 10 billion facility waiting for environmental/humanitarian projects anywhere in the world. I know

Eddie Conde Gil and Elezabeth Samson

MISFORTUNE'S

SMILE

the chairman and today he has agreed to issue a Bank Guarantee (BG) to a specified company/person at a specified bank with bank officers specified a BG for any amount up to that value. This BG can then be verified by the receiving bank, bank to bank, that is enough to establish *bona fides* of funds, as far as I understand; you may want to check this out very quietly if you can."

Lategan had no reason to doubt the credibility of the Filipinos, who'd told him about a project they were working on in the UAE emirate of Ras al-Khaimah, where they had been allotted 2,000 hectares of land for their planned development, Gateway City, that would cater for the 500,000 Filipinos living and working in the UAE.

Lategan's email to his friend included a note of caution: "This seems very real, if unbelievable, and I am pursuing other avenues of due diligence".

Wilmans wrote back that night: "To say that I'm amazed, would probably understate it! So, down to brass tacks... You need to demand at least 1% for Capital Raising Fees!"

Relating his story to *Noseweek*, Lategan pointed out that that was the first time he realised he could charge for his role in the Wilmans project.

Wilmans's email went on to introduce Lategan to new players: "Des Magua, our appointed financial arranger (and equity investor through Thuthuka, our

Multi disciplines Civil & Construction Joint Venture partner), will communicate directly with yourself in matters regards anything financial..."

And he wrote of Magua: "Established Investec UK, has been head of Structured & Project Finance for all important banks in SA over the past 25 years."

Then Wilmans threw in some memories of the early 1990s when Lategan worked for Rand Merchant Bank: "He (Magua) remembers you from RMB days... and still has close ties with Lorrie & GT [FirstRand bosses Laurie Dippenaar and GT Ferreira] ...was formally the Head of Renewable Energy for the South African government (IDC), and is still consulting to SA Government on every aspect of Renewable Energy. Currently writing the Power Purchase Agreement for Government, in so far as Renewable Energy. Has access to Wind, Biomass & Solar projects... all across Africa, that could exceed the mentioned amount below! (€5 billion)."

Lategan said that, despite not being able to recall ever meeting Magua during his tenure at RMB (which, of course, had not been acquired by FirstRand, for which Magua worked), he began to relax about conducting any further due diligence on the Filipinos, as Magua, with his quarter-century of experience in banking matters, would

have his eye on that ball.

Several emails and phone calls later, Magua had come up with details for the project including a formal proposal and an insistence that the project be channelled through Mauritius for tax purposes. He also provided details of how the project would be structured and how proceeds would be shared. (So, *Magua, though based in South Africa, was ready to deny the country some €5 billion in foreign direct investment – FDI.*)

Magua and his team at Thuthuka – in consultation with their attorneys Cliffe Dekker Hofmeyr and DLA Piper Global – worked on the finer details of the project's structures. He listed

André Lategan





Dion Wilmans

numerous multi-billion-rand projects for which the funds were to be used.

Then in February last year Magua wrote to Lategan and copied to Wilmans: "My suggestion is that we enter into a formal Heads of Agreement with yourself or Serendipity (Rebecca

Lategan's Dubai architectural firm) or a company of your choice to be appointed as agent/partner with Thuthuka to establish and set up a Thuthuka Renewal Energy and Humanitarian Fund for Africa and to participate in a fee-earning structure.

"My estimate is that we will have projects in the order of R40 billion in our pipeline plus, we believe, we can source more in the market. So let's look at, say, any amount from \$3-10bn capacity... Ideally, from Thuthuka's point of view, we'd like to have the fund set up as a Mauritius entity with Thuthuka as the fund manager, with the investors having a watching brief."

In the following month Magua emailed a copy of his draft PowerPoint presentation that would be shown to the Filipinos (copy on *Noseweek's* website). Once the proposal was accepted by Gil and Samson, Magua requested proof of funds from the investors.

Lategan was not conversant with the wording of the requested banking instrument, so he asked a UAE banker for advice but chose to rely on the experience of Magua to get the right format and wording.

Magua emailed Lategan: "Thanks a ton André. That sounds great. We hope to have the draft guarantee wording for you by the end of next week or the week after. I would like to test it with a few banks just to make sure that it is workable before I pass it to you to take to the investor."

When he received the wording – as provided by Magua and approved by whatever banks he had bounced it off, Lategan passed it on to the Filipinos who, within days, presented a letter allegedly written by their bankers, Société Générale S.A. The last paragraph of which warned: "This proof of funds may be verified on a bank to bank via authenticated SWIFT only. And cannot entertain telephone calls, No Fax, No Email and No walk-in verification allowed. This is against the bank secrecy according to our agreement with our clients."

The letter was signed by Patrick Suet (Compliance) and Caroline Guillaumin (Communication) – both known bank employees. On receiving the letter, Magua and his team in South Africa excitedly arranged a trip to Mauritius to finalise the registration of the various companies they intended to use to launder the in-coming billions away from the South African financial authorities.

Magua emailed Lategan on April 15: "...would like to propose the following: 1. Des (himself), John (Coetzee – Thuthuka Group Operations director) and Dion (Wilmans) go to Mauritius on Monday 19th to set up processes, company documents, bank accounts, registrations etc 2. André (Lategan) and Investors fly in on Sunday 25th to spend the week finalising legal agreement and Funds documents to put in a position where funds can flow early May." These suggestions were accepted by the group in UAE who duly flew to Mauritius as organised by Magua.

What Lategan didn't know was that no sooner had the trio from South Africa arrived on the island, than Magua arranged a meeting with his former colleague at Investec, Craig C McKenzie, who has headed the bank's Mauritian operation since 2000. Magua handed him a copy of the Proof of Funds he had received a few days earlier for authentication.

McKenzie passed it on to his bank's Money Laundering Reporting Officer, a Mr Duchenne, who had supposedly received information from Société Générale that the document was a fake.

McKenzie alerted



Des Magua

STILL ON THE PROWL

THE FILIPINO duo of Eddie Conde Gil and Elezabeth Aquino Samson are globe-trotting con artists who woo victims into advance-fee scams. They pretend to be siblings but are in fact lovebirds. Their path is littered with shattered dreams.

In 2009 the no-nonsense Filipina investigative journalist Cheche Lazaro documented their fraudulent ways. Her exposé was motivated by Gil's 2004 bid for the Philippines presidency where he was disqualified for being a nuisance candidate. In entering the race, the self-proclaimed multi-billionaire international investment banker had promised

to pay off all national debt, 3.4 trillion pesos (R500bn) and to turn every citizen into a millionaire.

Manila Times journalist, Rome Jorge described him as: "...a stocky man, with legs that seem perpetually squat, a thick neck choked by a barong tagalog's [the national dress shirt of the Philippines] stiff collar, and rubbery chocolate-coloured skin toughened by hard work". Basically he was a joke, not to be taken seriously. Unfortunately for his victims, they've made the mistake of doing just the opposite.

The pair are notorious criminal masterminds so it is not surprising that a large

company like the Thuthuka Group of Johannesburg fell for their bogus Proof of Funds certificate purportedly obtained from various reputable banks, as well as the various letters of recommendation they touted. The purported wealth they flaunt would light up the eyes of even the most upright members of society.

Partnership agreements are enthusiastically signed, only for the hopeful victims to be left in limbo waiting in vain for the arrival of the promised billions – considerably out of pocket from incurred expenses.

Once the pair have satiated their

his friend Magua and, somehow, a decision was reached to report the matter to the Mauritian police, who advised McKenzie and his team (including Magua and Co) to proceed with the planned meeting.

Magua and his Investec buddies then plotted the entrapment of their partners. But instead of the Thuthuka Group and their executives being the complainants, Investec registered itself as having allegedly been wronged – even though the offending fake document had not been presented to the bank, as the group from UAE hadn't even arrived on the island yet – with the result that McKenzie and his group had to lie to the police and later to court that it was presented by Lategan and the Filipinos.

The day after landing in Mauritius – and unaware that their South African partners (Magua, Coetzee and Wilmans) were in cahoots with their friends at the bank to entrap them – Gil and Samson along with André and Rebecca Lategan were driven to a meeting at Investec's boardroom “to discuss” the project, as opposed to finalising details of registration of various entities, as Magua had proposed, and round the boardroom table, the visitors were made to go through their business proposal.

Pretending to be satisfied, Investec executives provided them with documents to sign to open individual bank accounts. An entity called Mubarak Fund had been proposed by Magua and their attorneys were also mentioned.

After signing these and handing over

their passports for the bank to make copies, the cops arrived and arrested Gil, Samson, and the Lategans, who were all subsequently charged with fraud – later amended to attempted fraud, then swindling and finally a joint charge of attempting to swindle Investec Bank of \$10million dollars.

This was immediately disastrous for the Lategans; they'd left their three young children, a girl of four and 18-month-old twin sons, in the care of their nanny back in Dubai.

After a month in custody, Rebecca, was released as there was “no direct evidence of her involvement”.

But the other three were hauled into a magistrate's court to be formally charged.

During their trial, Investec's chief operations officer in Mauritius, Lara Ann Vaudin, claimed that Lategan was the one who had handed the bank a copy of the fake Proof of Funds. She also claimed that the accused had demanded a loan of \$20m against the fake documents – although, in her earlier

statement to police, she recorded a figure of \$10m. Then, during cross-examination, she slightly changed her story, conceding that Lategan had simply had the document in front of him and did not hand it to the bank. She reluctantly admitted that it was Magua who'd handed the document to her bank.

The testimony by a banking expert – that a copy of Proof of Funds is worth zip and cannot be accepted by any bank to accord a client any credit facility – was ignored by the trial magistrate, R Seetohul-Toolsee,

The two faces of Elizabeth Aquino Samson



appetite for other people's money in one country, they move on to the next. The scamsters have fooled and defrauded people around the world –from Bulgaria, Hong Kong, USA, UAE, to South Africa too.

Gil passes himself off as the president and chairman of his numerous companies; the illegitimate son – or sometimes one-time financial advisor – of former dictator Ferdinand Marcos. Elizabeth masquerades as his half-sister, which makes their claimed knowledge of where all the ex-dictator's stolen wealth is stashed more plausible. Their lies are so convincing that even the government of

Ras al-Khaimah accorded them VIP hospitality in the emirate – and 2,000 hectares of land to boot.

They have told so many lies that when Gil decided to run for the presidency in the Philippines in 2004, he forgot that he'd recorded his birthplace as Masbate, whereas he'd told the same electoral body, in registering his 2001 candidacy for the senate, that it was Zamboanga. His date of birth similarly varies depending on which identification document he is using.

Elizabeth on the other hand is equally skilful in creating new identities. Her real name is Evelyn Manato Perez, but she is known to have used Elizabeth Aquino

Samson and Clemencia Soco Ramirez as aliases.

Those who know them reject their claim that they are brother and sister. One source who has spent years tracking them told *Noseweek* that they are lovers and that Gil's wife, Erlinda Ledda Gil, is not amused.

Between them, the Filipino lovebirds have had more than 10 warrants for their arrest issued by the Philippines National Bureau of Investigations – for fraud, forgery, theft, bouncing cheques, tampering with government documents (passports) among others.

Be warned, they're still on the prowl.

NW FF 005

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when she found the accused guilty as charged and sentenced them to three years in prison.

Incredulous that her husband might have to spend the next three years in jail, Rebecca Lategan organised his appeal.

Eddie Gil and Elezabeth Samson also appealed against their conviction and sentencing.

It took 18 months for their appeal, which was heard by a two-judge bench: S Domah and S Bhaukaurally.

The judges found several flaws in the way the case was handled. While questioning why Magua, Coetzee and Dion weren't charged, the judges agreed that the appellants had been entrapped by Investec Bank.

They agreed that Lategan, like Magua and Wilmans, was an intermediary acting in good faith.

The judges said the prosecution had failed to prove a case of attempt to swindle. "If the prosecution chose to charge the appellants under that species of swindling ie imaginary belief which, for its part, requires proof of fraudulent pretences, it [the prosecution] should have known that presenting a fake paper about one's credit is no more than a lie... In this case, the prosecution stayed content with averring the lie. It omitted to aver the manner in which the lie was intended to be driven home to Investec Bank. Accordingly, it failed to show that the three appellants employed fraudulent pretence to establish the belief of the existence of an imaginary credit."

The judges had some unkind words for Investec: "The question which arises is whether the negative result of a due diligence exercise carried out by a bank could form the basis of an attempt at swindling. The reason is that banks are enjoined by law, profession, ethics, principles of good governance and by best practice not to rely on the face of documents to offer their services to new clients. They are bound to undertake a proper KYC (Know Your Customer), which includes due diligence processes. Can a client or would-be client be charged for attempt at swindling where the due diligence exercise produces a negative result on account of fake papers? Our answer to that question is also negative."

The learned judges concluded in their message to Investec: "... as an informed institutionalised

professional provider, [Investec] should not allow others to create a belief in them, but it should create its own belief through its own duty of enquiry."

(The full judgment is available on *Noseweek's* website.)

Had the two judges read the revelations on Investec's phone-tappings (*nose130*) and high-jacking of computer hard drives (*nose143*) of their clients, they may have reconsidered their regard for Investec as a bank. Needless to say, the conviction was overturned and Lategan, Gil and Samson walked free after 18 months in custody.

When *Noseweek* tracked down Wilmans to ask why he left his friend Lategan to fend for himself when the project had been driven mainly by

The judges had some unkind words for Investec

himself and Magua, his response was: "I'm in a meeting, please call me in 30 minutes". For four days he avoided or cut off calls and when called from a private number, he answered but terminated the call when he heard *Noseweek* was on the line.

Desmond Magua of Thuthuka seemed happy to speak to *Noseweek*, explaining that he'd forestalled a possible scam against his company. Asked to explain this claim, since he'd prepared the various structures – including that which could have denied the country massive foreign direct investment – and whether he'd been surprised that he wasn't locked up in Mauritius, considering he had been the one who'd presented the fake document to his Investec friend, McKenzie, his tone abruptly changed and he demanded that *Noseweek* put its concerns in writing. – to which he did not respond. ■

COLLATERAL DAMAGE

One woman's battle to clear her good name spotlights seething corruption in sport

WHOS YOUR pick for villain-in-chief in the Caster Semenya saga? Former Athletics South Africa (ASA) President Leonard Chuene, that strutting fool who was so obviously lying through his teeth; Julius Malema, that strutting fool who declared that Caster couldn't be a hermaphrodite because he didn't know what that was; former Sports Minister Makhenkesi Stofile, that strutting fool who announced there would be "a Third World War" if Caster were stripped of her title? In the spring of 2009, South Africa certainly showcased the worst of what it has to offer.

The main victim was, of course, Semenya herself. Thrust into the merciless media spotlight at the age of just 18, she was blatantly abused by people who were simply interested in furthering their own careers. Yes, she has just won a silver at the World Championships in Korea, but it's taken a full two years for her to recover anything like the form she was showing in Berlin.

Another victim was a woman who you've probably never heard of: Laraine Lane. At the time of the Semenya affair she was a board member of ASA and as a result was tarred with the same brush as Chuene and his cronies, even though she wasn't guilty of any of the things they did, ie making a pig's ear of the sex-testing and looting ASA's coffers. She was simply "collateral damage".

Lane's connection with athletics goes back a very long way. She's been involved in the sport as a coach, a team manager and an

administrator since 1976, and she was intimately involved in the founding of ASA. As a registered counsellor, she has also provided psychological services to athletes. Deeply committed to transformation, she comes from a family of political activists. A good sort from good stock!

Lane was inadvertently drawn into the controversy and her role is summarised in a report dated 5 October 2009. Two months beforehand Molatelo Malehopo, ASA's general manager, had phoned Lane to say the IAAF was querying Semenya's sex, and that Dr Harold Adams, a member of the IAAF medical commission, and the ASA's chief medical officer, had ordered Semenya to have tests done. Adams had wanted Lane to offer Semenya supportive counselling – and to act fast because the athlete was due to leave for the World Championships in Berlin in a few days' time.

When Lane met Semenya and her coach Michael Seme in Semenya's room at her University of Pretoria residence, it became clear that, although Semenya understood that the testing she was to have was not drugs testing, she had absolutely no idea what

Former ASA President Leonard Chuene



procedures she would be undergoing. This shocked Lane who had assumed that Adams had obtained the athlete's "informed consent" to the sex test, which is obligatory under the Health Professional Council's Code of Ethical Conduct. Lane asked Semenya whether she wanted to have a private chat, and she said she would rather Seme stayed in the room. Lane decided it was impossible to engage in counselling – firstly because Seme's presence would have breached Semenya's right to confidentiality, and secondly because no informed consent had been signed. After the meeting, Lane phoned Adams and told him why she wasn't able to counsel Semenya, and Adams said he would handle it. Lane understood this to mean he would get the informed consent before the tests were done.

When Lane watched Semenya's race on TV a few days later, she assumed that her test results had been approved by the IAAF.

Former ASA board member Laraine Lane

The full story of what happened before and at Berlin is a lot more murky, and even Norman Arendse SC, who chaired a disciplinary committee into the conduct of Chuene and others, had some difficulty unravelling it all. It seems that everything was triggered by a blog written by one Arnaud Malherbe on 3 August 2009, in which he described Semenya as a hermaphrodite who had, after a series of tests, been classified female. The IAAF alerted their man in South Africa, Dr Harold Adams, who discussed it with Chuene.

On 7 August Semenya was tested. The following day she flew to Berlin, as did Adams. On 14 August the results – described in papers as "not good" – came out, and Adams briefed Chuene.

All sorts of discussions then took place. There are suggestions that Chuene and Adams felt Semenya should be withdrawn from the race; whereas the IAAF suggested she should run but be instructed to feign an injury and not finish. It is also suggested that at the same time some senior South African politicians made it quite clear there would be a political storm, and even legal proceedings, if Semenya were withdrawn or forced to bail out, so on 16 August 2009 Semenya ran her first heat. The Kenyans raised an objection. On 17 August Semenya was tested in Berlin and on 19

THE DELOITTE REPORT

THE DELOITTE REPORT was a shocker. It has been published in the media but it's still worth looking at some of the main findings:

- Chuene used some R90,000 in ASA funds to buy the silence of an employee who discovered he'd been having an affair with an employee called Humile Bogatsu.
- Chuene and Malehopo took out staff loans that were irregular: R181,000 in the case of Chuene, with R80,000 seemingly not having been repaid. Chuene's bit-on-the-side, Humile Bogatsu, owed ASA some R10,000. Staff loans were disguised as trade debtors.
- ASA staff were getting 13th and 14th cheques, despite the body's parlous financial position.
- Chuene received an irregular R150,000 performance bonus in November 2007 and a R50,000 loan in August 2007.
- Three employees were allowed to buy their company cars for R1. Even after that ASA kept paying the maintenance and insurance costs.
- Credit and petrol cards were blatantly abused, and some R40,000 was blown over a December period when they were all on hols.
- Banele Sindani, who was employed as CEO but then immediately became a paid consultant, earned some R1.7m. Even he admitted his salary was "probably excessive" given the time he spent on ASA's operations as he "definitely did not spend eight hours a day thereon," leading Deloitte to suggest it raises "the concern that the relationship between Chuene and Sindani may not have been as arm's length as part of a standard employment relationship".
- ASA's records show that Chuene's girlfriend, Humile Bogatsu, was given US\$20,000 which she was to hand on to Sindani to lobby individuals at an IAAF meeting to get Chuene re-elected on to the council. Sindani denied ever receiving this money.
- A supplier called Sequel Experience CC billed ASA some R620,000. Nothing wrong with that, except that the sole member of that CC was Mrs Tsholetsane, a manager in the marketing and events section. When questioned by Deloitte, she said that she did not think it was necessary to disclose this fact, and that she was unfamiliar with the expression "conflict of interests".
- Chuene received double "per diem" payments for attending IAAF meetings, receiving R264,000 from ASA and R199,000 from IAAF for the same events. Deloitte found that "he seemingly elected to prolong his stay on ASA's account".
- ASA paid *per diems* to Chuene, Malehopo and Bogatsu totalling R945,000 over a two-year period, when the financial position was not good. Chuene's daily allowance was greater than that allowed by the Income Tax Act.
- This didn't really matter, because none of them ever reflected these payments as income for tax purposes anyway.

August she ran in the final and won the gold medal. The rest, as they say, is history. But when the powers-that-be realised they had backed the wrong horse in Chuene, they acted decisively.

The ANC appointed a task team of various luminaries including Winnie Madikizela-Mandela, who found that Lane's conduct in the matter had been professionally appropriate. The South African Sports Confederation and Olympic Committee (Sascoc), of which ASA is a member body, instituted a commission of enquiry headed by Advocate Michael Collins.

It was to this commission that Lane delivered her written report, copied to Sascoc President Gideon Sam, who sent her an SMS thanking her for her "thought-provoking input".

Collins delivered his report on 2 November that year – a report that Sascoc has apparently refused to make available to anyone – and within days,

that "my separation from you will hurt beyond anything I'm able to express". She also noted that since the controversy had unfolded, her "professional standing as a psychology practitioner has been totally compromised... even my family regard me as some kind of ogre". She said her reason for resigning was that: "I do not wish to be part of an extended legal battle that will impoverish the Federation and prolong this sad situation".

She received no acknowledgement. Nor did she get any acknowledgement to the letters she sent to Gideon Sam of Sascoc. But she did receive a letter from Sam dated 20 January 2010. Headed "Your suspension from ASA", it said that a disciplinary process was under way and would be wrapped up during the first quarter of 2010.

Lane was pleased as she would have an opportunity to clear her name. She responded to Sam a few days later

against myself regarding my work, my professionalism or my integrity".

Sascoc then commissioned Deloitte to do a forensic audit at ASA covering the period from 1 January 2006 until 31 December 2009. This report came out on 13 August last year. It found that "the ASA Board members... neglected to perform their duties and responsibilities in accordance with the Companies Act and their fiduciary duties to the company". But it went on to find that: "We could not find evidence indicating that the whole Board of Directors acted intentionally to the detriment of ASA. We thus recommend that those members who are not disciplined should receive proper corporate governance training to enable them to manage and direct ASA efficiently, in the event that they resume their functions."

It recommended that certain board members, including President

Many luminaries found Lane's conduct appropriate

Sascoc had suspended the entire ASA board as well as certain staff members, including GM Molatelo Malehopo, for bringing the sport into disrepute.

This suspension precluded any of them from participating in athletics in any way. Sascoc appointed an administrator, its own Ray Mali (also of Cricket South Africa) who, together with an interim board, was to run ASA.

At the same time, various provincial athletics unions – Western Province, headed by President James Evans; Boland, headed by President Dr Harold Adams; and Eastern Province – campaigned to force ASA board members to resign. On 9 November James Evans, sent a pretty heavy email to ASA board members effectively saying: you covered up the fact that there had been sex testing on Semenya before Berlin; it now also looks very much like ASA has been guilty of financial impropriety, so resign the lot of you or you'll face disciplinary charges at ASA, and even criminal charges for breaches of the Companies Act and fraud.

Lane tendered her resignation to Malehopo on 15 November. She spoke of her "great sadness" at having to resign following a "33-year journey" and noted

saying: "I am happy that Adv Michael Collins will lead your disciplinary investigations as when I appeared before your Legal and Arbitration Commission, he assured me on several occasions that I had done nothing wrong... This ought to have been a swiftly executed process, so why is it being deferred? Unsubstantiated releases in the media have caused me immense embarrassment... one of my clients jokingly remarked that they were surprised I hadn't left the country with the millions removed from ASA..."

"I would remind you that I have a more-than-33-year record of exceptional service to athletics and my 25 years of service in the field of psychology. At no time during this period has there been any complaint

Leonard Chuene, and three employees – including GM Molatelo Malehopo – face criminal charges. Lane was not one of those mentioned – something that was picked up on by the Press Ombudsman when he found for Lane after she complained about an article in *The Times* which declared that the ASA had been crippled by "Leonard Chuene and his barrel of rotten apples".

Armed with the Deloitte report, Sascoc (through ASA) then instituted disciplinary proceedings against three board members: Chuene, vice president Kakate Maponyane and finance committee member Dr Simon Dlamini. The proceedings were held in November and December, in the absence of the three, who refused to attend.

Chairman Norman Arendse SC noted that ASA's funds went from a nice black figure

Caster Semenya



THE CASTER CONTROVERSY

Laraine Lane says gender – or sex – tests were never performed in South Africa prior to August 2009 and are not even part of ASA's constitution. It is the IAAF that performs these tests and, says Lane, they require a multi-disciplinary panel of professionals that includes several medical specialists and at least one psychologist.

The IAAF assembled such a team after Berlin and it took a year before they decided that Semenya was eligible to compete. It is therefore difficult to imagine what sort of sex test Dr Harold Adams managed to cobble together just before Semenya had to go to Berlin – the “test” seems to have been done by a gynaecologist called Oscar Shimange.

In the case of Semenya, the general manager of ASA, Molatelo Malehopo, was asked by Dr Adams, the South African IAAF medical representative, to facilitate the sex tests as Semenya was due to join the SA team at the IAAF World Championships.

Facilitating IAAF tests, says Laraine Lane, does not mean that ASA initiated them – ASA was obliged to comply with the prescriptions of its parent body.

In the disciplinary proceedings, Norman Arendse SC was at pains to say that Adams must have been acting on behalf of ASA rather than the IAAF when he initiated the testing. This seems very unlikely, so why was this even raised? Was it to pin the whole debacle on ASA President Leonard Chuene?

Lane says that Semenya was born female and is legally female. She considers herself a female, as do her family and contemporaries.

of R500,000 in 2005 to a nasty red one of R7 million at the end of 2008, and commented that: “The evidence shows that Mr Chuene played a central and pivotal role in breaking virtually every rule in the ASA rule book.” The three were found guilty of the various charges.

Lane meanwhile was in correspondence with James Evans, the Western Province man who issued the threatening letter to ASA board members. This was during the period that ASA was being run by Sascoc-appointed administrator Ray Mali and when various parties were jockeying for positions on the new ASA board that was to be established.

Evans seemed very sympathetic to Lane's plight. On 26 February 2010 he said: “I think what is going on is unconscionable... If they have a problem with Chuene or Molatelo, they should deal with them, but keeping everyone hanging in the air is unfair and unreasonable”. And later: “Sascoc and many politicians want to bury Leonard Chuene and don't really care...

how they do it.” In July: “There is light at the end of the tunnel – it seems that we will be able to have new elections within the next couple of months and get a proper board in place, no longer controlled by Sascoc... I also expect an announcement soon about the hearings, and hopefully they will drop everything against you”. In August: “As far as I can tell they are planning to serve the charges this/next week against those implicated... Against everyone else, they will withdraw any suspensions.”

In September last year Evans became the acting president of ASA. Lane wished him “nothing but the best”. But she was also getting impatient. She had already written to Sam at Sascoc in July, saying her suspension prevented her “from obtaining a licence, coaching athletics or standing for office in any athletics structure... Is this how you treat an elder who has served her community and made athletics her life's work? Give me back my name”.

Two months after Evans became ASA acting president, Lane wrote to him: “Over the past year you've given me your unqualified assurance you would rectify the unwarranted suspension of myself and my colleagues.”

His response: “We have experienced problems with Sascoc's lawyers who refused to accept the election results... the issue of suspended former board members is a pressing one for me and I will ensure it is dealt with next week.” But it wasn't.

And last month, shortly after Evans was

elected ASA president, she vented her frustration in an email to former athlete and now ASA board member Hendrick Ramaala: “I have more than a year's worth of Evans's mails stating that he disagreed with my suspension. They included endless promises to have my Sascoc lifetime ban overturned.”

Ramaala's response: “As for the election: the less said the better. I think there were deals done behind most of us. You will see how he is going to run it: according to some organisation's instruction. As for his promises, forget about them: he has promised everybody everything (rivals, friends and his 'enemies').”

It was, indeed, clear for all to see that Sascoc was now calling the shots at ASA – when he was elected, Evans immediately announced that ASA had received R6 million of lottery money. How did that come about? Evans' vice-president Matlase Keikabile is very much in the Sascoc fold, she sits on the National Lottery Distribution Trust Fund (the body that decides where lottery money goes)

It was clear that Sascoc was now calling the shots at ASA

together with Sascoc heavyweights Gideon Sam, Hajeera Kadjee and Ray Mali. As does Dr Harold Adams who, apart from being the head of athletics in Boland, is also President Jacob Zuma's doctor.

(Although it should be noted that Adams failed to get himself elected to the new ASA board, despite the fact that he and Keikabile were able to offer the provinces lottery funding in exchange for votes. In an email to Lane, Evans said: “Harold Adams is going around promising funds for provinces but is not able to keep his promises.”

In another he said: “Keikabile has one thing going for her – she is on the Lotto Distribution Board, meaning the argument for Adams falls away. There is no need for him, with her here and Mali there.”

The new ASA board members may well have secured first class tickets to the gravy train, but it's hard to see what they can offer athletics – Keikabile was, in fact, a member of the ASA board during the period when many of the financial irregularities highlighted in the Deloitte report took place, and she was even barred from the board because of financial irregularities in her own North West Province. (Dr Adams, who Sascoc tried to get on to the new ASA board, was also an ASA board member over the Chuene period, and he didn't exactly distinguish himself in the Semenya affair.)

So just why would Sascoc want control over

ASA? Well, athletics is the flagship sporting event and there's a history of tension between the two bodies – Chuene's an abrasive character who was very big on transformation, and he made a point of baiting Sascoc for its lack of transformation and it's blatant nepotism (it's seen as being run by an Indian cabal), not to mention the fact that it gives extravagant benefits to its members (something Chuene seems to have tried to emulate at ASA).

Sascoc's been a controversial organisation since the days of Sam Ramsamy, and current president Gideon Sam is heavily compromised – not only is he chairman of Sascoc, but he's also chairman of a company called Accelerate Sport South Africa, which negotiates sponsorship deals and the sale of TV rights. Accelerate is contracted to Saru, ASA and other sports bodies.

Accelerate also happens to be ASA's largest creditor (it is owed R1m or more). On top of that Sam, Sascoc executives Hajeera Kadjee and Ray Mali (who acted as administrator at ASA), are all members of the lottery distribution agency, where they're joined by ASA Vice-President Motlatsi Keikabile and Dr Harold Adams. Being on this committee gives you

huge clout with sports bodies who desperately need these funds.

In January this year *The New Age* reported that Sports Minister Fikile Mbalula had received a report titled "The unhealthy state of South African Sport" which contained various allegations regarding Sascoc – misuse and irregular awarding of lottery funds, breaches of corporate governance, the payment of huge allowances to board members, and the spending of millions on an ASA investigation. Among the allegations made was the one that Sam has serious conflicts of interests. *Noseweek* has a copy of this report.

At the end of last year Lane decided to appeal to President Zuma's hotline in a last-ditch attempt to restore her reputation. Although she's been put in contact with a man called Max Fuzani, special advisor to Sports Minister Fikile Mbalula, all he can ever tell her is that they're "liaising" with Sascoc. Lane finds this frustrating, not least because Sascoc has been quick to absolve Cricket SA board members of responsibility for the financial irregularities of their president, yet the innocent members of the ASA board remain banned for life. Not only Lane, but also former Olympics athletes Chris Britz and Hendrick Moganyetsi, as well as

Thomas Manoko, Snowy Matthews and Lily Motete. As Lane says to Fuzani: "Any reasonable person can see this is vengeance not justice."

Lane, although not in any way condoning Chuene's conduct, is proud of what the ASA has done for athletes like Semenya and Oscar Pistorius. She notes that Semenya has never lodged a complaint against the former ASA administration, although she did threaten to take the interim ASA board and Sascoc to court in April last year.

"It is important to note that neither Oscar nor Caster would be competing at the IAAF World Championships today had it not been for the acceptance and ongoing support of former ASA board members. Just as we fought apartheid, we continue to challenge bigotry in all its forms," she says.

She refers to an article in Britain's *The Guardian* on 27 August: "Those without such vested interests might feel that just as sport was an agent of social change when it played a role in ending apartheid, so this pair of athletes, by placing question marks against previously accepted boundaries, are pointing the way to a less prescriptive future for the human race." ■

NUMBERS DON'T JUST GO MIS



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RELATIVES of the 11 passengers who died when two Albatross aircraft flew into a mountain near Tzaneen after an airshow in August face a massive courtroom battle for compensation for the loss of their loved ones.

The tragedy has now become a legal quagmire of technicalities and clauses in the policies of two separate insurance companies. Top aviation attorney Pierre Naude of Norton Rose (formerly Deneys Reitz), representing both insurers, has recommended repudiation of any claims under passenger liability – because of gross pilot negligence.

This tough initial rejection is standard and to be expected, say seasoned practitioners. Investigations – by the Civil Aviation Authority, Tzaneen police and assessors for the two insurance companies, Regent and Azriel – are under way and will drag on for months. But although both aircraft were insured, the prospect of passenger liability payouts at this stage looks bleak, much to the outrage of relatives of the deceased.

It was around 10.30am on the Sunday morning of August 14 that the two Albatross aircraft, ZU MMI and ZS NJX, took off from Tzaneen Airport on the 250-mile flight to Johannesburg's Rand Airport.

At the controls of ZU MMI was Brian Gruar, a well-known aerobatic pilot of 58 who, hours earlier, had been thrilling the crowds at the Tzaneen Airshow. This aircraft was owned by millionaire adventurer Ralf Dominick, 52-year-old former

leader of the defunct jet formation display team Sasol Tigers, chairman of IT design and development company Barone Budge & Dominick and presently sailing off the coast of Newfoundland, 19 months into a round-the-world voyage in his 53ft Baren's Seatrader yacht *Imvubu*.

Pilot Gruar had come to an agreement with the long-absent Dominick that he would “exercise” ZU MMI from time to time. Passengers on board were Marian Anderson, Maddison and Alexandra Doak, Tess Spence, Louise Warden and Kevin Woolcott.

Pilot of the second Albatross, ZS NJX, was Peter Geldenhuys, an experienced commercial pilot. Peter van Oldenborgh, who had yet to obtain his Private Pilot's Licence, sat in the co-pilot's seat. Behind was his 15-year-old son Stuart, Geldenhuys's fiancée Marietjie de Witt, Linda Pierce, and renowned aviation photographer Frans Dely. This aircraft was owned jointly by learner pilot Peter van Oldenborgh, and Charles Urban, the owner of Joburg armed response company Tactical Reaction Service.

Linda Pierce, a vivacious 51-year-old who was marketing manager of Allegiance Air, got engaged in April to Athol Franz, editor of *African Pilot*. Franz was to have been on board, but at the last minute gave up his seat for Dely, who had pressing business in Johannesburg.

Insurer of ZU MMI is Azriel, an underwriting management agency formed just 11 months ago. Azriel's risk is underwritten by Centriq, a captive insurance company of

Santam. Insurer of ZS NJX is established Regent insurance, part of the JSE-listed Imperial group. Regent claims to be the insurer of a quarter of all private aircraft in South Africa.

The twin-engine P166S Albatross is a sturdy and reliable workhorse – the ones in this report were two of 20 originally used by the South African Air Force for maritime reconnaissance and was fully-equipped for instrument flying in all weathers.

On August 14 a strong high pressure system was moving in from the Mozambique Channel – the following day it brought hail and snow to Joburg. There was moist cloud around 2,300ft above ground level when the two aircraft took off from Tzaneen Airport, and the pilots were flying by VFR (Visual Flight Rules), which require pilots not to lose visual contact with the ground while remaining clear of cloud with minimum forward visibility of one-and-a-half kilometres.

The other relevant set of rules are IFR (Instrument Flight Rules) under which it is forbidden to fly less than 1,000ft above the highest obstacle within five nautical miles.

The two Albatross aircraft were flying in formation, which means one tucked in behind the other in the four o'clock position, following the leader's every move. Although Air Traffic Control at Hoedspruit Air Force Base has a recording of the conversation between the two pilots, investigators have been battling with voice recognition and it was not clear when *Noseweek* went to press who was

leading at the time of the crash.

The pilots knew that a formidable mountain range – highest peaks around 6,000ft (1,828.8 metres) – lay ahead, and set about climbing through some 2,000ft to 3,000ft of cloud that was pushing up against the range. But they didn't make it, ploughing into the Mamotswiri Peak, 150ft from the cloud-free top. There were no survivors.

Relatives say this was an accident that should never have happened. Ken Geldenhuis, a former commercial pilot who regularly flew the Tzaneen-Joburg route, is the brother-in-law of crash victim Linda Pierce. In the '90s, before he emigrated with his wife and two younger children, Geldenhuis owned Letaba Airways as well as charter company Exclusive Air, and his twin-engine Piper Senekers, Cessna 402s and 404s ran twice-daily schedules as a commuter airline between Joburg, Polokwane and Tzaneen.

He says that on the Tzaneen to

Regent's independent assessor Athol Buchan he got some alarming news. "Buchan said that in private aviation, if the policy holders – co-owners Charles Urban and Peter van Oldenborgh – are not negligent, then Regent don't have to pay out. The pilot was negligent – so sue the pilot's estate.

"I'm saying this is crazy. The pilot was negligent. But he was appointed by the owners, he was part of their aerobatic team."

There are three areas of cover in aviation insurance: the hull (airframe), third party collateral damage (people or property damaged on the ground) and passenger/freight.

A source close to Regent says they will certainly pay out on the hull – some R750,000 with VAT. For the rest, there's a host of clauses which may or may not have been included in the Regent and Azriel policies. The two most relevant in this case are the Pilot Indemnity clause and the Breach of Air Navigation Regulations clause.

Pilot Indemnity clause. A source close to Regent, who is playing a leading role in the on-going crash investigation, says: "There is a Pilot Indemnity, but that doesn't become effective if there's a breach of the regulations.

"The Pilot Indemnity clause says you will be treated as an insured. But under the terms and conditions of the policy you've got to comply with Air Navigation Regulations. When you break the law, the policy doesn't respond." This statement indicates the Air Nav Regs clause was either not in place, or the lawyers are devising some ploy to render it ineffective.

Our inside Regent source continues: "There are about five Regulations the pilot (Peter Geldenhuis) is in breach of. If you're going to fly VFR [visual] you must maintain minimum visibility and clear flight. If you're going to fly IFR [instruments] you've got to fly at least 1,000ft above the highest obstacle within five nautical miles and you have to ensure that your route

The clause covers the pilot even if he breaks every law

Joburg route his pilots always, but always, flew at 10,000ft on instrument flight plans, even in perfect weather conditions, to be sure of clearing the dangerous mountain range. "We took off, climbed to 10,000ft and headed to Joburg, absolutely safe. Never once did we have an incident."

Geldenhuis cannot believe that pilots Brian Gruar and Peter Geldenhuis chose instead to fly low, on Visual Flight Rules, when Peter Geldenhuis, for one, was an instrument rated pilot. "They decided to do this visual thing," says Geldenhuis. "They were under the clouds the whole time until they flew up a blind valley and had to climb into cloud. They were trying to climb out of it, which was wrong because they knew the mountains were ahead. They didn't start climbing early enough and the minute they flew into the cloud it became an illegal flight, a breach of Air Navigation Regulations.

"I can't believe that such experienced pilots could make such a basic error of flying into cloud amongst mountains. That is like a death wish."

But Ken Geldenhuis's big beef is with the insurer of Albatross ZS NJX, Regent insurance. When he called

The Pilot Indemnity clause says that whoever is the pilot, will be treated as an insured. The Air Nav Regs clause covers the pilot, even if he breaks every regulation and law in the book.

If these two clauses were inserted in the policies of the crashed aircraft, there would be increased hope that the insurers will pay out for passenger liability. But in aviation insurance they must first be found "legally liable to pay" and ordered to do so in a court of law.

The surviving co-owner of ZS NJX, Charles Urban, says: "I have no idea who it was insured with. There was a broker that Peter [Van Oldenborgh] was dealing with." Does his policy include clauses for Pilot Indemnity and Breach of Air Navigation Regulations? "I have no answers for any of these things at this point," says Urban. "I don't know what's in the policy. Peter dealt with all of that."

From his yacht *Imvubu* off Newfoundland, ZU MMI's wealthy owner Ralf Dominick sends a testy message: "I am not prepared to divulge any information to you."

However, *Noseweek* has established that in the case of ZS NJX there is a

will not take you closer than five miles to an obstacle. And you've got to be at least 1,000ft above an obstacle up to a level of 5,000ft; then it's at least 2,000ft above it.

"Let's take the correct way on that day. The instrument-rated pilot (Geldenhuis) would file a flight plan to Air Traffic Services saying: 'I'm departing IFR'. Tzaneen's sector altitude for setting off course to the south-west is 9,100ft. So over the airfield you'd climb to 9,100ft. In view of the weather conditions it should have been an instrument (IFR) flight if you're going that route. There's no way you were able to maintain VFR along that route; there was cloud sitting on the mountains.

"But they went off on a visual flight. They tried to get clever."

Athol Franz, editor of *African Pilot*, who gave up his seat on doomed ZS NJX – but lost his fiancée Linda Pierce – says: "The problem comes when you breach the law. The Air Regs are there for a reason. They flew out of VFR into IMC (Instrument Meteorological Conditions) – what caused the accident. Now everyone's rushing to appoint lawyers. Nobody wins – and the lawyers get disgustingly fat." ■

HOUSE OF ILL WILL

Brickbats are flying in a pricey building dust-up, writes Hans Muhlberg

SO COMMON are building disputes that they rarely make news, even when they end up in the courts. But if the builder tries to stop his disgruntled ex-client from telling people about their bad experience, or from posting photos of the disappointing building work on Facebook and a video on YouTube, then it's a *Noseweek* story.

Graham Hunter is a South African who spent 22 years in the US where he worked as a state trooper. He returned to South Africa with his American wife Brandi in 2007, planning to join forces with his parents who run a B&B called Villa Tarentaal in the historic Western Cape village of Tulbagh. They bought an old house close to the B&B, wanting to convert it into Villa Tarentaal: Phase 2. He was referred to a builder called Barnaby "Barney" Essenhigh, a Brit who trades

under the name Barshaw Projects, and a price of just over R100,000 was agreed.

Essenhigh, keen to establish his business in Tulbagh, said he'd like the building to be something of a showpiece. A contract was signed on 4 July 2008, which set out exactly what Essenhigh had to do. It also stated that the work would take roughly six weeks. (*Puleez!* – Ed.) Work commenced soon afterwards.

Things didn't exactly go as planned. The way Hunter tells it, Essenhigh's work was up to crap, particularly the plastering; the property looked a lot more bomb than building site; and Essenhigh seldom showed up – always sending underlings – including a certain Shawn Smit.

The way Essenhigh tells it, Hunter was a client from hell, who swore at Essenhigh's workers, and tried all sorts of ridiculous stunts – like getting Essenhigh to pay the vet's bill when Hunter's dog swallowed some plastic, on the basis that Essenhigh's workers had left the plastic on site. And like getting Essenhigh to pay for the repair of the gardener's bicycle tyre, on the basis that the puncture must have been caused by nails left lying around by Essenhigh's workers. Basically, says Essenhigh, Hunter was a tight-arsed git who tried to extend the remit of the contract without paying for it. (The truth, as lawyers, marriage guidance counsellors and *Noseweek* readers know, normally lies somewhere in the middle.)

The relationship soured horribly – as an email that Hunter sent Essenhigh and Smit on 17 November that year shows: "This will serve as your final warning that I am not going to tolerate any more of the nonsense that has plagued this construction site... Gentlemen, the way you have conducted business may be appropriate for South Africa. I am not intimidated nor will I be. Get the work completed and get it done now". By the time Essenhigh finally left the site in December, Hunter had paid him all but R5,000 of the contract price, but both were thoroughly pissed off.

In October the following year, Hunter took Essenhigh to court for shoddy workmanship. Because he couldn't afford to go to the high court, he limited his claim to R100,000 so that the action could be heard in the Tulbagh Magistrate's Court.

Essenhigh defended himself ferociously, using both an attorney and an advocate and employing a company called Inspect-a-Home as an expert witness. Essenhigh's counsel filed Heads of Argument running to 42 pages and the trial lasted eight days.



UNHAPPY: Builder Barnaby Essenhigh

The magistrate, who refused to inspect the premises although they were just down the road, handed down a judgment that neither party really understood: it found for Hunter in respect of various claims of poor workmanship – columns, plastering, bad floor-sanding – and against him in respect of others – floor slab, damage to air conditioners and external lights – but it was unclear what this meant in financial terms. Both sides say they won, so it's probably safe to say it was a draw. Hunter has filed an appeal to the Western Cape High Court.

But before Hunter even instituted any action, he sent Essenhigh an email about the falling plaster: "Attached is the beginning of your wonderful work as it falls. Keep watching Facebook, and of course YouTube, where the world will watch what I told you was going to happen six months ago.

UNHAPPY: Clients Graham and Brandi Hunter

trial action. Because Hunter didn't defend this application, the interim order was granted.

Essenhigh then issued a summons claiming damages from Hunter to the tune of R575,000. In his papers, Essenhigh claimed his firm "has established and enjoys a healthy reputation as a building contractor in the construction industry" and that the "statements" in the video were defamatory and were understood – and intended to be understood – by viewers to mean that Barshaw was incompetent and should be avoided. The damages are for "impairment in business reputation" as well as specific losses. Essenhigh claims he lost a contract worth R175,000 when potential customer Tony Geldenhuys



Both sides say they won, so it's probably a draw

Delaminating concrete is not normal, and I would be very surprised... if you are ever employed in Tulbagh again."

Hunter then posted photos of the work on Facebook. One was of a wall, with the comment: "So it has happened, the wall is officially cracked and going to fall off... 5 months that's the Barshaw guarantee on their work apparently! Check out the YouTube video." Another photo was captioned: "Awesome construction and more falling plaster". He also posted what must be a contender for YouTube's most boring video. Headed "Barshaw Construction", footage of walls, ceilings and floors are given captions like: "We paint it you fix it; Watch as the wall moves; Does this look 4 months new?; Door frames cracked and broken; [and] Hire Barshaw Construction At Your Own Risk".

It didn't take long for Essenhigh to retaliate with a lawyer's letter, so Hunter took down the photos and film. But he kept talking to people, and when locals asked him what he thought of Essenhigh, he told them, and even invited them to come and look if they'd missed the video.

In October last year Essenhigh sued for defamation. He brought an urgent application for an order interdicting Hunter from saying defamatory things pending the determination of a full

pulled out of a deal because he was "a little worried about proceeding" after seeing the video; that a certain Gavin O'Connor pulled out of a proposed joint venture because Hunter had told him Essenhigh was incompetent and unprofessional; and that Hunter told the Tulbagh Tourism Board (of which Hunter is a member) not to use Essenhigh for a particular project. He talks of "ongoing defamation", saying the Geldenhuys cancellation was "only the tip of the iceberg since the number of quotes that have not been accepted, and the number of quotes the applicant has not been invited to provide as a result of the defamatory statements is impossible to ascertain".

After *Noseweek* contacted Essenhigh, he came down from Tulbagh to see us right away. When asked which part of the YouTube video he felt was untrue, he couldn't tell us. And when questioned about the effect this had had on his business, he conceded that he has a thriving firm in Tulbagh.

He told *Noseweek* he'd offered Hunter a way out – "Pay me R150,000 and we call it quits" – but Hunter was not interested. After he left, he bombarded *Noseweek* with testimonials: Tulbagh architect Joe de Villiers said Barshaw Construction "are known for their exceptional attention to detail, their commitment to quality workmanship

and for the fact that they complete projects on time and within budget"; a Pam Golding agent in Ceres said Barshaw's work "is of a very high standard... they're eager to please"; and Cape Town consulting engineering firm Gadomski said that they'd worked with Barshaw on a major project and had found "the quality of their work was of the highest standard".

Hunter has defended the damages claim and is awaiting a trial date (he's been told it could take three years). To pay the costs of a trial, he'll have to sell his house but there's no chance of that because it needs to be fixed first and he doesn't have the money. Although he and Brandi are living in the house, they can't use it as a guest house because it's such a mess. And if he wants to proceed with his appeal against the magistrates' court judgment, he'll need to find R80,000.

Meanwhile he's been gagged by a court order, which he finds particularly galling in a country whose constitution recognises freedom of speech. As for Essenhigh, he's not a happy camper either. He's already spent R250,000 defending the magistrates' court action and in bringing the defamation matters. All because two men couldn't settle their problems over a relatively small building contract. Funny old stuff, testosterone. ■

TOWARDS the end of 2010, Leslie and Lorryn Steenkamp realised they had a problem – lots and lots of tiny little problems in fact; after ripping up some old carpet in the nice house they'd bought in Plumstead, Cape Town, they discovered a borer beetle infestation in the floorboards.

What they didn't know is that the "solution" to these little problems would disrupt their lives in ways they could not yet imagine.

There's a reason the law requires a beetle-free certificate to transfer ownership of a house; these wood-munching arthropods can do a lot of damage. When they bought the house in April last year – their first as a married couple – they had in fact been given such a certificate by a company called Inspecto, who'd professionally looked over the place and declared it good to go.

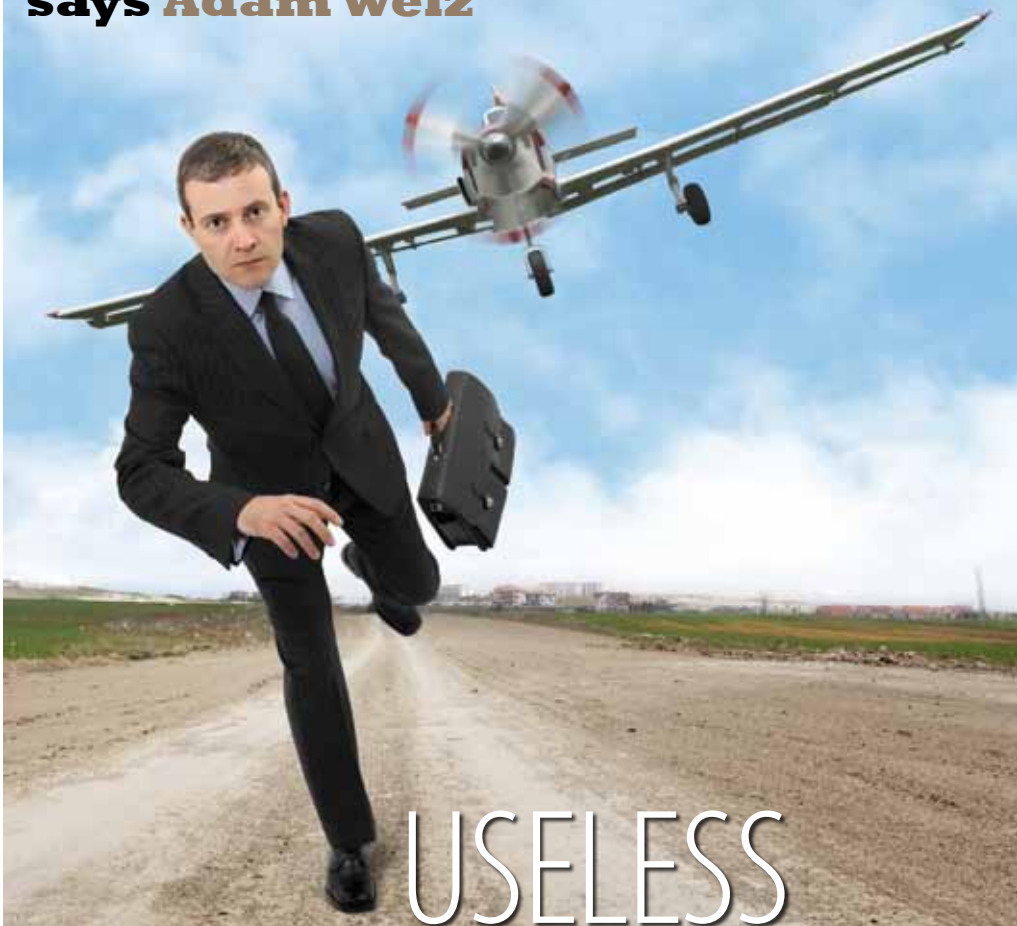
Having found a well-established infestation just a few months after the inspection, the Steenkamps approached Inspecto to see if there was any way the company could be held responsible for not finding it. It turned out there was not – the fine print of Inspecto's certificate says that only "visible" areas had been looked over. Under-carpet infestations aren't "visible". Sorry.

The Steenkamps took it on the chin. They contracted Pestokil, an apparently reputable Cape Town pest control company, to come and get the boring buggers. Pestokil advised them that they should stay out of the house for one night after the poison had been applied, to allow it to dissipate. Because Lorryn was four months pregnant and they didn't want to take any chances with their health, they asked Pestokil to do the application just before they left on their Christmas holiday. This would give extra days for the fumes to die down.

Pestokil's Aubrey Harris arrived with an assistant on the 23rd of December and, while Leslie watched, began to spray a poison called Timberlife CTX-108 to the floorboards with hand-pump sprayers. After a while they quit using the sprayers and simply poured the poison out of the drums directly on to the floor. They used 50 litres of CTX-108 across the house. Leslie says it looked "kinda cool", like the Pestokil guys were having fun. They even splashed some on the walls.

The Steenkamps returned from

**Next time you want to call
in the fumigators, think again,
says Adam Welz**



USELESS BUGGERS

their getaway on the 3 January and began to air the house. Despite the extra time given for the poison to dissipate, the house still smelled foul by the end of the day and they decided to spend the night with Leslie's sister. One night turned into a week, but eventually the Steenkamps decided the smell had faded enough that they could return.

Bad move.

They soon realised that when the house was closed up for any period of time the poison smell would accumulate to unbearable levels. They started having severe headaches and sinus congestion. Two weeks after moving

back in, fearing for their health and that of their unborn baby, they went to live at a house owned by Lorryn's mother.

The Steenkamps obtained the Product Data Sheet for CTX-108 to find out if there was any danger to their health. They learnt that CTX-108 is "poisonous".

"Avoid ingestion, skin contact and prolonged inhalation of vapours," it says. It also gives a use restriction: "Only to be used and applied in accordance with label warnings, precautions and directions for use."

The directions for use say that CTX-108 should be applied at a rate of

1 litre per 4-8m² of floor. Leslie did a quick calculation: Pestokil had applied more than six times the recommended amount. No wonder the smell hadn't gone away. He contacted Pestokil's Aubrey Harris, who came to the property and, says Leslie, admitted the over-application because it was the first time his company had used that product. They had applied it at the rate for other products they had previously used to control borer beetle. Sorry again!

Leslie thought that the excess CTX-108 had seeped through the floorboards and saturated the sand beneath, so, at Pestokil's suggestion air bricks were installed around the base of the house and an ozone air-purifying machine placed under it.

which he calls "flooding", as "Sapca best practice" for severe infestations (which is, we note, in contravention of the legal use restrictions). The letter also says that Pestokil, like all Sapca members, had public liability insurance. Any claim for rehabilitation of the property, alternative accommodation and suchlike had to be approved by their insurers, Santam.

So Leslie Steenkamp arranged a meeting attended by his lawyer, forensic analyst Dr David Klatzow and Beatrix Keene, an insurance assessor representing Santam, on the 2nd of March. Klatzow pointed out that chemical analysis of the property to prove contamination would cost about R50,000. Keene said that should any contamination be found,

the repudiation of our insured's claim and also cannot give you a copy of our assessor's report as this is privileged information. We are also not prepared to have a meeting regarding the above as our duty, obligation is towards our insured who does not have cover".

The insurance ombudsman can't help the Steenkamps deal with Santam because they are a third party to a claim made in terms of Pestokil's insurance contract with Santam, so they've had to hire more lawyers to sue Pestokil directly – a process that might take years. A court date has been set in 2012.

While their house stands empty, Leslie still has headaches and short-term memory loss which his doctor says are in accordance with pesticide

The Agriculture Department intends to file criminal claims

This helped temporarily, but as soon as the air-purifier was removed, the smell returned.

They asked Pestokil to fund the (expensive) safe removal of the possibly contaminated sand beneath the house and alternative accommodation while this was done. Pestokil did not agree, so the Steenkamps turned for help to the South African Pest Control Association (Sapca), an industry body. The couple discovered that Aubrey Harris was Sapca's Western Cape branch chairman, so they went up to national level, petitioning Mark Enslin, Sapca's president.

Enslin came to the property to inspect it. When he left he gave Leslie a business card with a Coopers International address on it. Coopers International is the supplier of – you guessed it – Timberlife CTX-108.

Shortly after his visit Enslin sent the Steenkamps a letter in which he justifies the over-application of pesticide,

Santam would pay this as part of the overall settlement.

The Steenkamps forked over the cash to Klatzow, who commissioned various analyses including air sampling in the house by a new "electronic nose" machine. This showed "significant odour" in the house, and other analyses found traces of the active ingredient of CTX-108 in the air and various materials in the house. Klatzow's reports were submitted to Santam on the 12th of April as part of the Steenkamps' claim.

Then came a rude surprise. On the 24th of May, the day after the Steenkamps' daughter was born, Santam contacted them to say they were declining the claim. A terse email from their specialist liability unit says, "Our insured [Pestokil] does not have cover for this claim in terms of his policy and we are therefore unable to entertain any third party claims. We cannot give any reasons for

poisoning. He worries about his wife and daughter's health. The manufacturer of CTX-108 has so far refused to give him a detailed list of the product's ingredients, even though this might help with treatment, so he's found yet another set of lawyers to file a time-consuming Promotion of Access to Information request to try to get it. This may take months.

One piece of good news is that the Department of Agriculture intends to file criminal claims against Pestokil for illegally applying CTX-108 in excess. But this process, too, might take years.

Leslie is a successful businessman and has so far had the cash to spend on his crusade for justice. He's also lucked out on the mother-in-law front; not everyone has a house to spare for their relatives when times get tough.

Would the Steenkamps have been better off letting the house-eating beetles be? It's a thought. ■

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LIES, DAMNED LIES AND

Stick to your guns when the bank tries to fob off your complaints

EVER HAD that feeling that your bank's talking absolute crap? Well, the chances are it probably is. *Noseweek* reported on how FNB's media man gave some palpably nonsensical answers when questioned about a matter involving commissions charged on maintenance payments coming from abroad to a South African divorcee (*nose140*). Now it's Standard Bank's turn.

In early May this year, Paul van der Hoorn of Franschhoek – who has been a Standard Bank client for 50 years – had a total of R57,000 disappear mysteriously from both his current and credit card accounts at the bank. For some weeks prior to this he'd had a hunch that something strange was up with his bank accounts: when he went through the normal procedure of requesting a one-time password to do electronic banking, the number repeatedly failed to arrive on his cellphone. He phoned the bank's call centre, where a man assured him the problem would be sorted out.

It wasn't, so on May 10 he went to his local branch of Standard Bank in Franschhoek to discuss his problem. They, in turn, made three calls to that customer-care number, 0860 123 000, and pressed "Option 3" for internet banking. Each time customer care were unable to solve the problem.

The following day he made another call to customer care, where he was assured that the problem was being investigated. That afternoon – joy! – he received email notification that his one-time password had been reactivated. But once again, the miracle number failed to arrive in his cellphone messages.

Which explains why he was alarmed when, the next morning, he received an email from internet banking "support" informing him that an auto-payment had been made from his account the previous day to something called SETT.SUSP.MIMONEY E. He immediately called the bank to report that something untoward was up.

When Nicole Padayachee from Standard

Bank Johannesburg called back to confirm that frauds (plural) were suspected, he told her about the events of the previous months and of his suspicion that it was an inside job. He asked her to freeze his accounts immediately and access codes, which she undertook to do.

Curiously, Padayachee said she was unable to tell Van der Hoorn how much had been withdrawn from his accounts. And he, himself was unable to check because his cards had been cancelled.

Only several days later did he learn that the fraudster had somehow succeeded in making several smaller withdrawals totalling R6,500 from his cheque account on the first day – whereas he is only permitted to withdraw a maximum of R1,500 on any one day. Some of the withdrawals were to buy prepaid MTN airtime. But the bigger blow was that on the same day R27,500 had been transferred from his credit card account. At the bank's suggestion, he went to his local police station and laid a charge of fraud.

Only two weeks later – when he was finally given new access cards – was he to discover that, on the day his accounts were supposed to have been frozen, a further R23,000 disappeared from his credit card account.

Van der Hoorn's half-century of loyalty to Standard led him to assume he'd be reimbursed quickly, but three months passed with precious little happening except for a mysterious R4,000 refund that appeared on his credit card account in mid-May. What he did get, was a load of excuses about why this was a difficult matter that would take much time to sort out. And an SMS from the credit card division advising him that his credit card account was overdue!

Out of frustration Van der Hoorn came to *Noseweek*, which sent Standard Bank a short email asking them to explain why it was taking so long for this matter to be resolved, especially as it looked like an inside job. The response was lightning-quick, and it came from the bank's communications man, Erik Larsen: "Mr Van

STANDARD BANK

der Hoorn was the unfortunate victim of internet banking fraud. We have provided him with a detailed letter explaining why Standard Bank is not liable for his loss, as he disclosed his personal and confidential banking details to the fraudsters.

“Mr Van der Hoorn was also advised that if he is not satisfied with the bank’s view, he may escalate the matter to the Banking Ombudsman, which he has done... We will obviously abide by the Ombudsman’s finding.”

Noseweek forwarded this email to Van der Hoorn, who responded angrily. His comments were incorporated in our response to Larsen: “Mr Van der Hoorn says he never received any letter. Could you please let me have a copy. He also told us that he’s just received a payment into his account for some R47,000 marked ‘Refund for fraud’, which seems at odds with your statement that the bank is not liable. Please explain”.

This time Larsen’s response was a little slower in coming: “Apologies for being slightly misleading in my earlier email... Following your latest email I have been able to establish that we have in fact been able to recover R52,793.50 of Mr Van der Hoorn’s money. This money has already been refunded to his account. We are still awaiting a further refund from FNB and will advise Mr Van der Hoorn once this payment has been received. We still stand by our earlier statement that Mr Van der Hoorn was a victim of Internet Banking fraud. We also refute allegations that it was an “inside job”. We can find no evidence of any Standard Bank collusion in this matter.”

Wanting some clarity, *Noseweek* wrote again to Larsen. “As I understand it you are now saying that: 1) There was no letter, detailed or otherwise; 2) Standard Bank was liable (hence the refund) although for some reason other than it having been an inside job... If so, why was Standard Bank liable?”

Larsen’s reply, which was far too long to quote, amounted to a fairly simplistic, somewhat condescending, explanation of internet bank fraud: that despite the fact that banks advise their clients not to respond to emails asking for personal details and banking info, people compromise their details by responding to fake emails from fraudsters; when the fraudsters have the banking details

Banks are ready to shoot from the hip with any old response that absolves them of responsibility

they withdraw funds and transfer them to other accounts; as soon as the client reports a fraud their bank starts tracing the funds and, if the matter is reported quickly enough, the bank should be able to recover the funds because there’s a two-day clearance period before funds can be withdrawn.

Noseweek interpreted this response as follows: Paul did inadvertently give his details to a fraudster but, because he acted quickly, we were able to recover his money. And still no copy of the “detailed letter”.

Meanwhile Van der Hoorn fired off an angry email to Larsen saying: “I did NOT get a ‘detailed letter explaining’ even though I asked for one... Moreover I object to your statement that I ‘disclosed personal and confidential banking details to the fraudsters’.

“You have no right to claim that until you have given me conclusive evidence... I have given your bank sufficient evidence that, as

an experienced user of the internet, I never open attachments from strange senders... It would seem that the right hand does not know what the left hand is doing in your organisation.”

Van der Hoorn’s email went up the chain and drew a response from Joop Dekker, Manager: Chief Executive & Media Complaints Liaison, who insisted: “You unknowingly disclosed your personal and confidential banking information to fraudsters”.

Standard Bank’s confusion as to whether or not Van der Hoorn was entitled to a refund and, if so, in what amount (he has now been refunded the full amount of the loss), shows that he’s not far off the mark when he says the left hand doesn’t know what the right hand’s doing.

It also shows that banks are happy to shoot from the hip with any old response that might absolve them of any responsibility. So the next time the bank tries to fob you off with buzzwords and glib expressions – current favourites include “the funds need to be cleared” and “Fica requirements” – ask yourself whether it actually makes any sense, or whether the bank might really be saying, “we’re in shit right now, so we’re going to keep your money in the meantime”. And stand up for yourself! ■



CLEANSING



**White candidates
are being
snubbed despite
their high merit**

WHEN President Jacob Zuma told the nation who it was he wanted to see as the next Chief Justice, it was a surprise to many, as Justice Mogoeng Mogoeng had clearly failed to make a name for himself. Even the President couldn't find much to say about him, other than that he was knowledgeable about case-flow management and was strong on transformation: "He has demonstrated his expertise and keen interest in the transformation of the judiciary and the promotion of access to justice for all by being part of and also leading programmes and activities designed to promote court efficiency and transformation." A paper-shuffler who's not big on whites, basically.

On top of that, the recent brouhaha over the Judicial Services Commission's (JSC) decision to fill just one of the three vacant judges' posts in the Western Cape shows there's only one issue that counts when it comes to judicial appointments – "transformation".

The JSC decision was taken at a meeting on 12 April. Seven candidates

had been put forward for the three posts. Of these, six were white and one was not. When it came to appointments, the six who were, weren't, and the one who was not, was. Of the six who were but weren't, three were advocates practising at the Cape Bar: Owen Rogers, MJ Fitzgerald and Sven Olivier. The one who was not, but was, was a magistrate, Robert Henney.

The JSC's decision to appoint only one judge was contested by the Cape Bar Council (CBC). The matter was argued during August, with judgment reserved. The CBC's case was made by its president, Alasdair Sholto-Douglas SC, who emphasised in his affidavit that the council was not wanting Judge Henney's appointment set aside – rather, it was disputing the JSC's right to make only one appointment. He tried to pre-empt the race card, saying the council was not motivated by "parochial interests", nor did it "seek to inhibit the transformation of the judiciary". It was bringing the application in the interests of advocates, litigants and the general public.

THE BENCH

He explained that, as it takes roughly three years to get a trial date in the Western Cape (yes, that's after all the pleadings have been filed), the Western Cape High Court needs all the judges it can get. He said one of the CBC's objectives was "the consideration and promotion of improvements in... the administration of justice". He said he had not felt it necessary to join the six-who-were-but-weren't as parties to the proceedings – or indeed the one-that-wasn't-but-was – though he'd sent them all copies of the application.

The main thrust of the Cape Bar Council's application was that the President of the Supreme Court of Appeal, Lex Mpati, a JSC member, was not present when the JSC made its decision. Although there is provision that the Deputy President of the Supreme Court of Appeal (presently Louis Harms), can take the president's place if

Constitution addresses "the need for the judiciary to reflect broadly the racial and gender composition of South Africa" – which "must be considered when judicial officers are appointed" – the JSC has no transformation plan. In the absence of such a plan, it was random and unfair to leave a position open. He also argued that, as the racial make-up of Western Cape is roughly 50% coloured; 30% black; and 18% white, whereas the racial composition of the Western Cape Bench is roughly 60% non-white, transformation in the Western Cape judiciary wasn't doing too badly.

Sholto-Douglas's affidavit makes it clear that the Cape Bar Council is particularly aggrieved by the JSC's failure to appoint any of its three members. Particularly, Owen Rogers, who got 12 votes and may have got the required 13 had the President of the Supreme Court of Appeal been there

The JSC's decision to appoint only one judge was contested by the bar council

he or she is "temporarily unable to serve", the deputy president was not there either, therefore the JSC was improperly constituted, and the failure to appoint the two other judges was unconstitutional and unlawful.

Sholto-Douglas went on to argue that the JSC has a constitutional duty to ensure accessibility and effectiveness of courts, and it had failed in its duty. Furthermore, as an organ of state, the JSC should be accountable, and its failure to explain its decision not to appoint three judges from a well-qualified pool, showed a lack of accountability.

The JSC's decision, said Sholto-Douglas, was reviewable as an "administrative action" under the Promotion of Access to Justice Act (Paja).

Getting to the all-important race issue, Sholto-Douglas argued that although the

(the JSC has 25 members).

Rogers SC (whose name came up in *nose140* as one of the advocates who favours a scrapping of the senior counsel system, which would make him plain Rogers) comes in for high praise. In one letter written to the General Bar Council, Sholto-Douglas said this of Rogers: "During his two consecutive terms as Chairperson of the Cape Bar Council, Adv Rogers introduced a number of transformation initiatives, which are still in place today... In addition to pure transformation initiatives, Adv Rogers spearheaded the creation of a compulsory pro bono system, in terms of which members are currently required to perform a minimum of 20 hours of pro bono work per year or face

Senior Counsel Ishmael Semanya



a financial penalty paid to the transformation fund... The widely held view is that he is one of the finest lawyers ever to have practised as a member of the Cape Bar... He has handled some of the biggest and most difficult commercial cases in recent South African history, yet he brings the same level of dedication to all his work even where relatively little is at stake... He is also scrupulously honest and ethical, with an innate sense of fairness. He is not only dignified, but recognises that all are entitled to their dignity. This is evident in behaviour towards his fellow counsel, attorneys, clients, witnesses and the bench.”

There’s equally high praise from

casts doubt on how seriously those charged with appointing our judges take their jobs. Semenya started off with some good old technical objections: one, that a JSC decision was not an “administrative action”, therefore not subject to the Paja; another was that all those who were-but-weren’t, and even the one-who-was-not-but-was, should have been cited as parties to the application; and a third was that the Cape Bar Council had no real interest in the matter, and that its claims to be acting in the interests of litigants and the general public were false. Why? Well, said Semenya, because advocates are still able to practise; no litigants have complained

for periods when they have more important things to do. So, concluded Semenya, Judge Mpati was not “temporarily unable to serve on the JSC” on 12 April 2011.

Semenya suggested the whole thing was a storm in a teacup, because another judicial appointment session was coming up in October this year, and some of those who were-but-weren’t, including Rogers, had already re-applied. He added, with a dig: “I note the enthusiasm of the Applicant to see Adv Rogers SC succeed in his quest to be recommended for the post.”

Yet, he went on, it’s also interesting to note that “never... has the Applicant supported an African candidate”. This

When he finally dealt with the merits of the matter, the advocate didn’t exactly raise his game

a group known as Advocates for Transformation: “Our members report that Mr Rogers has been involved in the transfer of skills to junior members of the Bar by not only involving them as juniors in his matters, but also always being available as a resource whenever needed. His chamber door is always open to all juniors seeking help of one kind or another. One of his more admirable qualities, apart from his deep knowledge of the law, is his humility and patience when dealing with his juniors. We are convinced that Mr Rogers will make a good judge.”

The JSC’s response came from an SC who is a member of the JSC, Ishmael Semenya. The nature of his response

of delays; and the public still has a fully functioning High Court.

When he finally dealt with the merits of the matter, Semenya didn’t exactly raise his game: voting, he said, is done by way of a secret ballot, and the reason why none of your lot were appointed is because they didn’t get the required 13 votes. As for Judge Mpati, said Semenya, he was there on 11 April 2011, but he was excused by the chairman on 12 April 2011, the day candidates were interviewed and votes were cast. And, said Semenya, you must understand that those who serve on the JSC are very important and busy people, so it’s quite common for members of the JSC to be excused

eventually brought him to the real issue: the JSC often fails to fill all the vacancies, said Semenya, and it is not a constitutional imperative that all vacancies be filled simply because there are sufficient candidates who are appropriately qualified and have some of the attributes for judicial appointment. Other qualities, he said, include “judicial temperament, patience, humility, and commitment to the values underlying the Constitution”.

Of course racial demographics come into the equation too. And with whites making up only 18% of the Western Cape population, but 41% of the Western Cape High Court, transformation has a long way to go. ■

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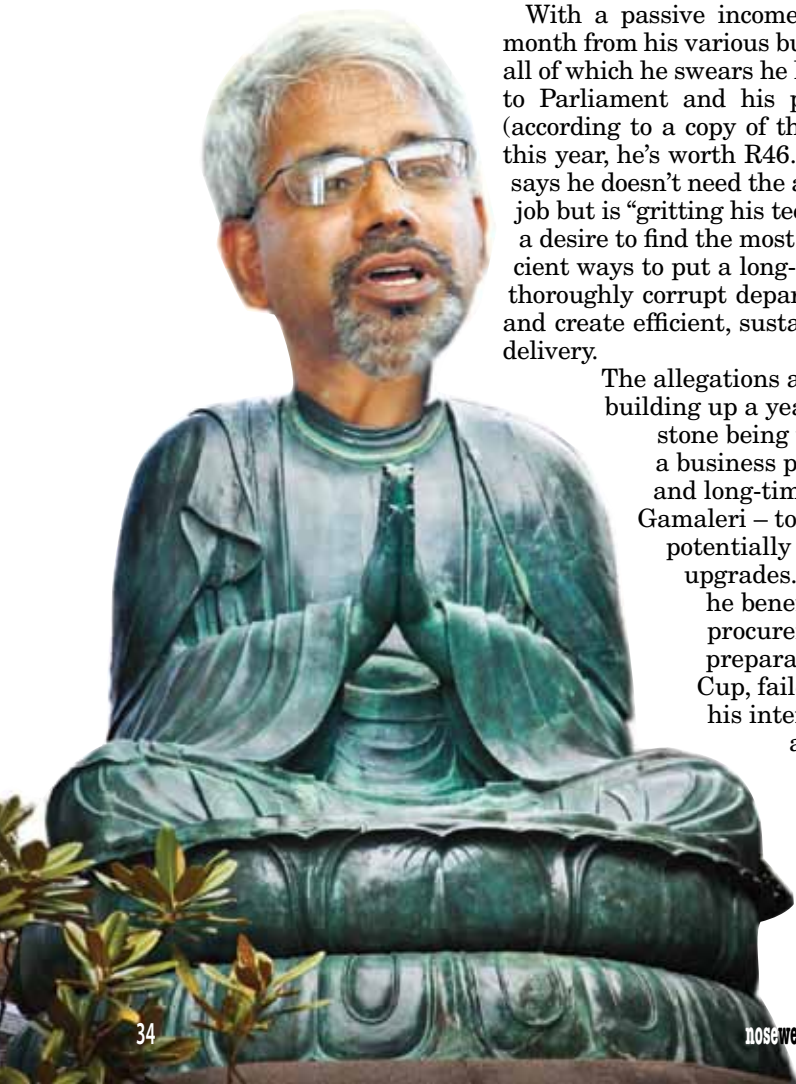
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**COLOURTONE
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EAST CAPE PROMISE

**Enemies rage
as Mr Clean
tackles fraud
and corruption,
writes Chris
Bateman**



CORRUPTION-buster for the Eastern Cape Health Department, Dr Siva Pillay, is an unabashed multi-millionaire property developer who is using his considerable business clout to “turn the department around” – and not to add to his fortune via “jobs for pals”.

That’s his core rebuttal of allegations from a *Noseweek* reader (Letters, *nose142*) and from a swathe of former senior officials who have either been sacked or resigned (many facing charges of fraud and corruption) since he was appointed to South Africa’s hottest provincial health seat last February. He has overseen the charging of more than 648 officials, from clerks to departmental heads, for various crooked practices. At last count, 297 had been dismissed or had resigned.

With a passive income of R200,000 per month from his various business interests – all of which he swears he has fully disclosed to Parliament and his provincial cabinet (according to a copy of the Assets Register this year, he’s worth R46.35 million), Pillay says he doesn’t need the aggravation or the job but is “gritting his teeth”, motivated by a desire to find the most practical and efficient ways to put a long-dysfunctional and thoroughly corrupt department to rights – and create efficient, sustainable healthcare delivery.

The allegations against him began building up a year ago, the cornerstone being that he appointed a business partner – architect and long-time friend, Edgardo Gamaleri – to work on a host of potentially lucrative hospital upgrades. Others were that he benefited from various procurement processes in preparation for the World Cup, failed to fully declare his interests and illegally awarded contracts

to Gamaleri – who was also involved in plans for the Cecilia Makiwane, St Elizabeth, St Patrick,

Frontier and Madwaleni hospitals – all part of the department’s flagship Revitalisation of Primary Health Care venture. He was also involved in St Lucy Hospital; Livingstone Hospital oncology centre; Frere Hospital oncology centre and All Saints Hospital.

“Absolutely right, he was involved with them,” says Pillay without hesitation; “but as a salaried and newly-appointed Director of Infrastructure and Planning (since December 2010), and not in any other capacity”.

Confirming that he and Gamaleri were co-directors in five companies, Pillay said he took over a health department “for which nobody (of quality) wanted to work”.

Pillay says that since his election to Parliament in May 2009, he resigned as a director of all these companies.

“I told my previous MEC (Phumulo Masualle) that we’d have to headhunt and that I’d talk to some of my friends. The minister had insisted in the National Health Council that all provincial departments should employ an engineer/architect to manage their infrastructure departments. All the provinces (except Western Cape) were struggling to attract suitably qualified candidates. They spoke to more than eight people to apply for the job. I divorced myself entirely from the process and said “just choose the best person”. His MEC drew up a selection panel and Gamaleri emerged as the only applicant fitting the criteria (which included a minimum of 10 years’ experience and an architectural degree).

“I fully declared our connection and history to them from the outset,” Pillay said. He has vowed to fight the allegations, now included in a re-opened provincial political probe being driven by his newly appointed MEC Sicelo Gqobana, to help benefit a department that, he says, needs his competence and connections to source people and build an effective team.

“I don’t have DDG’s (deputy directors general) for Human Resources or Clinical Services and my chief financial officer is serving in an acting capacity. I also do not have general managers for finance, supply chain management and human resources management yet I’m supposed to run a

department, let alone fix it.," he said.

Asked to specify his business interests, Pillay said that prior to taking up his current post he had developed properties now worth more than R40m, owned petrol stations, a shopping centre, residential homes and property development companies. Other sources of income included computer programs he wrote and an automated hydroponics system he developed and sold to an Israeli company – both of which still earn him royalties.

"In my private practice I earned up to R200,000 per month. I left my position as a member of (national) Parliament to come here to make a difference. I can walk away – I'm not going to be the subject of a witch hunt".

Although disgruntled and wearied by the alleged improprieties, (all of which he denies), Pillay is remarkably unfazed, describing himself as a philanthropist who even stood guarantee on several vital provincial health

developments he did on my behalf".

"Over the years I've built a credible reputation in business and if I call on people, they do things for me because they know I do things for people – there's a lot of goodwill in trying to fix this department".

He said that in spite of his being cleared by a lengthy PriceWaterhouse Cooper inquiry and a R1.8m internal probe, his MEC had now ordered a re-opening of the investigation.

"The bottom line is that I'm getting quite fed-up. I thought I was going to fix a wheel, now it seems there's actually no wheel," said Pillay, a medical doctor.

His efforts on the other three wheels of what is now an unexpectedly promising healthcare delivery vehicle, include reducing an infrastructure bill of R1.4bn by more than R400m and committing their entire health budget for the first time in 16 years.

He claims that Gamaleri's manage-

price had been reduced from R960m to R840m with a contractor finally appointed. (Criminal charges are imminent against staff involved in tenders from the "previous" health regime). At the newly-built St Elizabeth's Hospital in Lusikisiki, the developers wanted R14m after his department defaulted on payments. When the project was audited, Gamaleri and his staff found double payments and incorrect interest charged. The parties eventually settled at R4.4m.

"Before this, we had no (staff) capacity to verify invoices and were perpetually paying interest as our people were deliberately paying late," Pillay said.

Forensic audits reveal that after Pillay's arrival, the volume of disciplinary cases rose so steeply and the Employee Relations Unit was found to be so "internally contaminated" that the department had to outsource the disciplinary work. Among the top officials sacked was his Chief Financial

As a Buddhist, I believe you can kill my body, but not my mind

projects that would otherwise have collapsed. During the World Cup, when the health department was "bankrupt", he called in *pro bono* favours from business associates and put up R50m of his own to guarantee the April 2010 completion date of certain tournament-linked emergency health care facilities. The result was a Fifa award for the province with the best logistics, which included health.

"We simply didn't have the capacity. We owed the construction people R80m and they were threatening to pull out. But my associates and friends helped out and never charged us a cent," he said.

When his department had to order much-needed ambulances (he fired the deputy head and all seven regional directors of this service and its chief resigned when it emerged they were doing booming business flying private patients in the helicopter ambulance and fixed-wing rescue plane), he again stood as guarantor in advance of the new vehicle purchase.

Long before he took up his current job he gave Gamaleri a shareholding in his R30m Mercado Shopping Centre in Port Elizabeth "as goodwill for all the

ment has already saved the department more than R120m. He also claims to have uncovered approximately R1bn of fraud and corruption via comprehensive crime-busting operations drawing on experts from the National Treasury, Revenue Services, the SAPS (Hawks) and private auditing firms.

He said of his budget, "I've come from repeated adverse audit opinions and disclaimer audit reports to a qualified audit opinion – with only two issues remaining on the table which need to be fixed. We now have a qualified audit for the first time".

Pillay also introduced a revenue retention policy for government hospitals (any profits from private patients used to go to the National Treasury – now any figure in the black above R75m is ploughed back into the provincial coffers).

He said Gamaleri now did all the department's project planning, infrastructure management and calls for proposals. "Before this, we had no capacity to evaluate bids or bills of quantities". Citing bid re-specification work done by Galmeri's team on much-needed upgrading of Mdantsane's Cecilia Makiwane Hospital, he said the

Officer, Phumla Vazi, who from 2007 built up a supply network of companies owned by her husband, daughter, and sister – to which the department paid nearly R7m.

Asked whether he was still active in any of his own private businesses, Pillay said that "technically" he no longer owned them – everything was part of a family trust which, upon his death, would be transformed into a charitable educational trust."

Pillay, a professed Buddhist, has had death threats, been confronted by an armed man in a deserted car park and had intimidating phone calls (including to his wife), since taking his new job. The latest incident was a break-in at his Uitenhage home in July – on a day he believes his opponents knew he was due to travel to Port Elizabeth.

"As a Buddhist, I believe you can kill my body, but not my soul".

A spokesperson for the Eastern Cape Health Department, Sizwe Kupelo, said that, except for a "several months-old" petition to the Cabinet by two former senior officials, to which Pillay had responded satisfactorily, he was "unaware" of any new probes ordered by the MEC. ■

A touch of class

RELAX – this is not another white-guilt wallow. Wessel Ebersohn offers something far more muscular. The cover notes give away the outcome of a doomed, racially complicated, apartheid era Romeo and Juliet affair, but the plot cunningly retains the urgency of a thriller.

The author's unpretentious style is perfectly suited to the time and place. A modest telling of innocent love, threatened by a mad social system, is hugely affecting. There is

Len Ashton
reviews
The Classifier
(Umuzi/Struik)
by **Wessel Ebersohn**

no attempt to cheapen the exposition with emotional flourishes. Two teenagers from different social communities, a white boy and a girl of colour, simply fall in love and are too young and too delighted with each other to understand the possible consequences under the laws of the time. Or even to comprehend the evil of the system.

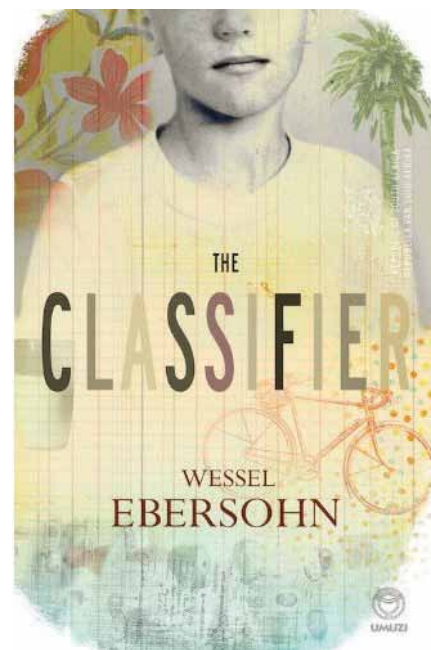
They are not idiots. But, in a land that had not yet suffered the shock of television, they lived in comparative ignorance. Both families see themselves as deeply respectable, leading lives of petit bourgeois propriety. Separately.

The irony is that boy's forbidding (but nevertheless admired) father is a high priest at the Durban temple of racism – the Department of Internal Affairs. He is the eponymous *Classifier* of the novel's title, and believes, with chilling faith, in the absolute responsibility of his role in preserving white dominance. It is a grave responsibility, borne with inflexible dignity.

His children do not know that he plays God in deciding the racial classifications which mean life or death to those who come before him for official physical scrutiny. Ebersohn's perfect recall of peaceful period suburban life, banalities and all, demonstrates how easily corrupt authorities can conceal monstrosities. Ordinary people are distracted by ordinary responsibilities. Why waste time brooding on rumours of nightmares?

Even *The Classifier's* own children were unaware of his professional activities. As, it is said, tends to be the case with hangmen's families.

Dr Albert Hertzog, waspish former Minister of Posts and Telegraphs,



fulminated on the dangers of television and managed to delay the arrival of *The Little Black Box* in South Africa for years. He was perfectly correct in assuming that TV would undermine the apartheid system by projecting a racially mixed Western world.

Well, Pandora's box is now gaping wide, but better the devil we know. Despite *Idols* and general inanity.

The Classifier includes some vivid period pieces, such as family visits to a hearty Eastern Cape Afrikaans farming grandpa, rejoicing in his land. And we pity his bewilderment when his paradise collapses.

Papa Classifier, eager to impress his son with the cruel "necessity" of bureaucratic racism in action, requires his son to attend a series of harrowing appeal hearings. The distress of the appellants in the impassive face of the law destroys the boy's illusions forever. His patriarch turns out to be the devil, the enemy of love.

The author's subtle, gentle approach to the appalling *denouement* is all the more effective for its lack of histrionics. Ebersohn is an accomplished and individual story-teller. ■

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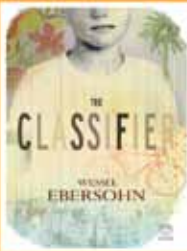
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Harold Strachan

Too lekka

NOW I SEEM to remember Sir Laurens van der Post departing this miserable ball of mud a few years ago, but I can't be sure. You see, his departure would not have been such a shattering event as, say, now, the demise of JFK, Mahatma Gandhi or Dr Verwoerd. I mean, there wasn't anybody excited enough by him to want to knock him off, and what excitement he did generate was in the so-called mind of Carl "Tampon" Saxe-Coburg u. Gotha, also that of the Hon Doc Ivan Palaver, Saviour of the White Rhinoceros, plus a host of Palaverian devotees who believe that Nature is in Balance and extinction is not only unnatural but immoral. So nobody really noticed *ou* Laurens quietly slipping away, know what I mean?

Indeed the only thing that has brought him to mind was a recent conversation with a small boy from the flat next door, name of Zeke, who is doing a project about nasty insects and wants to know about those monstrous great locust swarms we used to have in Natal when I was a small boy – and the first thing that came to my mind was being shown how to eat them by a small mid-aged Bushman, name of Belem. And it was thus I came to remember also Sir Laurens having a Bushperson in his life, an ancient crinkled-up crone in the Cape, who taught him from the age of nought onward all the deep Jungian mystiques of the cosmos, the world and that thing herein called the Human Condition. She did all this with a dozen clicks, and two, maybe three, vowels, the rest being all intuition and profound body language, you should understand. That's where Sir L got his charisma; she was his personal prophet, so to speak.

And Belem, now, he was my personal prophet. We-ell, father figure actually. He had been brought to Natal amongst other possessions by an old Cape farming family, the Blakeney, and now his owners allowed him to work for my ma as a kitchen boy, in town, Maritzburg. Without any Zulu or English, *nogal*, just a sort of C18th Namaqua Afrikaans – likely enough

brought from the Dutch East Indies along with C17th slaves. In a family of eight women – sisters, cousins, aunts and mother – I was the only male, all others being dead from waging war and smoking cigarettes. And I tell you, I needed a father figure. I was 12. Enough of F. Christmas,



No more sexual sin in all-boy schools

I needed logical thought.

Aaai! said Belem, *die poes, hy's too lekka! Ek eet hom!* Thus were the furtive mysteries of sex evermore expelled. Indeed the mysteries of all else in this life were thus expelled. No more keyhole-peeping, no more whispered sexual sin in all-boy schools. And when, next, one of the monstrous locust swarms arrived – miles upon miles of them – dimming the sun, falling upon our Maritzburg gardens and stripping them to the sticks of everything green, whilst the citizenry banged pots and pans in a sort of frenzy to drive them off, and lit smoky fires, I naturally turned to Belem for something more scientific. *Aaai!* said Belem, *die sprinkaan, hy's too lekka! Ek eet hom!*

Turned out Belem ate just about anything, including a black mamba one day; great big Zulu ladies saw him as a sort of good-luck *utokoloshe*, a

sexual imp, bringing him delicacies of every sort to whet his curious foreign appetites.

Now one such from next door appeared with a mealie sack for Belem's supper. I set to with my sister's tennis racquet beating at the swarm and, chopchop, we had half a sackful vainly kicking about alive alive-o like prawns in a fancy restaurant.

The skill was never to burn them in the cooking, you see, one should reach into the sack and firmly grip a nice big one by his jumping legs, the spiky ones, and quickly shove him headfirst into the coals so his wings and things go WOOF! in a flash and he gets such a fright he craps out all those horrible black pellets, Then you pull off his jumping legs and push a stick through him, fore and aft, and toast him a bit longer and lo! he tastes a bit like popcorn and looks like it too because all his insides have burst through his exoskeleton in stuff like styrofoam.

After locust #5 or 6 I thought a dip of mayonnaise would be nice and found some in the fridge, whereas Belem declared for the apricot jam in there, also he espied a bag of marshmallows and upon biting into one declared it was made from praying mantises, which in those days were known as Hottentot Gods.

A mantis is special because if first you nip off his head, it bites at your tongue as you chomp it up and it has a bit of a kick like drinking brandy, you know, and his big squashy part is a true delicatessen if you toast it but 10 seconds.

Oh SIS! said my sister. How cruel! *Ag nee*, said Belem in his Kalahari language, they have a special mantis farm where they eat plenty flies. I don't know, said I, it's not as cruel as shutting up hens in tiny little wire cages in a long row where they can't even flap their wings and all they do is eat hormones all day and lay inorganic eggs for Raymond Ackerman. ■

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ALL the borrowers of my *noseweeks* are to make a contribution towards the annual subscription! Bruce Taylor, Cape Town. [Better still, why don't you all subscribe? – Ed.]

Leah Laurenz Happy 3rd Birthday on 7th October. Love from Grandparents Ron & Denise Coppin.

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To all my friends Many thanks for your enormous support since Hetty's passing. AD

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