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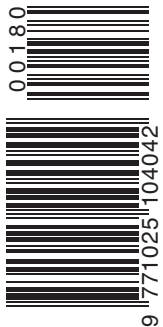
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Cyril Ramaphosa... Nonsense and roses

Nonsense and roses

IT'S NONSENSE TO SAY, AS CYRIL RAMAPHOSA does, that we can disregard the capital cost of nuclear power “because it is an investment”. Once the investment comes on stream, the accumulated capital cost needs to be paid for out of consumption. In the end it is the people who will have to pay for it. Zuma would never understand this basic economics but Cyril at least should.

Rod Gurzynski
Cape Town

■ CYRIL LOVES TO SURROUND HIMSELF WITH flowers, but especially with roses. Rose lovers are good people, full stop.

Ludwig Taschner
Pretoria

‘Dad would be embarrassed’

WHAT VERY SAD READING (*nose179*) THAT our dad’s affairs – our family business – is now in the public domain. Dad would be ashamed, embarrassed and outraged. How disappointing.

Ashleigh Bagnall
Cape Town

■ I SUPPORTED THE APPLICATION TO HAVE my elderly father, Dennis Bagnall, placed under curatorship. Unfortunately a lot of things do not go into court papers if deemed superfluous. It was very simple from our side: our dad was incompetent, at physical and financial risk and needed a curator. It was [*Bagnall’s daughter Shelley*] Ms van Acker who produced the lengthy, irrelevant, expensive, unnecessary and rambling objections.

Old folks are at risk of being abused (financially and otherwise) by people who do not always have their best interests at heart. A curator protects them from this. I suggest you add this perspective to future articles.

Andrea Bagnall
London

■ IN THE NOT TOO DISTANT FUTURE THE judge [*who ordered Bagnall be placed under curatorship*] will be elderly and, with judgments such as these, she too

might find herself cast out from familiar surroundings and placed in a care home.

Heather Cassingham
Cape Town

Seeing through the fog

TEN YEARS AGO MIKE FOGG, WHO featured in your Kyalami story (*nose179*), tried to sell his plan to develop the old Roy Hesketh motor racing circuit in Pietermaritzburg, by assuring locals that his property would also serve as recreational space.

For years, people have walked, exercised dogs and cycled on the land, which is adjacent to a nature conservancy. Yet now Fogg threatens trespass charges against anyone who does not pay a R10 entrance fee (R100 per month) to walk or cycle on his stretch of veld and tarmac.

Whatever his role in the murky financial dealings around Kyalami, he clearly has a very short memory and no social conscience.

Christopher Merrett
Pietermaritzburg

Nightmare landlords

I HAVE JUST READ “NIGHTMARE TENANTS ruin landlords” (*nose178*). By contrast, I have a “nightmare” landlord, Fran-



“Well, the last category does give us some hope...”

cois September, from whom I rented a unit in the Il Villaggio complex in Douglasdale for six months, up to the end of May last year, for which I paid a double deposit of R17,000.

More than a year on I am still waiting for my deposit to be returned. At first, September kept promising he was expecting money and as soon as it came, he would pay me back. This was despite a stipulation in the lease that the deposit be kept in an interest-bearing trust account. A year down the line. I am no further on.

September is an SAIPA-registered accountant, who advertises “integrity, ethics, excellence, professionalism and people”. This obviously does not apply to his tenants.

Denise Brown
Kirstenhof, Cape Town

Crumbling building standards

A HOUSE IN AN UPMARKET ESTATE RECENTLY collapsed in Gauteng, killing a number of workers. This brought to mind my five-year-long experience with the National Home Builders Registration Council when I built a house in an “exclusive estate” in Hillcrest, Durban.

Although I paid the obligatory levy to NHBRC, I received a sub-standard house that I am still fixing. Among features that fell below acceptable standards were: (1) the floor, which was 10cm too high, with the result that upbraids and windows did not fit, and since the roof was already on, had to be chipped out, compromising the slab; (2) a big roof problem (it had to be redone) with water that poured in and ceilings that collapsed; (3) second-hand door and window frames that were untreated and harboured termites (they are being replaced).

The estate is Langford Country Estate; the contractor was Graham Mockridge – who subsequently worked for Stedone Group; the Engineer who passed the floor was Richard Mondon, and the developer, Tony Bosman.

I saw Master Builders interviewed on eNews following the collapse of that Gauteng house, and got annoyed because this is not an MBA matter;

quality control is the responsibility of NHBRC which collects a percentage of the house price as a quality assurance, and then manages to tiptoe away from disaster and accountability. See their website at www.nhbrc.org.za.

Glenda Caine
Hillcrest KZN

Competing on inefficiency

ON 19 NOVEMBER I ASKED ABSA BANK TO return the title deed to my property, as I had paid off the bond. Absa replied that they had instructed ENSafrica, which confirmed on 5 December that documents cancelling the bond would be lodged at the Deeds Office in the first week of January.

On 28 January ENS said they had only then received the title and bond deed from Absa, and had forwarded lodgement instructions to their Cape Town attorneys.

Nearly six months later, on 2 June, ENS advised me that the bond had been cancelled on 27 May and an account for legal fees was attached. I paid and emailed back the proof.

On 28 July I sent yet another email to Absa asking why I had not heard from them. To date, still nothing.

Gerald Schaffer
Cape Town

Give us a square deal, Vodacom

IS IT VODACOM POLICY THAT THERE IS NO need to respond to, or even acknowledge, client correspondence? That has been my experience.

I have a problem with poor reception. When I recently visited Cellucity, Port Elizabeth, the assistant produced a map of the city which shows that I reside in a so-called "red zone" where reception, mobile and internet, can

be "expected" to be very poor. The first I'd heard of it. It means I have been sold a device or service under false pretences. At no time during the purchase transaction was there even a hint that I might be getting less than a full service from Vodacom. Poor reception means that data is consumed at a high rate of knots when downloads are aborted, I am often off the air and internet connections are often disrupted.

Another complaint is that when I tried to buy data time this week via my phone – as advertised by Vodacom – it proved impossible and I had to take a trip to Cellucity to have a portion of my airtime purchase converted to data.

How about Vodacom just giving customers a square deal at a fair price and telling them straight what they get and pay for?

Andrew Tainton
Port Elizabeth

Opt-out outlaws

I RECEIVED AN SMS FROM 1LIFE, INCLUDING their FSP number – asking me to call someone for their Women and Children with Cancer insurance, and giving me the option to opt out. By law, they may not do this because before they send an sms they must:

1. check that you haven't asked to opt out from their marketing before;
2. check whether you are registered on the National Opt Out Database; and
3. provide a free Opt Out option.

While the sms sender can check the first two, the third they cannot do.

Only Vodacom has some form of reversible opt-out system, but I (as a Vodacom user) don't know how that works. They also don't want to do a free opt-out sms option because the recipient could punish them by sending

a zillion smses which would cost them a little, or, if enough people do it, a lot.

I am registered on the Opt Out Database, which means 1Life didn't check this before they sent their sms, which is illegal. This is all Consumer Protection Act stuff and everyone in these industries knows about it.

Now, there may be nothing in the National Consumer Act about smses, but there is a ban on door-to-door selling, or arriving at your door unsolicited. Surely, when an email or an sms arrives unsolicited, it is gate-crashing my private space?

I wish to remind readers to register on the National Opt Out Database (Google it, it's easy to find).

Christelle Rheeder-Weale
By email

More than a good read

WHAT A VERY PLEASANT SURPRISE TO receive two bottles of wine as a gift from *Noseweek*. I guess if I'd read the "small print" in the August edition I would have seen my name! The pleasure was actually increased when I looked it up. Thank you.

I must express the delight with which I receive *Noseweek* every month, it is probably the only magazine I read from cover to cover.

Amanda Peffers
Hout Bay, Cape Town

Cleaned out

I BECAME A VICTIM OF HACKING THIS WEEK and had my Nedbank bank accounts cleaned out. It went together with an unauthorised Vodacom sim swap. Any advice how to handle these issues?

Jan Venter
By email



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'Sidney Frankel is a paedophile'

Depression and an inability to form trusting relationships have defined me, says one victim

STOCKBROKER SIDNEY FRANKEL IS A paedophile who has left many of his child victims psychologically damaged for life. A year ago a group of middle-aged men and women resolved to confront the man who sexually molested them as young children. In the hope that he could still be criminally prosecuted, they prepared sworn statements in which they relate their shocking childhood experiences at the hands of one of Johannesburg's wealthiest and best-known men.

However the group of victims who approached a firm of attorneys for advice, was told that, as the incidents took place more than 20 years ago, the maximum period allowed by law, the perpetrator could not be prosecuted. Because of this, they brought their story to *Noseweek*, as the only publication with the courage to expose their influential molester.

Frankel's cousin Jio Rosenberg records events that took place between 1978 and 1983 – from when he was seven until he was 12 years old. Frankel was close to his family at the time. And he "looked up to him as he was very wealthy and successful". He said Frankel's father, who lived not too far away, owned a Rolls Royce "and I would admire it every day that I happened to pass it parked in the street".

"Quite often in the evening after work Sidney would call at our house, where he was always welcomed. Perhaps my parents even feared him and his family because of their power and wealth. I would often be taking a bath at the time he visited. He would come into the bathroom and sit down next to the bath. He had a trick that he used to pretend to teach me; he would put his hand into the bath water and squirt water out of his hand; he would then move his hand over my penis and pretend to squirt the water while touching and masturbating me for several minutes.

"This same routine happened over and over again a couple of evenings each week during those five years.

"When my best friend happened to be visiting and having a bath with me, he would do it to both of us.

"Another memory: he would take me and my friend to his private game reserve: we flew there in his private plane... there, I remember he took a plastic Coke bottle, lined the opening with Vaseline and then made us put our penis inside and move in and out of the bottle. He made a point of speaking openly to us about sexual things, having sex, masturbating.

"I would visit his house regularly to play tennis and went often to his horse farm at Kyalami, where he would always make me sit on his lap in the car pretending that I was driving.

"When I was 12 we moved house and I did not see him often after that.

"When I was about 31 he apologised to my sister for the things he had done to her, claiming it was part of his own therapy. When she told me about this, it brought back a flood of memories and feelings of intense anger and betrayal. I then called him and confronted him. He told me he had been through hell and was trying to heal himself and had even tried suicide.

"At the time it almost seemed too much for me to deal with, so I... tried to forget and move on... This was about the time I started suffering from body pain which has gradually got worse over the past 10 years... no-one can diagnose it. I have also felt severely depressed. I have struggled all my life to have healthy intimate relationships.

"Recently, living with my girlfriend who has young children, all those feelings and memories have come back. Being around these innocent children triggers intense feelings about how deeply this man hurt me. It brings back so much sadness, grief and depression... He scarred me in the deepest way possible.

"There are times when my girlfriend is giving me a massage and my eyes are closed, I get so overwhelmed with fear I



Philanthropist: Sidney Frankel congratulates the young recipient of a scholarship

have to open my eyes to make sure it is her touching me and not Sidney Frankel. ... Since last year I have been working intensely with a psychologist who is helping me process this pain, anger and sadness.”

Last year an American psychologist emailed Frankel asking if he would agree to discuss what had happened between him and her client when he was a child, to help him to finally deal with the trauma. The same day the psychologist received a letter from Frankel’s attorney, Billy Gundelfinger, saying: ‘My client has prostate and bladder cancer, has undergone surgery and is currently undergoing radical treatment. My client will be unable to be of any assistance.’

A woman who, from the age of six or seven – around the same time as the previous case – was sexually molested by Frankel, declares in an affidavit: “He would come over to our house at bath time... I recall his hands in the water touching me and soaping my body. At his horse farm in Kyalami over the weekends, without any other adults present, I and a few friends would swim in the pool, after which he would tell us to get dressed but keep our underwear off. He would then get us to lie on our backs on the grass with our legs in the air to do various exercises that entailed opening and closing our legs while he walked around looking down at us.

“Because I rode horses he told me it was important to strengthen my inner thighs. He would put his hand between my thighs with his thumb pushed into my vagina and asked me to squeeze my legs together to strengthen my thighs. He would also put me on his lap, while he bounced his leg up and down.

“As I reached puberty I recall him

asking to see my breasts and asking ‘how big are your titties?’ Later he asked me if, in return for buying me a horse, I would have sex with him. He manipulated me, knowing I had a love of horses. Later in life he would press me for inappropriate details of my personal relationships, which made me feel very uncomfortable... he would talk about sex and the use of KY-jelly.

“For many years I have battled with issues about my body, developed eating disorders and felt self-conscious and insecure as a result of the molestation. In my teens I attempted suicide, was hospitalised for severe depression and attended a three-month programme for young adults in distress. To this day I struggle to maintain a normal sexual relationship.”

Noseweek has had sight of another victim’s affidavit, also now middle-aged, who gives a very similar account of how he was sexually molested by Frankel.

Nicole Levenstein, a victim who is now

45, married and resident in Israel, told *Noseweek* she wished to be identified in this report as she has finally overcome the shame and is ready to publicly confront her childhood molester. She too recalls those swimming sessions at the Kyalami farm: “Afterwards he would put me strategically on his lap, dry me with the towel then remove my costume and rub my vagina with his hands. I can still remember the distinct tone and sound of his voice as he would tell me each time that what was happening was a special secret between him and me.

“He would take me aside and describe what using oils on my vagina would do. He would also tell me things of a sexual nature that made me feel dirty and uncomfortable. Throughout my teenage years and to this day, I have suffered from a distorted body image. My life has been a series of extreme weight gains and losses. Depression and an inability to form trusting relationships defined me,” she states in an affidavit which she prepared in the hope that Frankel would be prosecuted.

“Our hope is that when other victims read this story, they too will come forward. Perhaps more recent cases can form the basis for a successful prosecution.”

One victim who spoke to *Noseweek* said: “I am aware of one child who was an orphan in the Jewish orphanage – of which Sidney Frankel was a patron – who was not ready to go public. Maybe there are others. Maybe we can approach the Constitutional Court to overturn the 20-year rule on this.” ■

A ‘highly adaptive’ businessman

THE PEOPLE AND ENTITIES THAT accompanied Brett Kebble throughout his criminal career are but few. The short list includes Investec (and its CEO, Stephen Koseff), KPMG, and SocGen (starting point for Peter Gray), although perhaps no surprise to *Noseweek* readers, the fourth is “respected” stockbroker Sidney Frankel (*noses*29,15,14&8: “That dirty slimeball, that’s what his friends call him”).

In 1996, Frankel, who some describe

as a philanthropist, was in the news after SocGen acquired 51% of Joburg stockbrokers Frankel Pollak, where he was CEO. At the time, the brokerage was being investigated by the JSE for “administrative irregularities” in connection with former directors Greg Blank and Frikkie Kruger.

Frankel Pollak’s legal team was led by ENS’s figurative and literal head Michael Katz, Frankel’s brother-in-law. At the time, Peter Gray, the boss at SocGen Johannesburg, said that

charges against Frankel Pollak had been thoroughly assessed before the deal was signed.

Frankel became deputy chairman and CEO of the new company, SocGen-Frankel Pollak. His overbearing father, Leslie, became life president.

In due course, things changed for the worse and in 2002, SocGen Joburg started retrenching staff. Around that time “Bossie” Boshoff, still employed by SocGen in Joburg, received a call from Peter Gray (see page 13) – now reduced to the status of “consultant” to SocGen – wanting Boshoff to join him in setting up an international treasury for a “major mining house”.

Later, at Frankel’s office in Joburg, it was revealed that Brett Kebble’s JCI group was providing the financing to secure control of the brokerage Tradek-Balderson. Frankel advised against any dealings with Kebble, who he said was unscrupulous.

“Sidney then made me promise

I would never be forced by Brett to contravene exchange control in dealings with his companies”, said Boshoff. Despite that warning, soon afterwards Frankel was facilitating the use of stolen cash to settle Kebble’s debt to SocGen. In due course, on 12 April 2002, Frankel Consulting paid the sum of R28m to SocGen in part-settlement of Kebble’s liability.

Jump to 2006: during a heated exchange T-Sec CEO Leonard Steenkamp admitted that the auditors had picked up a very big – R17m – payment during their audit that was made to Sidney Frankel Consulting. Steenkamp confirmed the amount had been paid into an overseas bank account – the sort of thing Frankel had warned his staff not to do for Kebble.

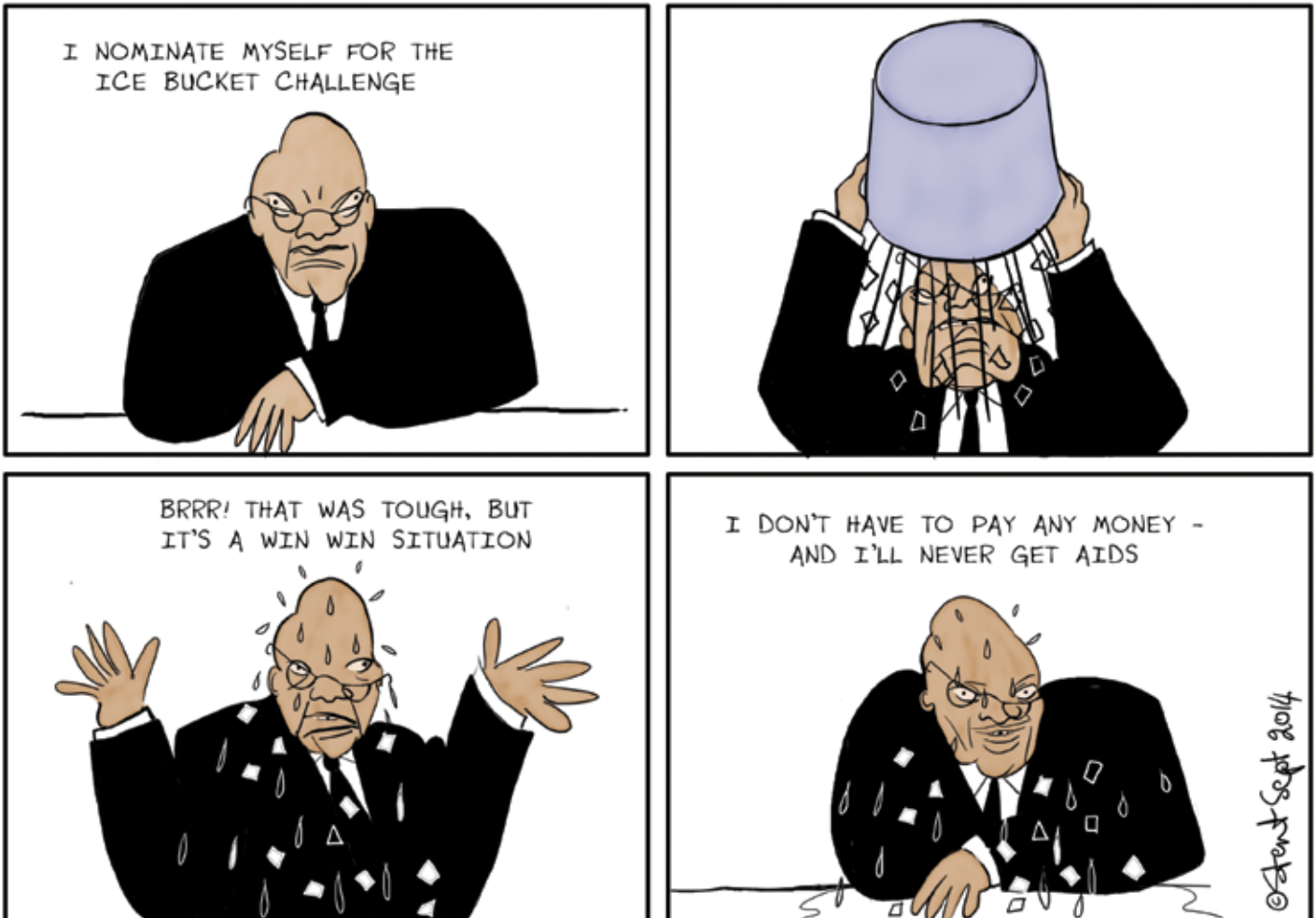
In a sworn statement of 18 October 2006, Frankel stated that Frankel Consulting Financial Services, of which he was the sole member, had acted for

and on behalf of the JCI group “for several years” and had represented JCI “in a variety of transactions”.

Like Investec, KPMG and Gray, Frankel earned many millions from Kebble – before and after his death. In a circular to shareholders dated 30 October 2006, in which JCI announced the sale of its remaining shares in Western Areas to Gold Fields, Frankel Consulting was listed as having been paid R2.5m for “fees”.

Even after the greatest fraud the country had seen became public knowledge, Frankel persisted: in 2007, he sued JCI and Randgold for R3.3m in fees still owing from the disposal of Western Areas shares to Gold Fields.

As one fellow stockbroker has noted, Sidney Frankel is “highly adaptive” in business and politics. In one era, his offices had pictures of FW de Klerk and in another, Frankel was photographed posing with Nelson Mandela. ■





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The secret grave of JCI

JCI, ONCE THE MOTHER SHIP OF THE LATE BRETT KEBBLE, IS desperately involved in a dodgy scheme to quietly bury itself, while pretending to do something else. Investec, the somewhat controversial Johannesburg-based niche bank, holds 898 million shares in JCI – 26.7% of the equity – and is owed R89m by a JCI which until very recently was seriously short of cash with which to pay the debt.

Following Kebble's firing – in August 2005, as CEO of JCI, Western Areas and Randgold & Exploration (Randgold) – Randgold published independent forensic reports. The uncontested findings show, inter alia, that Randgold's investment portfolio had been purloined and sold for an aggregate of R1.9 billion in cash and that R896 million of the stolen cash was diverted to JCI.

By 2010 Randgold's claim against JCI, which was never filed in a court, amounted to more than R20bn for lost value and revenue. But the Investec-appointed directors chose to settle the claim for a mere R650m. Adding insult to injury, it was paid in Gold Fields, and worthless JCI, shares. This huge discount left JCI at least technically solvent.

Earlier, in 2009, JCI disclosed that it had somehow increased its stake in Boschendal, the historic wine and property estate near Franschhoek, from 35% to 62%. There was also a reference in the notice to Kovacs Investments 608, a Chris Nissen BEE entity that had partnered with JCI in acquiring Boschendal from Anglo American.

At least two highly suspicious offshore entities had also acquired chunks of Boschendal, effectively – and illegally – fronting for JCI using its offshore funds. The cash JCI pumped into these earlier Boschendal transactions of course came from the pool into which Kebble had poured the R896m he had raised by selling shares stolen from Randgold.

At the recent JCI general meeting held on 6 August 2014 in Sandton, the chairman, Peter Thomas, a long-time director of Investec, refused to answer a JCI shareholder's question on whether the Boschendal interest acquired by Chris Nissen's Kovacs and JCI's direct or indirect interest in Boschendal was funded by cash realised from the sale of shares stolen

from Randgold, ie, was it acquired using the proceeds of crime? Thomas dismissed the questions as “irrelevant for the purposes of the meeting” as the company had previously “made disclosures”. When pressed after the meeting about what these alleged disclosures had been, he was dismissive. *Noseweek* could find no public disclosures pertaining to the funding of JCI's Boschendal interest.

Randgold's independent forensic experts were never given access to the records of Kebble's main laundromat, CMMS, a 99% JCI subsidiary and the main vehicle used by Kebble to launder his “dirty” funds. One possible reason was that just after the Kebble era expired in August 2005, David Nurek, Investec's “Global Head of Legal Risk”, was strategically appointed chairman of both JCI (the thief) and also of Randgold (the victim).

The proposed transaction is strange and possibly sinister

So much for background. On 8 July this year, JCI published a circular inviting its shareholders to acquire 100% of a brand new company, duly called “Newco” from JCI by subscribing for R150m-worth of new shares in Newco, which would acquire as its sole asset JCI's remaining 35% stake in Boschendal. (The remaining 65% of Boschendal is now owned by the fabulously wealthy Tabatznik family). Given that Boschendal is unlisted and has been losing money for many years, the subscription price appears inflated.

The proposed transaction is strange, and possibly even sinister. The circular shows that at 19 June this year JCI was highly geared (heavily in debt) and its net asset value (NAV) was 0.87 cents per share (cps). Yet JCI wanted its shareholders to effectively pay the equivalent of 4.47 JCI cps, or R29m, for its Newco stake, thus raising R142m in cash for JCI. This will, rather conveniently, be part-used to repay all

By Barry Sergeant

JCI's debt including R89m owed... to Investec. The Newco sale has since been concluded and the amount owing to Investec by JCI has presumably been paid.

Within months, shareholders in Newco will be expected to cough up a further 1.04 JCI cps or R35m for a Boschendal rights issue. JCI shareholders are, thus, being asked to pay, in total, an astonishing 6.4-times JCI's NAV in exchange for JCI's stake in Boschendal.

Investment house Allan Gray, holding 26.1% of JCI, has approved JCI's scheme to dispose of its Boschendal stake but, wisely, will not itself be taking up its right to buy Newco shares.

Until now, Allan Gray has gone along with everything Investec has done with the Kebble wreckage, but maybe they've decided that enough is enough.

KPMG, auditors to JCI and Investec, were, curiously, not a signing party to JCI's circular and have not signed JCI's long-overdue 2013 auditor's report either. JCI's latest signed audited financials are for the year to 31 March 2012. The audit report is heavily qualified and states that the report does not comply with international Financial Reporting Standards.

Two entities controlled by London-based Montague Koppel hold 14.7% of JCI. Koppel has two night-watchmen: his sons-in-law Denis Daly, a director of JCI, and Jacques Tredoux, a director of Boschendal. They, like Allan Gray, have remained passive in the latest Investec moves.

JCI says the various transactions will enable it to "wind down the business" – clearly the real objective of the exercise. Instead of proposing a simple R150m rights issue, or putting the company into voluntary liquidation, JCI/Investec have engineered an asset sale at massively inflated values, so that JCI can be pronounced "solvent". This, in turn, will mean that numerous individuals, not least those from Investec, will permanently escape the risk of an insolvency inquiry. JCI will be buried 100 metres down in a voluntary winding-up, with no creditors to ask unwelcome questions. Another victim successfully gagged.

Investec has underwritten the Newco issue and probably ended up subscribing itself for most, if not all of the issue, since not many minority shareholders would have been foolish enough to take up those rights at the asking price.

JCI's rights issue in June this year in effect valued its 35% stake in Boschendal at R143m. If Investec, as underwriter, has now had to take up 100% of the shares in Newco (a fair assumption) the cost will be R150m before fees. Of this, R89m circles back to Investec, to repay JCI's debt to Investec. The balance of cash, more than R50m, can be regarded as the premium Investec is paying to – in effect – enable JCI to become solvent by paying all its creditors, and then, most important of all, to bury itself forever. .

Investec and Gray refused to comment or confirm that the rights issue had to be fully taken up by Investec as underwriter. If it has, Investec ends up with a stake in Boschendal, but, as explained above, at a heavily inflated price. The probability of eventually having to sell Newco later at a loss is probably a small price to pay for burying JCI without further ado.

A secret burial, it could be said, has been arranged for the corpse of JCI in the vineyards of Boschendal – to be attended by its soon-to-be-retired CEO Peter Gray, its long-time banker, Investec and, maybe the ghost of Brett Kebble. Many prayers will no doubt be said. ■

The prime scavengers

FROM FINANCING PRIVATE JETS TO BILLION-RAND HEDGE books, Investec made serious money in many ways from Kebble, and continued to do so as prime scavenger in the wreckage he left behind. For funding JCI in the immediate aftermath of the Kebble era, Investec charged JCI a "raising fee" of R267.5m (nice business, if you can get it). In the latest instance, Investec seems to want to benefit from JCI's Boschendal stake, an asset at least partially bought with the proceeds of shares stolen from Randgold. Nice business for a nice bank.

Investment house Allan Gray has lost tens of millions of rand on JCI. In August 2005, when JCI was suspended from trading on the JSE, Allan Gray's stake in JCI was worth R83m. Earlier in the century, it had built up a 25% stake in JCI for a total cost many times that amount. After the Boschendal transaction Allan Gray's JCI shareholding will be virtually valueless.

But then again much of the cash Kebble stole went into saving Western Areas gold mines in which Allan Gray had invested an even larger amount so it, too, could be said to have benefited sufficiently from Kebble's crimes so that its losses in JCI are a small price to pay for putting the lid on the scandal. ■

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IN THE WAKE OF AUGUST'S DEBACLE at African Bank, Investec's eternal CEO Stephen Koseff was quoted as saying South Africa has a "reputation as a top regulatory destination". Just what he meant is not clear. What is clear is that Investec knows a lot about – and is no stranger to – money-laundering and securing its share of the proceeds of crime (see *nose179*).

What Koseff is alluding to is South Africa's inability – and probable unwillingness – to recognise and deal with a rotten banking and corporate system, one which purports to be clean and innocent, yet is tainted by shady characters and entities.

Investec, like other big banks and corporates, spends untold millions promoting the illusion that South Africa's regulations (and laws) are among the best in the world. Beneath its veneer, the niche bank conducts

art collection. It was a fat lie.

Also during 1997, Investec, one of the original funders of the quickly-failed BEE transaction to buy JCI seized control of the situation. Koseff sat on the interim board of JCI, along with Kebble, while Kebble used the SocGen cash to secretly acquire control of JCI.

Gray quit SocGen and from early in 2002 project-managed the R22.2m acquisition of Tlotlisa Securities, or T-Sec, a stockbroker, in another secret transaction funded by Kebble's JCI.

Kebble wanted T-Sec to be used as a monster money-laundering machine. According to Gray's later recollections, Kebble, with the active collaboration of George Poole and others, had, between April 2002 and August 2005, disposed of 24.6m shares in Randgold Resources. This was a "hundred bagger", as we now know; the quoted stock price for Randgold Resources (the foreign-listed independent-of-Randgold West African

indirectly, by Kebble. Gray travelled weekly from Johannesburg to Cape Town's Vineyard Hotel, a stone's throw from Kebble's mansion, Monterey (also purchased with stolen cash).

In his recollections, Gray omitted to mention T-Sec's infamous "pink file" that contained all the supporting documents used to convert the stolen Randgold Resources shares into American Depositary Receipt (ADR) format, including the resolutions and transfer forms. The crucial pink file disappeared before the forensic investigation could begin.

Boshoff says that "in my view, Peter Gray was handpicked by Brett Kebble. Peter was both a JCI and T-Sec employee... There is absolutely no doubt in my mind that Peter either knew what was going on or was extremely negligent not to have noticed improper share trading by JCI.

"At SocGen Johannesburg, I attended

Peter Gray was involved in the heaviest sections of the most egregious corporate theft in SA history

itself in a manner that can only be described as astonishing.

One of the most usefully revealing plotlines to follow in the saga is undoubtedly the most recent 17 years of Peter Henry Gray's career. He was intimately involved in the heaviest sections of the most egregious corporate raid and theft in South African history. *Noseweek* first set out on Gray's trail eight years ago in *nose80*. In the light of what has transpired since, it's more than due for an update.

Gray's bedazzling career starts, most conveniently, during 1997, when he was MD at SocGen, the South African subsidiary of Société Générale, a major French bank. In May that year, SocGen subscribed for R125 million of redeemable preference shares in BNC Investments, Kebble's private investment holding company. It was one helluva lot of money at the time. For Gray and SocGen, the loan to BNC was unprecedented as it was SocGen policy to lend only to blue-chip clients. Kebble, Gray assured everyone, had substantial wealth, including a R100m

gold miner) moved from a dollar-a-share in 1997 to more than US\$100-a-share in 2011.

As for Poole, there was more to it than Gray was letting on. According to Bossau Beyers "Bossie" Boshoff, head of the international desk at T-Sec from 2002 to 2006, "Poole came to T-Sec very often and had meetings with Mark Chivers, Leonard Steenkamp and Peter Gray." Poole was a willing and knowing participant, as he once recalled: "At one stage I was instructed by Brett to send R2m worth of Randgold Resources shares by way of a courier to an attorney in London... for purposes of the purchase of a Learjet, also upon Brett's instructions".

As Gray well knew, or ought to have known, millions of the shares purloined from Randgold were transacted through T-Sec on his watch. The cash raised – running into hundreds of millions of rand – had also been transacted and laundered through T-Sec, on his watch. The shares and cash moved through T-Sec trading accounts were "anonymous" and operated, directly or

many marketing and corporate marketing meetings where Peter Gray was present. I also did many complicated derivative deals with Peter and know that he was a seasoned merchant banker. Peter Gray also knew Brett's immediate credit history and defaults at SocGen. I find it extremely hard to believe that Peter did not 'push' the alarm button".

Randgold ultimately – after Gray's departure from its board on 11 July 2008 – sued T-Sec, Gray and Leonard Steenkamp (who took over as T-Sec's CEO) for a princely R648m.

Most, if not all, of T-Sec's money-laundering activities were also described in detail in forensic reports that were initially suppressed and later heavily redacted and published in a circular by Randgold on 24 July 2008. SocGen Johannesburg (Gray's alma mater) and Investec (Kebble's bankers) were heavily involved in Gray's money-laundering activities at T-Sec.

According to the Randgold circular, in one specific transaction, Investec Bank UK directly assisted JCI in



SHIFTY SHADES OF GRAY

Peter Gray
was Brett Kebble's
bankroller and
laundering stockbroker.
He was also Investec's lead
cover-up man. **By Barry Sergeant**



Marais Steyn, highly paid Randgold CEO and Investec collaborator

laundering R270.8m of cash proceeds from the theft and sale of 5.46-million Randgold Resources shares into accounts nominated by JCI (see *nose179*). Nearly R100m of this went to Investec, under various guises, such as repaying debt owed by JCI to Investec.

In one astonishing sideshow, T-Sec, under Gray as CEO, assisted Kebble with a desperate cash extraction scheme of unimaginable proportions. This involved borrowing or “scrip lending” highly tradable blue chip listed shares from... guess who? SocGen; immediately selling the borrowed shares and paying the bulk of the cash so raised to persons and entities nominated by Kebble.

As security, SocGen had received stolen Randgold Resources shares. Kebble sold the borrowed shares in a raging bull market and incurred massive losses on the short sales: he failed to hedge any of the transactions.

Initial sales went through a T-Sec account styled “JCI scrip-lending account”. By December 2004, JCI’s losses on this account had mushroomed to R791.3m. The JSE intervened on the basis that T-Sec’s exposure to a single client was disproportionate to its capital.

For the co-conspirators, the answer, during January 2005, was simply to open a second scrip-lending account at T-Sec in the name of Randgold. A shortfall of R209.4m on the JCI scrip-lending account was nonchalantly transferred to the Randgold account, against no compensation. This account was a fraud on Randgold and the regulators, the JSE.

Because Kebble had no access to cash to buy back the shares and defray the losses, SocGen sold the pledged Randgold Resources shares stolen from Randgold to pay the amounts due to it after the various positions were closed.

So it was that when Kebble was ousted as CEO of Randgold, JCI and Western Areas, in August 2005 – he was dead a month later – Gray was the ideal front man. In scenes reminiscent of allowing the fox into the hen coop, Gray was installed as CEO of both Randgold (the victim) and JCI (the thief).

David Nurek, Investec’s “Global Head of Legal Risk” was installed as the chairman at both, and was appointed a director of Western Areas (which represented Kebble’s biggest personal investment).

Chris Lamprecht, who had personally overseen the theft – whether he knew it or not – of a large number of Randgold Resources shares during his employment by Kebble, was appointed as the financial director of both Randgold and JCI. A number of further heavies from the Investec stable were also installed as directors of JCI.

Marais Steyn was appointed as Randgold financial director on 13 December 2006. At the time he failed to tell the Randgold board he was facing a fraud charge raised by shareholders of New Kleinfontein Mining Company. The charge was later withdrawn against the payment of R2.5m and Steyn was appointed Randgold CEO after Gray quit on 11 July 2008.

Following his appointments as CEO of Randgold and JCI, Gray was nothing

less than a master of the universe. In the months after Kebble’s death, four million stolen Randgold Resources shares were sold by T-Sec – which was effectively still run by Gray – on 19 January 2006, to settle relevant liabilities owed by JCI to SocGen. These cash proceeds of yet another illicit transaction amounted to R386m.

On or about 11 July 2006 Gray – emboldened by his apparent immunity to everything – instructed T-Sec to sell certain further shares owned by Randgold, generating R80m in cash. Gray then authorised T-Sec to transfer the R80m to JCI, which then paid SocGen. If this payment had not been made, SocGen would have had no choice but to liquidate JCI.

For the conspirators, Rule No 1 was to keep JCI out of liquidation; if it went down, there would be a dreaded section 417 inquiry.

In one of the cases spawned by the post-Kebble/Investec era, Michael Kuper, senior counsel, argued in court that: “The case we make out, M’Lord, is that the JCI board was joined like a Siamese twin to the Investec board, through its head, through its shoulders, through its stomach, and indeed, M’Lord, through its nether regions”.

Gray, rather than Kebble, was now purloining small mountains of cash derived from selling shares stolen from Randgold, in order to prevent the inevitable collapse of JCI. Presumably these transfers took place with the approval of Gray’s chairman, Investec’s Nurek. This unholy chairman-CEO alliance survived another two years.

There was a charming sense of continuity. Gray’s 1997 bankrolling – via SocGen – of Kebble’s BNC was repaid by millions in stolen cash. BNC’s final repayment was from cash stolen indirectly from Randgold via the Investec Bank UK transaction.

Gray also did strange things, like accepting the “gift” of a luxury high-performance Mercedes-Benz SL 55 vehicle from Kebble.

Gray’s towering achievements can also be measured in his omissions. When the theft of the 5.46-million stolen Randgold Resources shares sold by Investec Bank UK was uncovered early in 2006 by Randgold’s forensic auditors, Gray did nothing. Any other CEO would have hit Investec – and JCI – with spoliation orders.

During July 2008 Nurek and Gray were forced to resign from the Randgold board. All along they had failed to bring summonses against JCI, Western Areas and T-Sec. The following month Marais Steyn, Investec's other supine lapdog, brought summonses against Western Areas and T-Sec, but failed to insist on the issuing of the Randgold case against JCI, assembled, at a cost of millions, by a team of high-powered experts. Instead the documents were put through a paper shredder by unknown parties.

Gray fully supported the mediation agreement between JCI and Randgold, concluded in April 2006, even though he knew that JCI would be rendered insolvent if Randgold had pursued its claims against JCI. But he failed to

their client (JCI, the thief) and mostly anyway, gobbledygook and schlock.

Gray's obstruction of Randgold's efforts to recover its damages did not stop when he left Randgold on 11 July 2008. In November 2009, JCI, with Gray as its CEO and Peter Thomas, a veteran Investec director, as its chairman, brought an application for an interdict to halt proposed arbitration between Randgold and JCI.

As for Western Areas, in 2006, under the Gray-Nurek regime, Randgold failed to formulate and enforce its claim. When Randgold finally issued summons on 20 August 2008 (by which time Gold Fields owned Western Areas) the claim had increased to R11.5 billion, and by 30 June 2010, to R18.2bn. To protect JCI – presumably

The Randgold case against T-Sec, Gray and Steenkamp for R648m was settled for a derisory R14m. The case against Gray for R80m simply disappeared. In return for years of conduct unbecoming, Gray has been paid like royalty. As Randgold CEO from August 2005 to July 2008, he received a total of R10.7m. As CEO of JCI from August 2005 to March this year, Gray has pocketed R44.4m.

Under cover of these gratuitous tens of millions, Investec orchestrated a settlement which protected an insolvent company to which it had an enormous exposure (JCI) at great cost to a company to which it had no exposure (Randgold). This was done by emasculating Randgold's board, and making a mockery of the protection

Gray's obstruction of Randgold's efforts to recover its damages did not stop when he left Randgold

enforce the terms of that agreement. He also failed to support the efforts of Tom Dale and Johann Bliersch, who were – briefly – the only independent directors of Randgold, to fulfil their fiduciary duties towards Randgold.

Gray's monumental failure to support the Randgold forensic findings against JCI was followed by his promotion of KPMG's contrary forensic findings against those of Randgold's forensic investigators. KPMG were auditors to every dodgy party in this narrative: Investec, SocGen, T-Sec, even Western Areas, and later, even JCI. In another mind-boggling conflict of interest, Randgold was also forced to adopt KPMG as its new auditors.

Gray's feelings of invincibility were no doubt fortified when the erstwhile Scorpions appointed none other than – you guessed it – KPMG, forensic auditors to the thief (JCI), as its forensic auditors for the Kebble debacle. The investigation of South Africa's biggest-ever corporate fraud went nowhere, and has remained nowhere.

KPMG forensic division's front man for the JCI forensic investigation, Déan Friedman, was not a chartered accountant but a numerically illiterate lawyer whose forensic reports were – to say the least – designed to defend

at Investec's insistence – Randgold indemnified JCI against any claims from third parties.

Boshoff recalls how, when at T-Sec, Gray had said it was his (Gray's) "full-time job to try and fund Brett Kebble all the time."

JCI's financial reporting under Gray has been, and remains, horrible. JCI's books should have been simple: except for a small farming operation at Boschendal (turnover R10m a year, but control was sold in August 2012), JCI had no operating businesses after 2006. Yet Les Maxwell, Gray's trusted FD, was paid R24.2m for his services for the five years ended 31 March 2012. JCI's audit fees paid to KPMG for the six years ended 31 March 2013 add up to an unbelievable R45.2m.

The courts have been, in effect, irrelevant, despite an overwhelming story. At one stage, Kuper referred in court to "Bad faith by the board of JCI. Bad faith known to Investec. A deliberate manipulation of a desperate board, desperate for reasons of their own defalcations, a shabby arrangement with such a board, just so long as that board is left in place to secure the arrangement, and then the removal of that board, and the packing of the board by Investec nominees".

purportedly afforded minority shareholders in South Africa.

Investec's intervention caused Randgold much greater losses than Kebble had caused prior to his death.

After the Investec orchestrated settlement between JCI and Randgold was consummated in June 2010, Gray attended to the winding down of JCI. The burial of JCI will take place shortly.

Gray is credited with a certain ruthlessness by former colleague Boshoff, who relates that he told Gray how his marriage had broken up during 2004, and about a third party involved. Boshoff said that Gray "came into the dealing room in the Old Stock Exchange building one day and said to me that I must give him this third party's address.

"He said he'd got to know very dangerous people through Brett. He told me the only thing he needed was his address. He said they would follow him and he wouldn't even be aware of it. They would then 'sort him out'. I said to Peter I would never agree to that".

If Gray's career is a sample of what Koseff means by South Africa having a "reputation as a top regulatory destination", then goodness only knows what happens in a banana republic. ■

The voice of INNOCENCE

Forensic DNA lab plans to free wrongfully jailed convicts. By Sue Segar

IN A FEW WEEKS' TIME A SMALL TEAM under the banner of the Innocence Project will be making its way into jails around South Africa, starting in the Western Cape, on a mission to exonerate people who have been wrongfully convicted.

The team, from the University of Western Cape's Forensic DNA Laboratory, will hand out flyers urging prisoners who insist they were wrongfully convicted to contact them for help.

The non-profit Innocence Project is dedicated to helping prisoners prove their innocence through the use of DNA or other forensic evidence. And, according to Professor Sean Davison, head of the DNA lab and co-founder of the Innocence Project in South Africa, they anticipate a strong response.

"There are many prisoners sitting in jails around the country who have been wrongly convicted," he says.

Better known for his role in Dignity South Africa, the campaign to allow legal assisted dying, Davison is equally passionate about the prisoners' cause, which he co-founded with lawyer Dr Andra le Roux-Kemp, a part-time lecturer at Stellenbosch University's Faculty of Law.

The project is housed at UWC's forensic DNA laboratory, which is often referred to as the "Human Rights Laboratory" because of its cutting-edge innovations such as a "rape kit" that can separate DNA evidence from multiple-rape perpetrators at a crime scene – something prior technology could not do.

"There has always been so much focus on putting people behind bars... but we thought, since we've got this

technology, we should apply it to a human rights issue of releasing people who should not be there."

Davison says that a passing reference to the Innocence Project in a newspaper report a few months ago has already prompted a flow of letters from prisoners and their families.

"That small reference was just enough for families to pick up on and pass on the word to people in prison... And we haven't even made much noise yet.

"These are detailed hand-written applications from desperate inmates, pleading their innocence. Some come with limited detail, but with enough information for me to suspect innocence.

"The many, many cases I have read already seem so innocent. It is heartbreaking... to think that some people have just been rotting in prison, without making their voices known to the world."

The Innocence Project of South Africa (Ipsa) was recently accepted as a member of the global Innocence Network, which is based in the USA. The umbrella body has 66 members worldwide working in the area of wrongful convictions and "dedicated to providing pro bono legal and investigative services to individuals seeking to prove innocence of crimes for which they have been convicted and working to redress the causes of wrongful convictions".

South Africa – as the first African member – and Italy are the most recent additions to the global network.

The project helps to investigate, research and litigate cases of wrongful conviction. It also researches the causes

of wrongful convictions, the barriers to overturn them, and promotes public debate about systemic defects in the criminal system in South Africa.

The project will also advocate reform of South Africa's criminal justice system.

South Africa's Innocence Project is modelled on that of the same name in the US, where 317 people, including some on death row, have been exonerated with the help of DNA technology since the project was launched there in 1991. Their average time in jail was 13 years, says Davison.

"That is a huge amount of time. We want to do the same for innocent prisoners in South Africa.

"In half the cases in the US, they have identified the person who actually committed the crime, based on DNA profiling of biological material from a crime scene that is put into a database and matched to somebody else in the database."

In the US, the Innocence Project had identified a number of weaknesses in the criminal justice system, including false witness testimonies, false confessions and poor forensic science, says Davison.

In South Africa, the law allowing the collection of DNA from all prison inmates and people arrested was only passed earlier this year.

"The DNA database will contain DNA profiles taken from crime-scene evidence, eg blood, sperm or anything with DNA on it.

"When a person is arrested, a swab is taken and the profile is put in the database. If it matches, it matches. Criminals are often repeat offenders... so eventually they will be caught again.

“With the Innocence Project, we are doing it the other way round: not looking to imprison, but to release those who are already in prison. And we believe there are likely to be a lot in SA,” says Davison.

Initially the project will look at cases prior to 2000 because the DNA technology then was less sophisticated. DNA Short Tandem Repeats (STR) technology was only introduced in South African labs in 2000.

Davison says their UWC lab has the capacity to look at highly degraded DNA that could have been damaged.

Applications by prisoners will be reviewed by a committee and, following a preliminary screening, they will complete a questionnaire to provide more information. After this, a detailed case docket will be sought, with a

“Very often, society’s pressures put a black man in jail as quickly as possible to keep everybody happy. A judge and his or her advisors are often under huge pressure to put somebody behind bars and that’s what has, in many cases, happened here.

“There is pressure to round up the most likely suspects, put them on trial and send them to jail, after which they are never heard of again and have no money, resources or other means of fighting the injustice of it.

“We are expecting dozens of cases of people who are in jail in South Africa yet shouldn’t

317 Americans have been exonerated through DNA

probe into all the evidence related to the crime, followed by a search for biological evidence.

Davison says the Innocence Project will have to work in collaboration with the police, and meetings to this end have already taken place. “We will start distributing our flyers in the prisons in a matter of weeks,” he says.

His personal experience of living under house arrest is not what sparked Davison’s involvement in the Innocence Project. “I am involved because we’re talking about a basic human right. Looking at people like Nelson Mandela, we know the huge injustice of somebody sitting in jail who shouldn’t be there.

“Dozens and dozens of people went to jail in Mandela’s era who should not have been there.

“Now we are looking at the more criminal type cases where a person has been put in jail, sometimes for the simple reason that they didn’t have a good defence attorney.

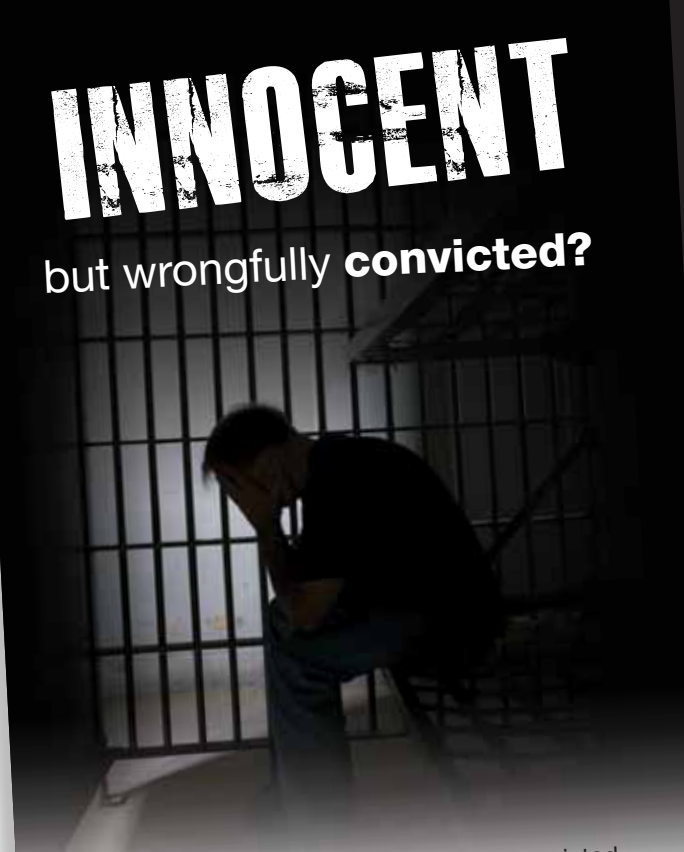
be there. The problem with this approach is that we are only looking at cases where there was DNA evidence. If you consider the fact that DNA evidence exonerated 317 cases in the US, can you imagine the number of cases where there is no DNA? In those cases nothing will happen. Those people will stay in jail.

“I am doing this because it is a huge crime against humanity to put someone in jail who shouldn’t be there. We feel it’s more important to release someone who shouldn’t be there than to jail someone who is guilty.”

Now that the project is launched and registered with the international network, Project Innocence is already accepting cases.

Prisoners can apply through the project’s website – which some are already doing – but since many prisoners don’t have access to the internet or cellphones, they will be made aware of the campaign through

INNOCENT but wrongfully convicted?



If you believe that you were wrongfully convicted of a crime you did not commit, and that there is **DNA or other forensic evidence** which could establish your innocence, please contact **The Innocence Project of South Africa (IPSA)**. We are a non-profit organisation dedicated to helping prisoners prove their innocence through the use of DNA or other forensic evidence.

Visit our webpage for more information on **how to submit a case** or ask a family member or friend to make contact with us on your behalf.

INNOCENCE PROJECT SA info@innocenceprojectsa.com
PO Box 927, Cape Town, 8000
079 0372 858

www.innocenceprojectsa.com

The Innocence Project flyer, which is being distributed in South African prisons

pamphlets distributed in jails.

“My colleagues and I will embrace the whole journey of these prisoners from beginning to end, including contact with the inmates, their families, the lawyers and through the court case. It is a very emotional experience to go through,” says Davison.

• *Forensic scientist Dr David Klatzow, deals with the loopholes and shortcomings of forensic evidence in his latest book, Justice Denied.* ■

The Goodbye Man

He gave his sick mother a fatal dose of morphine – now he campaigns for the right to choose death. By Sue Segar

SEAN DAVISON IS COMMITTED TO THE work of Dignity South Africa, a campaign to allow legal assisted dying. His passion stems from the experience of being sentenced to five months' house arrest in New Zealand in 2011 for helping his 85-year-old terminally ill mother, Patricia Ferguson, die by giving her a lethal dose of morphine.

The recent suicide of Inkatha Freedom Party MP Mario Oriani-Ambrosini, who had endured a long struggle with terminal lung cancer, has given impetus to Dignity SA. And Archbishop Emeritus Desmond Tutu also weighed in on the issue, identifying the dilemma as a human rights issue.

is not the only one. There are hundreds in South Africa like her, hundreds of thousands like her, around the world – elderly people in pain, desperate to die with dignity. But the law does not allow it.

“Surely she should be entitled to that simple dignity? What kind of society have we got where we allow our elderly to suffer like this simply because it’s too controversial for our politicians.”

Davison says Tutu’s endorsement – in an opinion piece he wrote on assisted dying, in Britain’s *The Observer* newspaper, ahead of a House of Lords debate on the matter – has given momentum to the Dignity SA campaign.

change to allow the terminally ill to have an assisted death at their own request. The key points are: free choice; they must be terminally ill; they must be of a sane state of mind; and the review must be approved by an independent panel.

“We also recommend that a GP and an oncologist are on the panel and that they must make a decision on whether to approve the request without consulting each other.

“Initially I was hoping we could make a beeline to Parliament and take the bill there and, boom!, the law would change, but that was idealistic. As an organisation, we have realised we have to go to the people first, build

Hundreds are desperate to die with dignity. But the law does not allow it

Davison told *Noseweek* that he deals with people “every single day” who would rather die with dignity than carry on living in pain.

“I spend so much of my free time dealing with dying people who are desperate to die.

“It is not a path I would have chosen. They come to me, as the founder of Dignity SA, as they have heard about me in the media. I would never say no, because people are entitled to advice... It is something I can’t walk away from, but it is also very difficult.”

He cites the example of a friend who is 100 years old, “a beautiful soul, an intellect, who has lived a fulfilling life, is of a completely clear state of mind, but who is now living in a bed, wracked with pain and desperate to die”.

“She is breathing but not living. She

“Most importantly, he has encouraged people to talk about issues they won’t usually talk about. Politicians won’t talk about it. They are too scared to put their heads above the parapet. Hopefully now they will start listening and engaging in the debate.”

Similarly, he said, Ambrosini’s suicide has fuelled the debate.

“It is tragic that Mario Ambrosini had to resort to such a desperate measure to end his suffering. He was living in terrible, uncontrollable pain, his body was wasting away and he was barely able to move.

“When the point comes when death is preferable to life, the answer should be based on our own individual minds, but, right now, this isn’t respected by law.

“What Dignity SA seeks is a law

up a groundswell of support and then take it to Parliament. We have a draft, based on the British bill.”

He estimates it could take five years to get the law changed, but he is hopeful. He points out that South Africa has already embraced difficult issues such as abortion, Aids and homosexuality.

“Now we should be facing this issue – which we are all going to face at some stage but which is so easy to not think about because we are all busy living life.”

Davison, whose daily dealings with dying people often leave him fraught, says he unwinds by walking on Table Mountain with his dogs at least three times a week.

“I love the freedom and the peace. It is a complete mental release. Sometimes



Sean and Raine Davison with children (left to right) Finian, Fia and Flynn

I start walking and when I've finished, I have no memory of the walk. It's like I have been in a different space."

He also enjoys swimming lengths at the gym, as well as dancing.

Davison lives in Pinelands with his wife, Raine, their two sons Flynn, 5, and Finian, 4, and baby daughter Fia, who is six months old.

He met Raine in a dance studio in Cape Town eight years ago. "We both love dancing and still go to the same studio in Montague Gardens where we met."

He has high praise for Raine, who is Chinese. "She came to South Africa on her own, as a single 25-year-old woman, in 1998 to try and raise some money to help her parents and to make a better life for herself.

"She set up her table here, a lone woman in a country known for crime, with a language she could hardly speak – and she made it. By the time I met her, she had acquired her permanent residency. She did it all on her own.

"Some people tend to mock the Chinese, saying they are taking over the world... but when you look at the individual stories, you have to be in absolute awe and admiration."

Davison came to South Africa from New Zealand in the early 1990s after finishing his PhD there, to do post-doctoral research at the University of Cape Town.

"But as soon as I arrived, I was applying for jobs at the University of the Western Cape – it felt like a more normal university as it was so diverse

and I really wanted to be involved in the transformation process. I've never stopped thinking what a privilege it is to be at UWC.

"I love this country. When I stepped off the plane in 1991, I had the most powerful feeling that I was meant to be here. I've never, before or since, had a feeling like that.

"Don't ask me to explain it... but it felt as though I had been here before. I do not intend to leave this country. I love South Africa."

In terms of plans for the future, Davison believes his work for the Innocence Project (see accompanying story), for Dignity SA as well as his research projects will keep him busy.

"I am the kind of guy who will work forever. My mother retired at 75, my grandfather at 92. I was horrified to hear that in this country you have to retire at 65. I didn't know that. In New Zealand, Australia and England there is no retirement age. I intend to keep on working for many decades to come."

Asked where he finds the compassion to do the work he does, Davison said, "I guess I was born with it. Not everyone has it."

Admitting he is sometimes shocked at the lack of compassion in the world today, he says: "I tend to put it down to not having thought about it... too much of living in the present.

"From as early as I can remember, I could never harm a bird or an insect. I remember collecting snails with my mother in our neighbours' garden, and putting them in an old chocolate box and taking them home to feed." ■

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We're not ready for Ebola

...if the way we're handling TB is anything to go by.

By Chris Bateman



SOUTH AFRICA'S RECORD IN ITS initial handling of the HIV/Aids pandemic – without antiretroviral drugs – and the burgeoning spread of extremely/extensively drug-resistant tuberculosis (XDR-TB) casts doubt on the country's capacity to cope with Ebola.

The known daily TB death rate in South Africa is nearly 14 times the average daily Ebola death rate across the four affected West African countries since March. XDR-TB, which kills 90% of its victims, is out of control in South Africa – a sobering thought when contemplating how we are likely to deal with – or more likely not cope with – an Ebola outbreak.

The analogies were drawn by an expert in disease surveillance and laboratory systems, Dr Andrew Medina-Marino, on his return to South Africa from Ebola-ravaged Liberia. There, between early March and 3 September, the regional contagion had claimed more than 1,900 lives among 4,000 suspected infections – 2,200 confirmed. The current fatality rate of one of the world's most feared diseases

is nearly 50% of those infected.

Although no Ebola cases have been confirmed among the hundreds of blood samples sent from across the Southern African Development Community to South Africa's National Institute for Communicable Diseases, the region is on high alert, with emergency plans for co-operation in detection, containment and awareness on fast-track, and with a travel ban from the affected countries in place. (See box.)

Because of South Africa's distance from West Africa and the sudden onset and severe nature of Ebola, officials claim it is "highly unlikely" that cases will enter the country via land or sea. The highest-risk entry ports are Gauteng's OR Tambo International Airport and nearby Lanseria Airport, from where all major medical air rescue company aircraft operate (two internationally). Travellers are being thermally screened at these airports and anyone with elevated temperatures, questioned. OR Tambo has a modern emergency isolation/transfer medical centre.

A retrospective look at South

Africa's XDR-TB spread by leading drug-resistant TB expert Professor Keertan Dheda, at the annual national TB conference in Durban in June, adds a pinch of salt to reassurances by government spokesmen. Another problem is the absence of any regulation on communicable diseases six years after the draft provisions were first published

Dheda, professor of medicine and head of pulmonology at the University of Cape Town, estimates that "several thousand" healthcare workers are currently infected with TB.

For perspective: while an estimated 10 people are dying of the dreaded Ebola every day, it has gone largely unnoticed that each day 140 South Africans are dying of all types of TB. Multiple Drug Resistant TB (MDR-TB) is out of control: the number of notified cases has increased from 7,350 in 2007 to 14,161 in 2012.

While the incubation period and mode of transmission differs – TB is air-borne whereas Ebola is spread via contact with bodily fluids and infected tissue – common denominators include the



surveillance and laboratory systems, at the South African Medical Association (Sama's) Foundation for Professional Development (FPD), he predicts that a scattered West-African-type Ebola outbreak in South Africa's townships, for example, could quickly turn into a public health nightmare. The West African outbreak is the first in the world to have reached urban areas.

In South Africa, the government would have to lean heavily on the mainly US-funded National Institute for Communicable Diseases (NICD) to roll out epidemiological and outbreak-control programmes.

Medina-Marino returned from a month of voluntary work in Ebola-ravaged Liberia in August, having witnessed some of the effects of the rampant contagion. His views, particularly about dysfunctional health systems, were echoed in principle by Professor Sharon Fonn, of Wits University's School of Public Health, who is also Co-director of the Consortium for Advanced Research Training in Africa (Carta).

Professor Lucille Blumberg, head of

giver) impact would be," he warned at an Ebola briefing.

Medina-Marino is a veteran of the US public health institute, Centers for Disease Control whose director Thomas Frieden warned on 2 September that "the window is closing" on containing the "global problem" of the West African epidemic. Medina-Marino, who was seconded to South Africa's FPD three years ago, said there was "no question" that South Africa had among the world's best laboratory diagnostic abilities and it was one of only three countries asked by the World Health Organisation (WHO) to send mobile diagnostic laboratories to West Africa.

As one of South Africa's few doctors with high-level outbreak-response expertise, Medina-Marino, volunteered to work cheek-by-jowl with Médecins Sans Frontières colleagues. MSF has 700 staff working across Guinea, Liberia, Sierra Leone and Nigeria.

Lindis Hurum, MSF's emergency coordinator for the Liberian capital Monrovia, said the situation there was catastrophic, with most of the city's hospitals closed and with decomposing,

A scattered West-African-type Ebola outbreak in our townships could quickly turn into a nightmare

infection of first-line primary health care workers; a dysfunctional health system; low public awareness of basic infection control; and dismal, inappropriate education.

Dheda made an impassioned plea at the TB conference for a nationally coordinated strategy with uniquely tailored solutions including home-based or community care, plus multi-disciplinary teams in modern-day sanatoria" so that highly contagious "therapeutically destitute" TB patients are not discharged from hospital "back into a careless void".

Medina-Marino says the dearth of local Ebola virus expertise and disease surveillance capacity is probably insufficient to deal with "anything more than a small, geographically-contained outbreak".

As senior technical advisor: disease

the NICD's Surveillance and Outbreak Response Unit, warned that an Ebola outbreak would rapidly expose any deficiencies in a public health system, with poverty and fear aggravating contagion.

The Department of Health's Dr Frew Benson, chief director of communicable diseases said that, with 150 health care workers dead among the more than 250 infected in the four outbreak countries, "the fear factor" had already played out in South Africa. Local nurses had refused to scrub up to perform a Caesarian section on a patient suspected of having Ebola even though she had been negatively-diagnosed. They had eventually done so, only under orders when told the patient was uninfected.

"You can imagine if we see more cases in South Africa, what the (care-

giver) impact would be," he warned at an Ebola briefing.

Dr Margaret Chan, WHO director general, declared the outbreak an international public health emergency, that was moving "faster than we can control it".

The WHO has been severely criticised by the over-burdened MSF for its slow response (belatedly begun only after two deaths and seven confirmed cases in Lagos, Nigeria – the regional hub for international travel and business).

Chan called for a global coordinated effort to combat "the largest, most severe and most complex outbreak in the nearly four-decade history of this disease".

MSF president Dr Joanne Liu said her organisation was "overwhelmed" and could now offer only palliative care. They needed 800 extra beds for

MSF's 160-bed Monrovia treatment centre. She said world health bodies "should be helping save lives in West Africa" rather than limiting their response to the potential arrival of infected patients.

Medina-Marino criticised South Africa's record in dealing with disease outbreaks, saying the country had clumsily faced the "quite desperate" HIV pandemic (initially without antiretroviral drugs) and was failing to curtail a burgeoning XDR-TB pandemic – due only marginally to the lack of any proven drugs available for a large-scale XDR treatment roll-out.

South Africa's response capacity and expertise remained focused on clinical care and treatment, she said. When it came to identifying appropriate infection-risk factors and contact-tracing, there was "still a lot of work to be done". In her opinion, only the mainly US-funded NICD was properly prepared for an outbreak.

South Africa – regardless of what disease-control officials said – did not have the capacity for full-scale investigations, especially for an outbreak that was anywhere near the scale of that in West Africa. It could "probably handle between one and three isolated cases".

"When things actually happen, the system breaks down very fast," he said. "All the money in the world could not make up for delayed and uncoordinated responses."

Professor Fonn said that internationally, curricula for medical students, nurses and doctors were inadequate and inappropriate. For example they were not being taught how to put on and remove protection gear without risking infection, and there was no system "for quick, effective communication between providers, should anything happen". Community Ebola awareness training was non-existent, she said.

To avoid spreading panic, public messaging campaigns should be conducted before any outbreak "so that when it happens, you're re-importing an old message." One Ebola outbreak would cripple any less-than-robust health system, Fonn warned.

Blumberg said that once Ebola reached cities it became difficult to contain – the main enemies being poverty, fear and dysfunctional health systems. She said the NICD's mobile laboratory in Liberia was "extremely busy" and every second sample was testing positive.

Benson said that 48 of South Africa's 52 health districts had received Ebola prevention and awareness training. Defence forces throughout the SADC would be deployed to curtail movement should an outbreak occur, and Ebola-ready hospitals had been designated in every province, including one private hospital and two military hospitals

Medina-Marino questioned just how properly equipped these hospitals were, with the paucity of institutional training.

Benson said basic health care worker protection training was being stepped up, immigration officials were receiving twice-weekly updates and training, and broader multi-sectoral awareness was being accelerated.

Asked what precautions should be taken by health care workers, Medina-Marino said that simply wearing gloves and asking patients whether they'd recently been in West Africa, or in contact with someone from there, would generally suffice.

He challenged Benson's contention that people with Ebola were usually "very sick" and typically presented to a hospital because of the 2-21-day (non-infective) incubation period. In his experience, most people with Ebola symptoms first went to a primary or community health clinic (all 250 afflicted West African healthcare workers were infected in this way). Initially, doctors and nurses were "not necessarily thinking 'this person has Ebola' and interacted freely with patients, posing a major infection risk where it was least needed".

Medina-Marino said there was no need to panic but warned there was "good reason" for the South African government to be better prepared. ■

The long tentacles of Ebola

WHEN KOREAN AIR ANNOUNCED IT would halt its three flights a week to Nairobi due to fears about an Ebola pandemic in Liberia and Sierra Leone – both far-flung from South Korea, the airline was accused of overreacting.

The critics were wrong. When it comes to pandemics, it only takes a little global connectedness to trigger a cascade of infections. The outbreak of Ebola raging in West Africa – now labelled a Public Health Emergency of International Concern by the World Health Organisation – echoes a scenario mapped out by the New England Complex Systems Institute in 2006. In a computer simulation of pathogens and hosts, long-range routes of transmission – most prominently, international air routes – can allow the deadliest viral strains to outrun their own extinction, and in the process, to kill far more victims than they would otherwise have done.

In an evolutionary model that

accounts for spatial distribution, a pathogen like the Ebola virus can cause its own demise by killing all the hosts in its immediate vicinity. If there is no one left alive to infect, a viral strain will die off. Successful pathogens leave their hosts alive long enough to spread infection. Typically, the most virulent mutations burn themselves out, and a stable balance is achieved between host and pathogen. But avenues of long-range dispersal break this pattern.

Ebola cannot spread through the air; it can only be transmitted through close contact with bodily fluids. Yet, in the age of global travel, patients in the dormant stage of infection can travel long distances before showing signs of illness, creating epicentres of secondary infection in geographically distant locations. Long-distance travel thus gives an unnatural advantage to the most virulent strains, allowing them access to new hosts even if they wipe themselves out on a local scale. ■

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By Caiaphas Khumalo

DAVID MOMBERG THOUGHT HE WAS covered for the life-changing circumstances that have befallen him. After all, back in 2001 he took out a policy for just such an eventuality. With a payout in the order of R660,000, it insured him against death or disability. But, as a Liberty official told him in rejecting his claim, "You've basically got to be a vegetable".

The insurers have since apologised for that crude, insensitive remark but they've had no change of heart regarding his payout.

Momberg, 36, took out his policy as a healthy young man employed in the media industry. In 2006 he was the victim of an assault and, within months, began to suffer uncontrolled seizures and was diagnosed with epilepsy. He has had behavioural changes – losing his temper easily – is unable to deal with pressure, and suffers from depression, anxiety and Attention Deficit Hyperactivity Disorder (ADHD).

When *Noseweek* spoke to Momberg, he had had five seizures in the preceding month – one in a Mugg & Bean where he'd met a friend for coffee.

On a personal level, Momberg's marriage has broken down; he's been compelled to sell two properties he owned; and has had to move back in with his parents, needing their financial support as well as their assistance when the seizures occur. His children stay with him at their grandparents' home on alternate weekends.

On a professional level too, life has been disastrous for Momberg since

the attack. He had to resign from his job "because my uncontrolled seizure activity started becoming an issue of concern". He then started his own business, servicing one large client. But they terminated his contract in December 2011 as he was making errors and failing to meet commitments. He has not worked since then and is no longer looking for a job because of the risks involved with uncontrolled seizures, and because doctors have advised him not to drive.

But when Momberg decided to claim against his policy on the grounds of his disability, his claim was refused because he didn't meet Liberty's criteria. In fact, a Liberty employee told him on the phone, "you've basically got to be a vegetable" to qualify as disabled. Since their apology for that remark, Liberty's emails have been far more polite, like this early one: "You have stated that you suffer from epilepsy. We acknowledge this can be debilitating, but unless we have medical information to substantiate the severity of your condition, we are unable to gauge the extent of your impairment."

And this one, after he had submitted the information: "The medical information... shows that although you are suffering from seizures disorder it is under control with medication and there is no limitation with regards to your functional abilities. Although you have been advised not to drive due to the epilepsy, we cannot consider you to be totally and permanently disabled in terms of the disability benefit definition."

In coming to its decision, Liberty was influenced by this report from Momberg's neuro-surgeon: "His major disability is that of documented grand mal epilepsy... The problem with the epilepsy is likely to be permanent, although there is no reason why adequate control cannot be obtained in terms of medications. This clearly impacts negatively on his ability to work, and this does represent a significant disability for him. I feel however, that he is not completely disabled, and can with appropriate medication and appropriate psychotherapy resume gainful employment at some stage in the short to medium future."

What is disability in Liberty's world? The policy says it is a condition whereby the person is "totally and permanently incapable of earning an income from his own occupation, similar occupations and other occupations for which he is fitted by his knowledge, training, status and ability".

The Employment Equity Act defines disability as: "A long-term or recurring physical or mental impairment which substantially limits entry or advancement into employment."

Momberg says that Epilepsy South Africa has told him that, in its view, epilepsy meets this statutory definition.

But a contract is a contract, so surely if Momberg agreed to Liberty's definition of disability, he's bound by it?

Well, Momberg denies that he did ever agree to it. When he asked for proof that he had accepted their definition, Liberty admitted that it had no such documentation – and that the broker he had dealt with could not be



David Momberg

made in a written application. They included his mother's initials (as the beneficiary of the life policy), and his address (the policy listed his employer's address which, he says, he would never have used for a personal matter such as an insurance policy). Second, because he had had no opportunity either to query the definition or reject the policy, having never received a copy of it.

In fact, Momberg says he heard very little from Liberty over the years other than to be sent annual update notices after 2009. Liberty claims that it not only posted a copy of the policy to Momberg in 2001, but also emailed him a copy in 2009 after he had made inquiries about his cover.

Momberg took the issue of whether he was bound by Liberty's definition of disability to the office of the Ombudsman for Long Term Insurance. The official, who handed down a written

The matter was elevated to the senior official in the office of the Ombudsman, Judge Ron McLaren. On 14 April this year, Judge McLaren refused Momberg leave to appeal, saying there was no chance of success. When Momberg protested, the judge told him he was "not prepared to entertain further correspondence".

Momberg sent him the kind of response that those who have spent many years on the bench probably aren't accustomed to: "Nobody (but yourself) has referred to this matter as entertaining. This is your job and I expect you to do it. From your responses I can clearly see that you have not read all email correspondence between the Ombudsman, Liberty and myself."

When Momberg asked for copies of the legal authorities that Judge McLaren had quoted in his decision – hinting that the media might be

When Momberg claimed against his policy on the grounds of disability, the claim was rejected

found either. This was all Liberty could come up with: "This is your original policy document as it would have been presented to you when the policy was issued. There were no other documents as this application was submitted to Liberty electronically and not via any further documentation..."

"Our back office has done a thorough investigation and has confirmed that the application was loaded to Liberty with the exact details as stipulated in the policy document that I have provided you with... This policy would have allowed for a period at inception for you to have withdrawn should you not have been satisfied with the terms and conditions... within the document."

And later this: "You did not sign the definition, none of our clients actually sign the definition, but by paying for the benefit each month, you conveyed tacit acceptance of the cover afforded you by the policy."

Momberg was unimpressed. First, because the policy sent to him contained various errors that he would not have

decision, gave him short shrift: **Signed documents are so last year:** "A policy is issued based on the information contained on the electronic proposal form and/or application form. It is not necessary for you to have signed any document in which you explicitly agree to the policy's definition of disability."

You were slack: "There was a duty on you to have contacted Liberty and requested a copy of the policy when you did not receive a policy... It was not reasonable for you, in the absence of a copy of the policy, to have assumed what the definition of 'disability' was."

Liberty wasn't: "Given that you had not followed up with Liberty for a copy of the policy... [which] has been in existence for more than 12 years, I am of the view that it was reasonable for Liberty to have been led to believe that you had consented to the terms and conditions and therefore to the definition of 'disability' in the policy."

You're up shit creek: "You are therefore bound to the definition of 'disability' as defined in the policy."

interested in this story – the office decided that it might entertain further correspondence after all.

In fact, the Ombudsman's office responded within an hour, with copies of the relevant pages from various textbooks. And it added that, even though it had found that Momberg was bound by Liberty's definition of disability, it was still considering whether or not Liberty had validly repudiated the claim.

Momberg is convinced his condition is so serious that he does fall within Liberty's harsh definition of disability. In November last year his neurosurgeon issued an updated report saying: "I think this man has been unfit for any form of employment approximately between January 2012 and the end of October 2013."

Noseweek will let readers know if Momberg makes any progress with Liberty. Meantime we suggest readers request copies of their policies to check... insurers or brokers will no doubt be happy to oblige. ■

Making a trade mark out of a mountain



And you thought TM were the initials of Cape Town's favourite landmark? By Sipho Mwanza

TRADE MARK BULLYING – OR TRADE mark madness, if you prefer – is a topic familiar to *Noseweek* readers. Notable examples are Justin Nurse's parody of the Black Label brand which he mischievously changed to Black Labour, and his adulteration of Standard Bank, to Standard Wank. More recently there was the dairy farmer who made out that he owned the name of the town Darling. It's an entertaining topic. And what's not to enjoy when corporations and organisations make complete asses of themselves?

Take clothing manufacturer North Face, a company that likes to associate itself with adventurous living, whose customers are primarily soft urbanites who think it's a cool brand. When teenager Jimmy Winkelman introduced a clothing range called South Butt – apparently as comment on the banality of consumer culture – North Face threatened the youngster with trade mark proceedings, claiming that there would be confusion.

"The consuming public is well aware of the difference between a face and a butt," was Winkelman's riposte, and he advised visitors to his website: "If you are unable to discern the difference between a face and a butt, we encourage you to buy North Face products."

Or how about US chicken chain Chick-fil-A which uses the slogan "Eat Mor Chickin". The company felt threatened by a farmer/stencil-artist who was printing T-shirts exhorting Eat More Kale. Chick-fil-A said there would be consumer confusion. *The Economist* offered this nugget: "One

'Being a monopolist is akin to going on drugs or joining some strange religious sect... Monopolists, apparently, can conceive of only one way of making money, and that is by bullying consumers and competitors to put up and shut up.'

Dr Andre Louw of the University of KwaZulu-Natal Law Faculty, in a 2013 article on trade mark bullying

entity sells food, the other clothing; only the profoundly stoned or deranged would try to eat a T-shirt or wear a chicken sandwich."

Or there was the claim by the South African National Halaal Authority that a local comedian, Simmi Areff, had infringed its "certification" trade mark and made a mockery of Islam by advertising a show called Simmi Areff HAHA-laal Authority. Areff's response: "I'm a comedian, I make jokes... It's like they've brought a tank to a Grade 3 cross-country race."

And the contrition when things go pear-shaped is priceless. When a devoted consumer of Ferrero's chocolate spread started a blog called *Nutelladay.com* and even organised a World Nutella Day, the company's response was a standard stop-

using-our-trade-mark letter – which prompted an angry backlash on social media. To try to make amends they then issued a statement eating their words: "Ferrero considers itself lucky to have such a devoted and loyal fan... Ferrero wishes to express its sincere gratitude to Sara Rosso for her passion for Nutella, a gratitude it extends to all the fans of the Nutella World Day."

In Cape Town, a small close corporation called Cunicsar Vintners (CV) of Claremont applied to register a trade mark for alcoholic drinks in 2010. A simple little thing, it consists of an oval containing a depiction of Table Mountain and the words "100%". The application has been opposed by J Sedgwick & Co which makes Old Brown Sherry, and which has four trade mark registrations for depictions of Table Mountain – one, from 1935. The case is due to be heard by the South Gauteng High Court.

Papers filed by Sedgwick say the company is part of the Distell Group which employs 4,200 souls and has offices in London, New York, Sao Paulo and Singapore; Old Brown Sherry has been around since 1916; and we South Africans just can't get enough of the tippie, drinking more than 10 million litres every year. The papers claim that people associate depictions of Table Mountain with Old Brown Sherry and that they will be confused to see CV's



product. The papers suggest that CV's trade mark is "strikingly similar" to at least one of its registrations.

Noseweek agrees, but that may just be because both are strikingly similar to Table Mountain.

CV does not have legal representation and it shows in their papers before court. Their short submission has been prepared and signed by CV member Keith Cronwright, a plastic surgeon, who says CV is not claiming exclusive rights to either "100%" or the image of Table Mountain. He suggests that CV's trade mark is intended to be a bit like Proudly South African – in other words, something that suggests a local provenance. CV uses its logo, he says, "not as a brand" but rather as a depiction of geographical origin.

Cronwright goes on to claim that Table Mountain, being a "state emblem", cannot be monopolised by way of a trade mark registration, and that Sedgwick's registrations are therefore bad and should be cancelled. He alleges bullying, saying that Sedgwick's opposition to their trade mark "is not based on legal grounds" and that Sedgwick is "intimidating small new emerging businesses".

So what is the law on this? A bit of a mess it would seem. The City of Cape Town at one stage, managed to get a logo of a rather abstract depiction of Table Mountain – together with the

words "City of Cape Town" and its Afrikaans and Xhosa equivalents – declared a prohibited mark under the Merchandise Mark Act, meaning no-one else could use that logo. (They have since changed it.)

As for trade mark registration, the Companies and Intellectual Property Commission (CIPC's) website says: "A trade mark is registrable if... it does not represent protected emblems, such as the national flag or a depiction of a national monument such as Table Mountain." Just where this comes from is not clear. The Trade Marks Act says that certain items such as flags, armorial bearings and official signs cannot be registered, but there's no mention of national monuments. And is Table Mountain actually a national monument? Certainly that seems to be the assumption – the site www.capevenues.co.za, for example, says: "Table Mountain... is a national monument and her shape has been adopted as a ubiquitous scribble for many a company logo of those working within her shadow."

However, in 2003 the *Cape Times* reported that the mountain had lost its national monument status and become a provincial heritage site.

Noseweek asked CIPC's senior manager for trade marks, Fleurette Coetzee, for comment. CIPC's response: "In March 2006 the South African

Heritage Resources Agency Council took a formal decision to declare Table Mountain a national heritage site. Reproduction rights in respect of Table Mountain belong to the state and vest in South African Heritage Resources Agency (Sahra). They are subject to agreement of the City of Cape Town as owner of the site. Reproductions may not be made for profit without a permit from Sahra and against that background it can be considered a protected emblem and precluded from trade mark registration unless suitable arrangements are made."

Sedgwick's lawyers in their Heads of Argument have leapt on to Cronwright's claim that CV doesn't use Table Mountain "as a brand", arguing that CV, through its own arguments, has disqualified its trade mark from registration: if CV doesn't use its logo as a trade mark to show commercial origin, it cannot possibly be allowed to get a trade mark registration. In fact, Sedgwick's argument seems focused more on this aspect than the alleged confusion between trade marks. As for the claim that Sedgwick's registrations should be cancelled, the company says CV has failed to make a formal application for cancellation.

It does seem that Sedgwick may be hoping it can dispose of the matter without having a court delve too deeply into the issue of Table Mountain trade marks. It is noticeable that Sedgwick has not offered any comment on Cronwright's claim that Table Mountain trade marks cannot be registered – as per the CIPC's own website.

An email that Sedgwick's lawyers sent CV last month also suggests that the company may be keen to dispose of the matter with as little fuss as possible: "Our client has instructed us to inquire whether you would be willing to settle this matter on the basis that you withdraw your trade mark application and undertake never to use this trade mark... on the basis that each party pays its own costs..."

"Our client is not posing this settlement due to any perceived weakness in their case... simply offering you an opportunity to walk away from this matter at this stage so that you can avoid the risk of a potentially damaging costs order against you."

We will keep you posted. ■

Are we being taken for a ride?

Tension building over secret toll roads planning. By Donwald Pressly

SANRAL PLANS A SLEW OF NEW TOLL roads in the Western Cape and the national roads agency is keen to keep the preferred bidder's tender details secret. Now a court has ruled that any of the details – information of interest to the already over-taxed motorist, including the proposed toll costs – must be kept under wraps, at least for the moment.

It seems the usual big boys are to get the job, along with a few token accommodations for BEE. They include Basil Read, Group 5 and the French firm Bouygues Travaux Publics – under the umbrella of the Protea Parkways Consortium, which is the preferred bidder for construction of the N1/N2 Wine-lands Toll Roads.

Basil Read announced in March that it had been awarded a project worth over R400 million at Eskom's troubled Medupi Power Station in Limpopo. Early last year it also landed a R279m project to rehabilitate a 33km strip of road between Vaalpenspruit and Winburg in the Free State. And Bouygues TP, a subsidiary of Bouygues Construction, was a member of the Bombela Consortium, the developer of the Gautrain rail link in Gauteng.

Meropa, a communications firm, screamed "Sanral welcomes the ruling of the Western Cape High Court".

The statement said that the judgment, at the end of August, was granted with the declaratory effect that no person would be permitted, unless authorised by Sanral or a court, "to disseminate, publish or distribute any part of the administrative record, the city's supplementary founding papers and the papers in the interlocutory confidentiality application before the hearing of the review application".

The City of Cape Town, which bitterly opposes the imposition of toll roads in and around the city, was granted an interim interdict in May last year to halt the proposed Winelands Toll Project. The plan, which has been more than a decade in the making, extends along the N1 from west of the R300 interchange to Sandhills. The N2 portion extends from west of the R300 to Bot River. The court's stay of the project holds until the review hearing, which is likely to be later this year.

Sanral had alleged that Cape Town intended to use its supplementary founding papers for political purposes to generate widespread public hostility to the tolling project. Sanral and its preferred bidder, Protea Parkways Consortium, had applied to the Western Cape High Court to prevent Cape Town from filing its supplementary founding papers in an open court.

These proscribed papers would apparently give the public commercial information on the bidders and Sanral's bid evaluation. The city said it included facts and figures about the cost to convert the N1 and N2 into toll roads; the proposed toll fees and how these compared with the Gauteng e-tolls; the toll revenue that the preferred bidder expects from the tolls; and how many cents in every rand collected in toll fees would be spent on the tolling project infrastructure and ops, as opposed to road improvements and maintenance.

Sanral argued that making this information public before the review hearing "would cause harm and damage to Sanral, bidders in the tender process, the SA fiscus and the economy and the general public".

In the PR statement, Sanral argued that public access to the parties' papers



had to be prevented to ensure their privacy was protected and to ensure that when parties produce documents for the purposes of litigation, they can be reassured the documents will not be used for collateral or ulterior purposes.

Bidding companies, it said, provided confidential engineering and construction plans, their allocation of legal and financial risks and, in this case, their intended toll fee structure. The toll strategy of each bidder was unique, it said. Premature disclosure of "this kind of information" in the bids, before the tender has been awarded, would disadvantage Sanral in its negotiations with bidders and allow bidders to fix rates and strategies, leaving Sanral with little-to-no leeway to negotiate a concession and a toll strategy in consumers' best interests.

While the preferred bidder had been identified – following "a comprehensive evaluation of three bids" – a further phase in the bid process was still outstanding "and, more importantly, the tender has not yet been awarded".

Sanral spokesman Vusi Mona was touchy about use of the word "secrecy" over the project. It was about keeping confidential information out of the public domain "for now". It was commercial information and they were only at the



Brett Herron says Sanral has made a lunatic proposal for a new tunnel

preferred bidder stage with the bid not yet awarded. Sanral had “no problem disclosing the information after the event”. Doing so beforehand would interfere with the bidding process.

All the legalities aside, the city believes that toll roads, including redirecting the road in Somerset West, is not required. Transport MEC Brett Herron said Sanral had published a road condition report which indicated that the N1 was “fair to good” or “good” and the N2, “good”. A portion of the N2 between the Swartklip Interchange and Mew Way was at capacity during peak time and an additional lane would be beneficial.

Herron pointed out that Sanral was making the “lunatic proposal” that a second tunnel be built through Du Toitskloof Mountains between Paarl and Worcester, alongside the Huguenot Tunnel, arguing that the safety equipment in that tunnel had reached the

end of its lifespan.

“There is no reason why a second tunnel needs to be constructed in order to upgrade the existing tunnel’s equipment,” said Herron. Part of the money being collected at the Huguenot Tunnel toll was for the replacement of tunnel equipment. “In other words motorists have already paid for the upgrade,” said Herron.

What is all this secrecy about?

Alison Tilley of the Right2Know campaign said she could not be sure there had been collusive tendering, but the Winelands project was about “building a road” and “one cannot imagine what ‘confidential sensitive information’ it is reasonable to withhold”.

Tilley, who is chief operating officer of the Open Democracy Advice Centre and a high court attorney, has been fighting an uphill struggle to get Sanral to play open cards about their plans in

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the Western Cape. She noted that the court record was sealed and nobody had been allowed into the hearing except those who had signed confidentiality agreements to keep whole documents secret.

Sanral made an application to the Western Cape High Court to prevent the City of Cape Town from filing its papers on Winelands in an open court.

The roads agency made known that the Protea Parkways Consortium was the preferred bidder in October 2011. It said at the time that the initial construction would take three years. It had hoped to start the project in the second quarter of 2012 and have it completed in 2015.

The project is 175km in total and would include the 105km of the N1 section from the Old Oak interchange (west of the R300) to Sandhills (De Doorns Intersection east of Hexspoort and the 70km of the N2 section from a point west of the Swartklip (R300) interchange to Bot River (east of the Hermanus road interchange).

Cosatu general secretary Zwelinzima Vavi tweeted: "Sanral so arrogant – refusing to make submission to a panel appointed by Premier Makhura (Gauteng) to investigate [the] impact of e-tolls."

It seems as though the Big Boys don't feel a need to report to any politicians, be they ANC or DA. ■

Roads, roads, and more roads

IN AUGUST, SANRAL DIVULGED SOME OF the N1/N2 building plans, describing the project as "a major infrastructural investment". Having burned its fingers in Gauteng, where it borrowed money to build the toll road, "with Cape Town, we will be appointing a concessionaire on a build, operate and transfer basis" said spokesman Vusi Mona.

The estimated R10-billion project involves three toll stations on the N1 – including the existing Huguenot Tunnel toll.

It had first been envisaged that there would be a new toll at the Okavango Interchange, but this was moved to Joostenbergvlakte, between the Engen garage and the R44 – the turn-off to Stellenbosch. This means that commuters travelling to town from as far north as Brackenfell will not go through a toll road. The third envisaged toll road on the N1 is at Sandhills (to be known as the Hexspoort Toll Plaza) near Worcester on the Beaufort West side.

The toll roads on the N2 will be at Bot River, Sir Lowry's Pass and at the Kuils River interchange – shifted from Khayelitsha – to allow free movement of traffic from the township to Cape Town and Somerset West without motorists having to pay a toll.

Mona reported that road "improvements" would include the following:

- The construction of a 13km new section of N2 in Somerset West/

Strand;

- The provision of five additional traffic lanes between Durban Road and the Koelenhof Interchange (on the N1) and between Borchers Quarry Road and De Beers Avenue in Somerset West (on the N2);
- Sir Lowry's Pass to Houwhoek (N2) and Florence (R101) and Worcester (N1);
- 12 new interchanges, including seven on the N2 including at Victoria Street and at Firlands (both Somerset West), Pineview, Grabouw, Grabouw East, Kroomco and Houwhoek.
- The new interchanges on the N1 would include Worcester, Casino, Roux Street, High Street and Worcester East – all in the Worcester area
- Provision of a second tunnel at Du Toitskloof on the N1, to allow for dual traffic flow – traffic flowing north in one, and south in the other.

Plans were made in a 2007 Sanral report for another tunnel at Sir Lowry's Pass on the N2 but this appears to be off-plan for the moment.

Mona said about 5,000 jobs would be created during the envisaged three-year construction phase. The agency also reported that traditional toll booths, rather than e-tolling gantries used in Gauteng, will be introduced. The electronic or automated method of payment "is a possible future consideration dependent on traffic volumes," said Mona. ■

Conman to the great and good ... by Royal Appointment

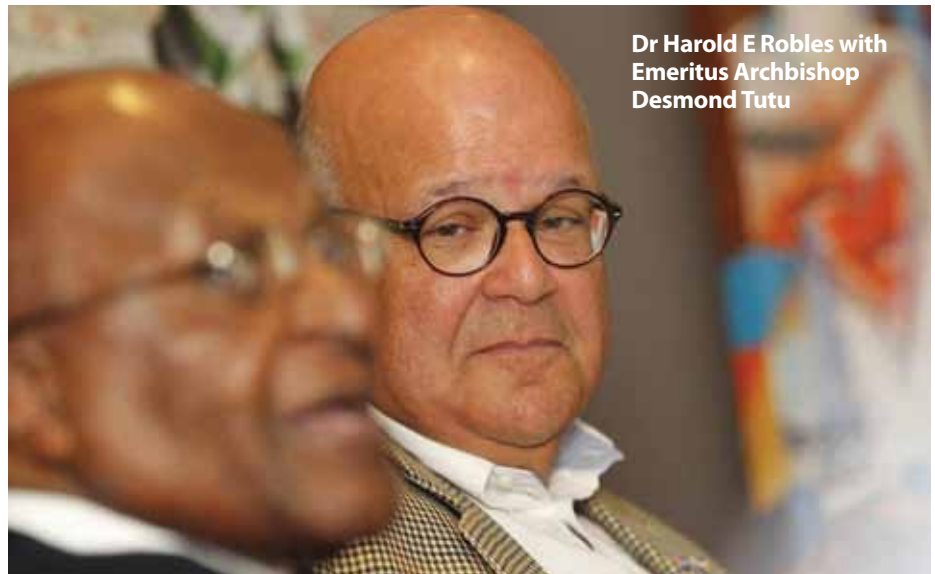
He stands accused of living like a king on money intended for the poor

DR HAROLD E ROBLES IS “SPECIAL Advisor” to a brand new organisation called Health Promoters. Though he’s mentioned on their website, you won’t find much information about him, which is odd for someone who’s so good at self-promotion. This 2010 posting on a blog is fairly typical: “A few minutes after 7am this morning in the Saint George Cathedral my dear friend Desmond Tutu called upon me to congratulate me with my birthday.” But the paucity of information about him may just be that he’s decided it might be wise to keep a low profile for a while.

“Dr” Robles is neither medical doctor nor PhD – although he has been awarded two honorary doctorates, one of which was withdrawn. He is not the professor or the epidemiologist that he likes to claim he is. And he doesn’t have the MBA from the Erasmus University of Rotterdam that he boasts about. Nor is he the President Emeritus of the Albert Schweitzer Institute of the Humanities (ASIH) in the USA. The organisation makes absolutely no mention of him on its website (while it does trumpet that our very own Archbishop Desmond Tutu and FW de Klerk are on the Honorary Board).

Robles is not the *jonkheer* he makes himself out to be – a *jonkheer* is a Dutch noble title. But Robles was decorated by the Dutch queen in 2009 for services to mankind. The monarch unfortunately failed to do the background checks one might expect.

Robles, who has dual Dutch and US citizenship, was born in Surinam, the Dutch plantation colony in the Guianas, in 1948. Until recently he was a board member of a Dutch foundation, the Stichting Medical Knowledge Institute (MKI), an NGO that was active in the field of preventative health information in the townships of Cape Town. (But “President and founder” is



Dr Harold E Robles with Emeritus Archbishop Desmond Tutu

how he has described his role.)

MKI, whose slogan was “Prevention through education”, sought to prevent deaths caused by curable diseases in the townships by providing education and training.

Tutu was a member of MKI’s advisory board, and in 2012 he travelled to the Netherlands to raise awareness of the organisation. The trip was apparently a great success and a professional football club, FC Twente, even agreed to play a game with the MKI logo on its shirts in honour of his visit.

In 2013 Robles was forced to resign from the board of MKI, when the other board members discovered that he had improperly used foundation money for himself. In fact, they concluded that roughly half of the foundation’s annual budget of €200,000 (R2.8 million) was finding its way to South Africa, and the other half was going to Robles, his wife, and his wife’s wholly-owned company, Robles-Fuyk Consultancy BV.

Robles had made sure that his wife

was MKI’s accounting officer. And because there was a high turnover of board members, only Robles really knew what was going on. MKI’s 2012 annual accounts say this: “The Board stresses that it has no complete picture of the legality of certain invoices and declarations and possible claims of Stichting MKI against former Board members resulting from improper governance and /or other causes.”

MKI now operates in South Africa under a different guise, that of Stichting Health(e)Foundation.

Robles, on the other hand, is doing much the same thing under “Health Promoters”. Although the website suggests he simply has an advisory role, Robles is apparently very much involved. The site is short on contact information, with no phone, fax or email details, and a physical address at “17 Dabula Street, Cape Town”. There is, however, copious information about how to make donations.

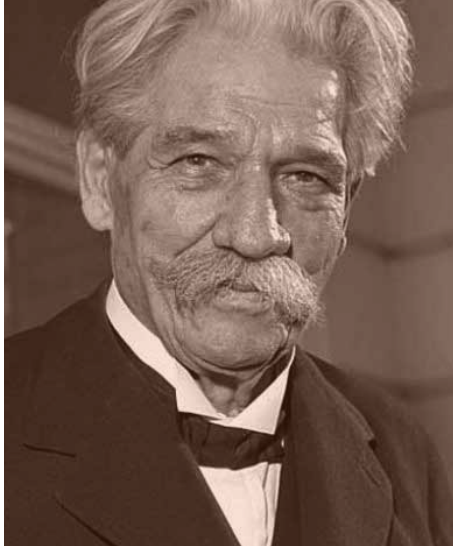
Health Promoters’ website relies heavily on the fame of Tutu, with

pictures of the Archbishop and a video in which he says “God smiles when he looks at what the Health Promoters are doing”.

The people from Health(e)Foundation find this very strange. They claim they have told Tutu’s office, in the person of Reverend Mpho Tutu, of Robles’s background. In fact, they suspect that Robles may be falsely using Tutu’s name to get funding, perhaps having even “cut and pasted” an old letter Tutu had written to help MKI get funding. They understand that Robles has already managed to get an €54,000 (R765,000) donation.

So just what would the Dutch authorities – or the board members of MKI – have found out if they’d done their homework? Well, they certainly would have established that the man didn’t deserve a royal gong bestowed on him and that he certainly wasn’t fit to run a charitable institution.

Dutch journalist Anne Boer published a scathing article in the Neth-



Albert Schweitzer (above) was a physician, philosopher, missionary, writer and musician. In 1952 he won the Nobel Peace Prize for his medical missionary work in West Africa. He died in Gabon in 1965.

One of Robles’s stories is that his interest in Schweitzer’s work (and no doubt his ability to acquire Schweitzer memorabilia) was born because he worked with the great man for 13 years.

This seems highly unlikely, as Robles was born in 1948, which means he would have been working by the age of four.

of “intermingling”, although, where Robles would have acquired these things, is also a mystery (see box).

As for the divorce, it is not clear whether it was linked to the fact that Robles was also facing claims of sexual harassment involving a teenage female student at Choate Rosemary Hall – a report at the time in a publication, *Record-Journal*, (in Meriden, Connecticut) described the event coyly as follows: “There were expressions of affections that bothered her.”

The US publication described Robles’s shenanigans as “the latest in a series of problems that have tainted the institute named after one of the world’s most noble men”. But it also seemed to acknowledge that Robles, a schmoozer par excellence, had made his mark: “With his ebullience and Schweitzer’s name, Robles drew many international figures to Choate, including Mikhail Gorbachev, Jane Goodall and Archbishop Desmond Tutu.”

Background checks would also have

Robles was fired from the Albert Schweitzer Institute

erlands on Robles in September last year. In her words, Robles “lived like a king on money intended for the poor”.

Despite the fact that Robles is not the President Emeritus of the Albert Schweitzer Institute – which teaches the philosophies of Schweitzer and sponsors community-service projects around the world – he does seem to have been involved in its formation in 1984.

Robles, who lived in the US for many years, was fired from the Albert Schweitzer Institute in 1999, because money had gone astray, including \$28,000 that was used to pay off his home loan. The institute sued, and Robles did a runner to the Netherlands.

Although Robles did not defend the action, he let it be known his defence was that he had been authorised by the board to take the money for himself because he didn’t earn very much, and because he needed to build an extension to his house so that he could entertain potential funders.

He sent a haughty response to the institute’s attorney: “I had planned to write a lengthy statement after I was

served with your papers, but I decided not to step down to your level from where these accusations came from.”

Robles was ordered to repay the institute \$110,000. The court also ordered that a collection of Schweitzer memorabilia – journals, papers, and a wooden organ – be sold to pay not only the institute, but also Robles’ wife, Ruth D’Agostino Robles, who was suing for divorce. The memorabilia, valued at \$200,000, was bought by the Quinnipiac University for \$135,000. The university had, in fact, housed the Albert Schweitzer Institute for a few years before Robles moved it to a private school, Choate Rosemary Hall.

Even the sale of memorabilia was not without controversy. There are claims that Robles made off with 68 black-and-white sketches of Schweitzer drawn by Frederick Franck, a dentist who had worked with Schweitzer in the Gabon village of Lambarene – and which were valued at \$50,000.

On the other hand, Robles claims that much of the collection came from him, and even the institute seems to admit that there was a certain amount

revealed that this wasn’t Robles’s first mishap in the USA. In 1987 Robles was forced to leave his post with a local Red Cross chapter (Wallingford Meriden Chapter) for a similar incident. At the time a local newspaper said Robles “was under pressure from its board to rectify some chapter financial problems”.

A final thought: while Robles, a low rogue, seems very welcome in South Africa, the Dalai Lama, another friend of Tutu and a man of the highest moral standing, will be unable to attend the 14th Summit of Peace Laureates that Tutu is hosting in Cape Town – an event that will presumably also honour the memories of deceased laureates like Albert Schweitzer. Funny old country, isn’t it!

Asked for comment, Tutu’s media person, Roger Friedman of Oryx Media, responded: “Archbishop Tutu said he believed the matters raised are under investigation in the Netherlands. The Archbishop said he had never received anything from Harold E Robles. He would be grateful for the truth of the matter to emerge.” ■

Malawi's Finance Ministry Budget Director Paul Mphwiyo, who survived a murder attempt in September 2013

Cashgate crisis. Steps being taken to protect big fish

THE FIRST CONVICTION IN MALAWI'S Cashgate case has set the tone for the rest of the trial; senior politicians on all sides may find themselves implicated. On 28 August former Principal Secretary for the Ministry of Tourism, Wildlife and Culture, Treasurer Namathanga-Senzani pleaded guilty to theft of public funds and agreed that she would return K63 million (R1.7m) to the exchequer.

The shooting of Finance Ministry Budget Director Paul Mphwiyo last October led to the uncovering of the theft of K13 billion (R362m) in public money by civil servants and politicians in Malawi's gravest political crisis since multi-party democracy began. The theft was carried out by submitting inflated invoices or bills for non-existent services. Once the cheques were paid, records of the outgoing payments were deleted from government accounts. The guilty plea sent shock-waves through Lilongwe as the realisation dawned that Senzani had been promised a lenient sentence in return for naming names.

[She was due to be sentenced shortly after this issue of *Noseweek* went to press.]

According to the British government-funded forensic audit by accountants Baker Tilly, leaked in February, eight to 10 government departments were involved in the fraud. The company examined a sample of records and 11 government bank accounts. It has full details of the companies which defrauded the government, and the signatories and beneficiaries of the government cheques.

Baker Tilly examined records covering



The report on these pages is from UK-based **Africa Confidential** (www.africa-confidential.com), the authoritative fortnightly bulletin on Africa.

April to September 2013 finding frauds worth K6.1bn (R164m), and indications of more, before and after the period under examination. The company provided names of all the implicated parties to law enforcement agencies. Police arrested about 70 people.

During the general election campaign the Democratic Progressive Party had called for the names of those implicated to be revealed. Although the DPP's President Peter Mutharika has been in power now for over three months, this pledge has not been honoured and it now seems unlikely to be.

A prosecuting lawyer who requested anonymity told *Africa Confidential*, "Senzani was given a carrot after her

former chief, Tourism Officer Leonard Kalonga – also accused of siphoning billions of kwacha – as well as Michael Mphatso and George Banda refused to be witnesses in another case against Wyson Zinyemba Soko, a businessman accused of receiving K40m from the ministry. Senzani, will be paraded as a witness and will also point out the big fish who were beneficiaries of the loot."

The lawyer suggested that because of her seniority in the ministry, Senzani knew precisely how the system worked and where the money ended up. Senzani repaid the K63m by surrendering her home in Lilongwe, valued at K61m, and paying K2m in cash.

A member of the Parliamentary Public Accounts Committee told *Africa Confidential* that its report on the affair will reveal the full scale of the involvement of all the three major political parties: the governing Democratic Progressive Party, ex-President Joyce Banda's People's Party and the Malawi Congress Party. The scandal is also believed to involve individuals at the highest levels of the judiciary and the military, as well as bankers, lawyers and religious leaders.

The biggest name to emerge so far in the scandal is that of former Justice Minister Ralph Kasambara, who is accused of the attempted murder of Mphwiyo. Mphwiyo has claimed that the former Minister of Information under President Joyce Banda, Brown Mpinganjira and Lands Minister Henry Phoya tried to intimidate him.

Last November Oswald Lutepo, former Director of Logistics for the PP and one

Notes & Updates

Hustlers and rustlers

WHEN NOSEWEEK LAST SPOKE TO KWAZULU-NATAL DAIRY farmer BRUCE Taynton ("Cowboy takes cattlemen for a ride", nose168), in October 2013, he was hopeful that the 215 cows he'd leased to fellow farmer Cornelius Andries Petrus Loggenberg – "Klein Cor" or "Cap" for short – would be returned or compensated for.

Loggenberg, who farmed near Parys in the Free State, had leased thousands of cows from trusting farmers ostensibly for dairy purposes, which is quite legitimate, but had immediately sold them on – which is not. Taynton and other victims were particularly upset because the broker who negotiated the deals with them had known that Loggenberg was being investigated for similar deals in the Free State.

So what's happened since then? "The guy acting for us with the liquidators says that they've sold two of Cor's farms but we have to wait for the distribution. We are preferential creditors but it seems that we're not as preferential as we thought. We found and retrieved about 45 of our 215 head of cattle early on but then had to pay the liquidators R45,000 – 10% of their value. We haven't received a cent for the other 170-or-so yet.

"The wheels of justice are definitely grinding particularly slow and have so far achieved nothing. One thing has changed, though: the farmers around here are much more circumspect about working through brokers."

The end of the Rhodes

WHEN NIGEL OWLES LOST HIS RHODES HOTEL TO smooth-talking Pieter van Wyk in 2009 (nose163 et al) and had to move into a borrowed caravan because he was not paid, he believed that justice would be done eventually. Sadly, that has not been the case. He's back in the plundered hotel, but cannot trade because the villain built up massive unpaid service charges in his name and Owles can't afford to kick-start the whole shebang again.

"The criminal charges sat on the local cops' desks for a year and then they came back and said they can't do anything because it's a civil matter. He hijacked everything. He's finally fucking off to the Cape at the end of this

month so he'll at least be out of my hair. I'm negotiating to just about give this place away because I've had enough."

After five years and countless court cases Owles has lost all faith in the justice system.

"The police are useless, the justice system is useless, no matter where you go. I've lost interest, to the point that I don't care anymore.

He's now taking me to court for what he says he spent on the place, but the money he owed me for rental (after the deal collapsed) far surpasses that.

"It's not logical but he goes ahead. Maybe the intelligent people can solve this one but I can't. Where's the sanity in all this shit?" ■

From previous page of its major funders, was arrested. He was reported to have taken large sums from the fraud. He claimed that senior PP figures warned him not to implicate then-President Banda in Cashgate, while they were happy for Kasambara to be implicated. Lutepo made the claim in defence to an accusation of perjury. Last October Lutepo was implicated in the affair after an Accounts Officer, Victor Sithole, was arrested with cash worth K115m and R122,400 in his car and at home, which he claimed belonged to Lutepo.

"You may expect to see many plea bargains after September 15 when Namathanga-Senzani will be sentenced. If she got a good deal, many of the 68 suspects will offer to refund and mention where they took the money to," said one of the defence lawyers.

Much speculation has surrounded the role of ex-President Banda and her Former deputy Khumbo Kachali, along with rumours that the current administration does not dare to implicate them in case they reveal what they know about DPP theft from government coffers during the rule of the late President Bingu wa Mutharika.

Some of the individuals, a member of parliament's Public Accounts Committee said, are "very powerful and can kill".

"If the government implicates Joyce Banda, I am sure the report that was presented to her and that contains all the names, will find its way to the media and that will damage the DPP. On the other hand, if she played tricks and leaked the report to damage the DPP, the government would retaliate and implicate the whole PP hierarchy. There is a big fish, who holds the chip between the two parties, and no truth will come out unless those going for plea bargains implicate both financiers of the PP and the DPP equally," said one PP senior official.

Yet even if the DPP and PP agree to close ranks for the sake of mutual protection, they still face the problem that the British government paid for the Baker Tilly audit and thus knows who has been implicated.

Britain and the other donors, who together fund 40% of the Malawian budget, may not agree to the big fish getting off. Britain suspended the budget support funds in November. The entire political class in Malawi remains in a state of high anxiety, political sources in Lilongwe report. ■



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Cardinal errors. Truckers 'deeply insulted' by cleric's remark

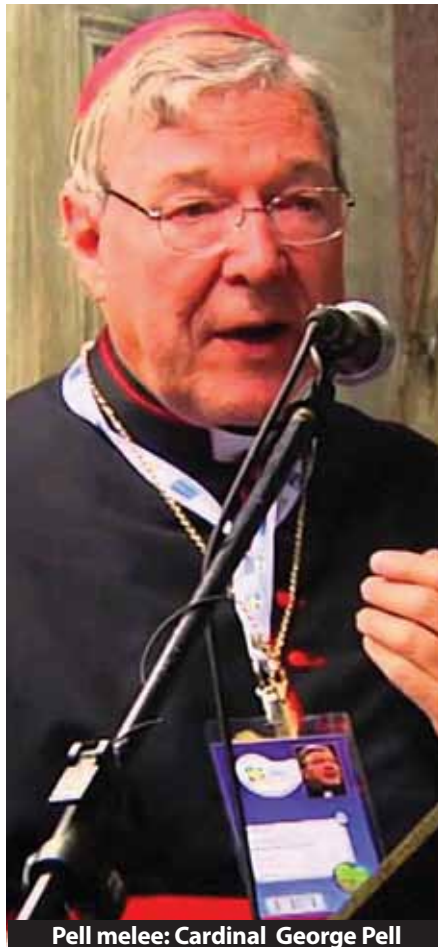
THE INAPPROPRIATENESS AWARD FOR August must go to Cardinal George Pell. Testifying to the Royal Commission into Institutional Responses to Child Sexual Abuse, the former Archbishop of Sydney said: "If a truck driver picks up some lady and then molests her, I don't think it's appropriate, because it is contrary to the policy, for the ownership, the leadership of that company, to be held responsible... Similarly with the church and the head of any other organisation..."

The commission was set up last year, following revelations that abusers were being moved from place to place instead of having their crimes reported. The Catholic Church is most under the gun, but also under scrutiny have been the YMCA NSW, Scouts Australia and the Salvation Army.

Nicky Davis, from the Survivors Network of Those Abused by Priests, said the audience was "open-mouthed in shock". The Trucking Association, too, wasn't happy, calling the cardinal's analogy a "deep insult" to 170,000 truck drivers and their families.

In second place was madcap billionaire MP Clive Palmer, who on live television called Chinese people "mongrels" who "shoot their own people" and "bastards" who "haven't got a justice system" and "want to take over this country". He'd been having a dispute with state-owned Chinese investment giant CITIC Pacific. China is Australia's largest trading partner. Under pressure from all and sundry, Palmer apologised eight days later.

Treasurer Joe Hockey, too, was forced to eat his words in August. Arguing against Labor and the Greens who'd said rich and middle-income families should pay more to balance the budget, he said proposed increases to the fuel excise would achieve exactly that: "The poorest people either



Pell melee: Cardinal George Pell

don't have cars or actually don't drive very far in many cases." After two days of trying to defend himself, Hockey apologised for his "insensitive" and "hurtful" comments.

Also hard to believe was what came out of the mouth of the leader of the government in the upper house, Eric Abetz, when he cited studies since the 1950s that "assert there is a link between abortion and breast cancer". The Medical Association said his comments were irresponsible, and Prime Minister Tony Abbott again stepped in

saying: "I think he's a little sheepish about it. I don't think you'll find that kind of thing being said again."

A popular city coffee shop closed down after its Chinese owner told a barista applying for a job that his white customers would not like black people making their coffees. The outraged barista relayed the insult to the whole restaurant, which happened to have in it a newspaper editor and some journalists. Everyone walked out. The restaurant was boycotted, flour-bombed and is shut. The barista has found a job.

When Abbott's top business advisor Maurice Newman said the world should prepare for global cooling, a scientist he quoted said the quote was a "sly misrepresentation" and the claim, "scientifically ludicrous". Newman is opposed to the Renewable Energy Target scheme integral to the success of a \$20 billion renewable energy industry. So it came as no surprise in August that the government's hand-picked expert panel, chaired by climate-change sceptic Dick Warburton, recommended the scheme be wound back.

Finally, there's "forced removals", NSW style: the state government has begun selling off 293 heritage-listed houses and almost 600 public housing tenants, many elderly who have lived there all their lives, are being evicted for the sales programme, which has been dubbed "social cleansing". The houses, in a desirable part of Sydney, are going for upwards of \$1.9 million (R19m) each. An environmental officer serving notice for illegal land clearing on a property in northern NSW was shot in the back and died, allegedly at the hands of a 79-year-old farmer. His family said he was an accomplished pianist who enjoyed home-brewing beer. Good news was particularly hard to come by. Perhaps next month. ■



Aargh! Don't rain on my parade

I SOMETIMES HATE THE RAINY SEASON IN this here Mzansi – yes, even as a supposed emerging farmer – all because it makes a muddy mess of my farm access road. But I was full of *joie de vivre* before it was bloody rained on. And I do not mean the English, or British use of the word bloody, but rather the real thing, the red stuff that flows through our bodies. In actuality, it's not red when in the body, it becomes so when it comes into contact with oxygen. See, I know my biology.

Anyway, my month of June started out like a charm with a pleasant, light spring rain – which of course I do not hate. First, I nailed a fantastic scoop when one of my sources let me in on the fact that a fraudster had been dismissed finally by our Mpumalanga

and man it feels good..." However a challenge lay ahead. Just up the road from the printers, I had business to deal with at everyone's favourite government institution (excepting Julius Malema). Yes, you got it, SARS.

I needed a tax clearance certificate for my beloved BMD Media, the holding company for my *Guardian*. Without it, there can be no government advertising for the *Guardian*. I was convinced these heartless government "agents" would Malema my black ass. I also feared the inevitable torture of having to stand in line for hours.

And what do you know? My sunshine kept me aloft, even at this hell-on-earth government institution. I waited for no more than an hour and, to my surprise, my tax clearance was

sleepy eyes and my feeling-good, nicely-tipsy body, I confronted two of Mzansi's law-abiding citizens helping themselves – not only to my computers, but also, all my groceries, including everything from the fridge. The office is my second home.

Normally in a situation like that one would be wise to back off and plead for your life. No way! I was not having it. I had had enough of being robbed. Call it beer muscles or stupidity but I took them on, I screamed "No way – you are not taking my stuff! Get the f*** out..." A tussle ensued. I fought while yelling for our complex's security guard, who is usually asleep on the other side in one of the panel beater's cars.

Well, I succeeded and they ran like the wild dogs they are. I promptly used a knife to secure the door they had forced after breaking the lock, which by the way is on the inside. How did they do that?

Eventually I went back to sleep. When I woke up in the morning I had a gash on my left arm that was as wide as the river Nile, an obvious defensive wound. Blood was everywhere. My goods were left behind wrapped in cloth. Looking at their cloth packages, these guys were cleaning me out.

Should I have taken such a dangerous and risky chance or just stayed under the covers and played sleep? No way, beer muscles or not, I am glad I fought to protect my property because the barbarians of Mzansi have proven that they are extremely violent and could have stabbed me, just probably for the pleasure of it while I played sleep. How many stories have you heard about such senseless murders during break-ins?

I am also very glad I lived to tell about it.

Have I lost my faith in Mzansi?

Hell no, not as long as we have an efficient SARS that can nail the Malemas and be surprised by a government department firing an idiot of a fraudster. Agh, there is a lot of hope for Mzansi. ■

Beer muscles or not, I'm glad I fought to protect my property

Department of Public Works – none other than that "idiot fraudster" I have already written about – how he built a multi-million-rand mansion on a salary of around R9,000 a month.

What made this story a scoop was that the decision to dismiss him was made on a Thursday following a disciplinary hearing and I was publishing the next day. So, by getting the info that night, it meant my mighty *Umjindi Guardian* would announce his dismissal even before he was officially informed. Now that is an editor's dream: hit them before they know it, the slimy, arrogant, thieving, nation-destroying bastards.

That Friday morning, after delivering my latest edition to the printer, I had a lilt in my step and found myself singing: "I'm walking on sunshine

approved without question – or any late-administration fines. I walked out humming *Nkosi Sikale!*. I think it's the first time I ever sang Mzansi's national anthem. Yes I was on cloud nine, winning, and I'd seized the day.

Needless to say the edition was a hit and I was looking forward to some handsome government advertising. Man I was chilling like Bob Dylan.

But of course, this is still Mzansi and three weeks later I would experience a bloody Mzansi nightmare. I got to my office at roughly 9:30pm, nice and tipsy. Had my two cups of green tea to help me detox overnight and went to what I thought would be a lovely well-deserved sleep.

It was not to be. Around midnight I heard a rumbling in the office and when I went to investigate, with my



Vitamin B. Shot in the dark

SUPPOSE IT HAS TO HAPPEN: IF YOU'RE a junior teen in an all-boys school and your name is Bettleham, you'll be called Loonybin. But this was a lad of robust physique and intellect, armed against any insult with a robust sense of humour too; his mother, who was German and loved Shakespearean metaphor, used to say the slings and arrows of outrageous fortune slid off him like rainwater off a dog's back.

Loonybin's father, now, he was a veterinary surgeon of great repute in Mooi River se wêreld. Not actually in the village itself, that is, because he wasn't that sort of vet who fixes pusscats and peoples' puppies, but a specialist horse-doctor in a very horse-loving part of Natal. Why, he could even fix a broken horse-leg, which normally spells doom for the poor patient.

He had a small farm just out of town, you see, and there had set up a little hospital with cosy hay-filled stalls and overhead slings and things to take the weight off horses' hooves, also a full-on operating theatre with an assistant nurse. And during school holidays Loonybin was allowed to act as theatre assistant, his special duty being to give the anaesthetised patient a good post-op shot of vitamin B with a hypo-syringe the size of a bicycle pump. You know, for a feeling of well-being. When I'm grown up I will be a vet, said Loonybin.

And one holiday he invites me to come along with him to the farm. Lovely. He has some fishing tackle there and I was ever an angler. Also there's a farm lad of about our age called Xolani who prefers to be called Mr X because it suggests mysteri-

ous power and all sorts of wisdom, amongst which he knows how to catch barbel and cook them with phutu.

First morning and WE'RE OFF! to the river down the boundary of the farm. Mr X has saved the remains of his last night's dinner, horrid bits of meat with a curry aroma; curry is



what barbel fancy, says he, along with mulberries fallen from those wild trees dangling over the water. He instructs us how to cast our bait gently 'neath these trees so all looks quiet and natural. He understands Nature and the sensibilities of fish. So here we are, then, on the bonny bonny banks of Mooi River; furtively we move about so the fish don't see our looming shadows, and there we furtively mould this mystical mix of barbel bait on our size 5/0 fish hooks.

Mr X demos the skill of quiet natural casting, but we're so quiet and natural that, as ol' Loonybin gets ready to do his thing, a hadeda quietly and naturally lands and takes his baited hook off the ground, gets it stuck in its beak and falls to flailing about in the reeds there. O piteous! The poor creature is all tangled up in fishing line, it can't flap its wings any more, it can only kick about with its great big feet.

Step aside! says Mr X in isi-Zulu, gently creeps up on the hadeda so as not to cause panic and tucks its body under his arm as he sets to cutting loose the hook from the line with the bait knife. Now he's got to pull the hook not backwards from the poor creature's beak, because of the barb at the point, see, but right through forwards. And that's only the beginning. Next he's got to disentangle the great mess of feathers, bones and fishing line that the hadeda has become. This is a sure case of trauma. Poor creature! Loonybin exclaims, we must detraumatise it and give it a sense of well-being, and he's off to Dad's surgery for a bit of the vit B.

Disentanglement is no quick thing. As Loonybin returns from the surgery Mr X is smoothing down the feathers of the unhappy hadeda. Loonybin plunges the hypodermic into the luckless bird which instantly becomes detraumatised.

You silly bugger, says Mr X in isi-Zulu, you have killed it. No I haven't, says Loonybin, it's sedated. But Mr X is off to his mum's kitchen, whence he presently emerges with a bundle of chopped wattle wood and a box of matches. Bimeby we sit silently round the fire and pick our teeth with stalks of grass. And after quite a bit of' Loonybin says I think when I'm grown up I will be an airline pilot. ■

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