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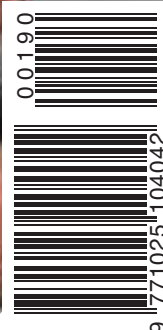
## **South Africa's Mata Hari**

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190 AUGUST 2015



# NEW ON THE SHELVES

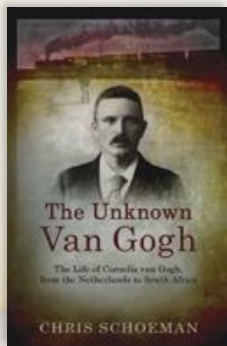
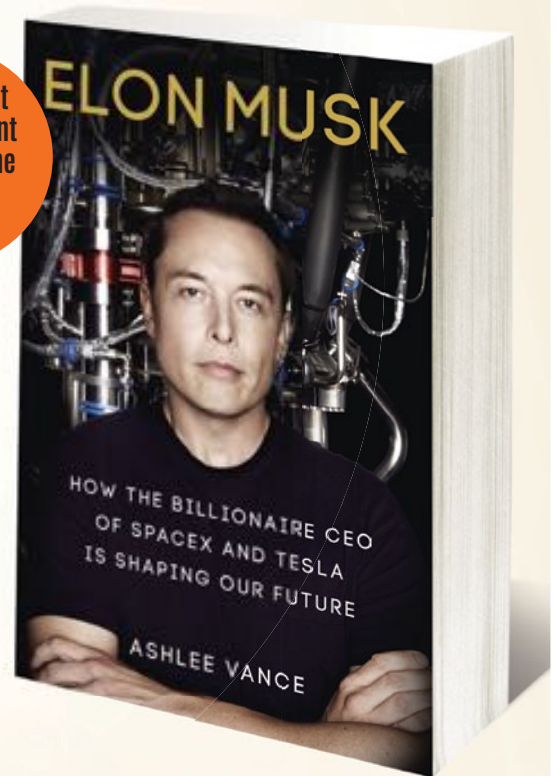
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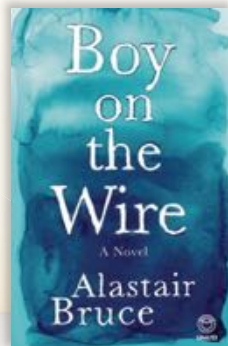
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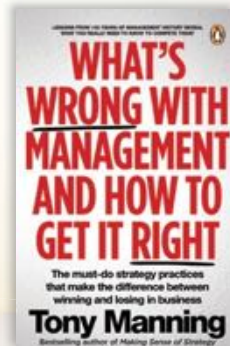
The biography of Cornelis van Gogh, Vincent's younger brother, who came to South Africa in the late nineteenth century, worked as an engineer on the gold mines and on the railways, and fought in the Boer War, suffering a fate that echoed his famous brother's tragic end.



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## BREAKDOWN!



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# Letters

## Bribery comes before a fall

YOUR JULY EDITORIAL (*nose189*) IS A reminder that bribery by any other name is blatant theft. The consensual agreement between individuals, up or down the rungs of the corporate ladder, to defraud any entity (public or private), will be that organisation's/state's death-knell.

Bribery negates quality, expertise, innovation and incentive – the cornerstones that uphold competition aka free enterprise. The practice stifles SMMEs and strips any economy of the promise of new growth and, of course, better products (or employees). Practise bribery and face the destruction of an economy; turn a blind eye and witness the fall of a nation.

**Soma Wallett**  
Mbombela, Mpumalanga.

## Praise for Sue Segar

ANOTHER GREAT COVER ARTICLE BY contributor Sue Segar on Imtiaz Sooliman (*nose189*) following on from the

(*nose188*) article on Mmusi Maimane.

Is the sudden disappearance of columnists Bheki Mashile and Harold Strachan permanent or temporary? If the former, both will be missed.

**Martin Birtwhistle**  
Durban

*Thanks for the compliments. Both Bheki and Harold are back. Nice to know that they were missed – by many! – Ed.*

## Sooliman, wives and the president

I AM AN INTELLIGENT WOMAN AND THERE are many like me who do not believe men should have more than one wife. The Gift of the Givers has given himself two wives. I found Imtiaz's comments on the subject a bit glib, far too casual. This has changed my opinion of him.

Also, how can he be proud that he can tell the president of this country that they "meet another time"? Shame on you Imtiaz!

**Sheny Medani,**  
Johannesburg

## Cold (on) Turkey, thanks to Defy

I NEEDED A NEW DISHWASHER AND, AFTER over 40 years of satisfactory service with never a guarantee claim from Defy products, I was happy to support a local Durban manufacturer.

Imagine my surprise on delivery to discover it was made in Turkey. It did not survive the guarantee period. Over the course of some five months, two visits from a technician and twice being taken away for several weeks at a time, they eventually agreed to replace the machine.

That was just about tolerable but during this period it was almost impossible to contact the service department. I had the same problem as Jaron Tobias (*nose189*) – when you pressed the suggested button or went through the reception you were cut off. I eventually had to drive to the service department and establish names and email addresses to be able to communicate.

The staff were all helpful but apparently the months-long snafu on the phones was a management problem and the company was now Turkish-owned and that is why Jaron Tobias was told they were not available as they were overseas.

**Scott McGregor**  
Westville

## Internet and age of narcissism

NOT BEFORE TIME, THE QUESTION OF THE comment facility for news reports on the internet has been raised (Editorial, *nose188*). There is a general perception that the ability to respond online to media content, together with social networking in general, has enhanced democracy and broadened debate. This is a total fallacy.

Even in quality newspapers much comment is total drivel and contributes nothing to political discourse or common understanding. What was previously restricted to dinner table or public-bar chatter is now dignified by global broadcast. Sometimes, inexplicably, it even becomes the

Gus



*"Ek soek werk."*



**A bride too far...** Sooliman, wives and the president

news itself. Such comment generally reveals the nature of our age: narcissistic, egotistic and trivial, with frequent excursions into ignorance, racism and ill-mannered rants.

**Christopher Merrett**  
Pietermaritzburg

## Eskom's missing ingredients

THE MOST POPULAR CONVERSATION TOPIC in South Africa today is Eskom. Once well ahead in the game, Eskom is now lame and incapable of providing sufficient electricity. *Noseweek* has suggested renewable energy sources might help.

Let the numbers do the talking: solar power does not work at night

when we want to turn our lights on. Assuming the peak demand in the evenings is to be supported using batteries, it would require a 6,000MW battery resource.

Back in the late 1980s, Southern California Edison took possession of the world's biggest battery (a *Guinness* record). It was used to store electricity during off-peak hours and to feed electricity back into the grid during peak hours. The battery consisted of eight rows of modified submarine battery cells, 1,032 cells per row, a total of 8,256 cells. It covered an area equal to a large supermarket.

Eskom would need 600 batteries of equal size. Solar power needs 10 acres

of panels per megawatt. To supply the peak load, it would require 60,000 acres of solar panels, all to be kept in good running condition. Forget it.

What Eskom needs are men at the helm with balls and brains.

**John Fetter**  
Bryanston

*You're way out of date. Compared to the monster batteries of the 1980s that you describe, current batteries are a fraction the size and produce 1,000% more power for way longer. As for panel space, there are thousands of acres of suburban rooftops available, and each householder will be responsible for maintaining his own – and well-motivated to do so. I can already hear my sons being asked: Daddy did you really have something called Eskom when you were a kid? What did it do? – Ed.*

## The vulgar truth

HAROLD STRACHAN'S RUMINATIONS UPON Darwinian extinction and invasion (*nose187*) reminded me of another north-European who wrote on the same subject with startling clarity and devastating wit. Twenty-five years after Darwin published *The Origin of Species*, Friedrich Nietzsche asked: "What? Does that, to speak vulgarly, not mean: God is refuted but the devil is not? ...And who the devil compels you to speak vulgarly?!"

**Steve Pain**  
Riversdale



*"I forget – are these your friends where we pretend we make more than we actually do, or less?"*

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## The Sunday Times gets played – again

**O**UR COVER STORY REVEALS HOW, ONCE again, the *Sunday Times* has allowed itself to be “played”, blackmailed and even bribed into publishing a pseudo exposé supposedly researched by its star investigative team. The dust has yet to settle on its now generally discredited Cato Manor “death squad” exposés, but that has not inhibited the paper launching another – this time aimed at getting rid of the top management of the SA Revenue Service (SARS).

On closer examination, the newspaper’s series of articles on an alleged “rogue” spy unit at SARS emerge as shabby propaganda designed to provide justification for a corrupt government to fire senior staff who might have enough independence to pose a threat, and

to replace them with compliant cronies.

On Monday 11 August last year, a day after the *Sunday Times* “exposé”, newly appointed SARS commissioner Tom Moyane suspended his entire executive committee. He is quoted as saying in justification: “These [*Sunday Times*] stories and the allegations they contain bring SARS into extreme disrepute... I met the minister of finance on Sunday. We agreed that the current climate cannot be allowed to continue.”

Was he reading from the Cato Manor script?

SARS officials immediately started preparing a line-by-line rebuttal of the articles, but Moyane stopped them with the following text message to SARS company secretary Dr Giorgio Radesich: “Why are you conspiring against the Commissioner?”

**The Editor**

## What’s up at Labat?

**F**OR YEARS, LABAT-AFRICA’S LISTED STOCK PRICE bumped along at about 10 cents per share (cps). A year ago, it started issuing one of many cautionary notices to investors of its intention to make an acquisition.

Set up with funds by US black controlled consultancy Labat-Anderson Inc, Labat-Africa once had (unrealised) dreams of making semiconductors, and of being a bigwig in rail and pharmaceuticals. It also hoped to win the tender for Limpopo’s multi-billion-rand pension payouts contract but lost to what it alleged were corrupt competitors (see *noses*50,55&60). For a long while it has essentially been a dormant cash shell.

But, on 27 April this year, Labat’s stock price started running. Really running. Within a month, it was up at 85 cps (levels last seen five years ago) and on 12 June, it was changing hands at around 123 cps. Within two months, the stock price had increased more than 1,000%. It was also on 12 June that Labat announced the proposed acquisition of the Reinhardt Transport Group (RTG), to be funded by R325 million in debt, and R360m in cash, raised by a fresh issue of shares. In investment parlance, this “reverse listing” is where a languishing entity, such as Labat, is used as a vehicle to list a new asset.

Questions that hinge around Labat’s soaring stock price just weeks ahead of a major announcement are: Who knew what? How many millions were made? As to the future, if the new Labat phenomenon continues, no doubt in a few years, Labat will have taken over anything that moves.

Stock exchanges – in this case, the JSE (on behalf of the FSB) – notoriously ignore these situations. Stock markets are ultimate gambling dens, adorned with veneers of respectability and class.

But securities markets do have some traditions.

In “normalised” capital-raising exercises, listed companies normally offer fresh share issues at a discount to recently-prevailing prices. In Labat’s case, new shares are being offered at 150cps – a massive 1,500% premium.

Brian van Rooyen, Labat CEO (and one-time president of the SA Rugby Football Union where he was accused of “corrupt practices” (see *nose*71), is not keen to discuss any of these issues.

Labat’s Annual Report to 28 February 2014 informed that “GEM, an alternative US\$3.4bn investment group... has confirmed that equity funding of up to \$100m for suitable investments is still available to Labat in order to fund future acquisitions and suitable transactions”.

This facility was recently “extended” – again. It’s no secret that private equity funds employ the nimblest and sharpest brains. But no private equity fund offers open-ended carte blanche tickets, especially not to the likes of Labat, whose operations lost R8.6m during the 2014 financial year.

What is GEM, really? Does it have an address, number, and why are there no quotes from its principal investment manager? The US\$100m apparently available from GEM is now worth more than R1bn. If such a significant amount of cash/capital was made available to Labat so long ago, why was Van Rooyen in Cape Town in mid-July this year, selling the RTG acquisition to South African fund managers, in his wish for Labat to issue 250 million new shares? Why is RTG being listed, if it is so valuable?

One thing is for sure: investors and speculators who bought Labat shares at 10cps have made a killing. It could be, who knows, that the new Labat has managed to secure transport contracts from the non-private sector. If so, this could be another version of tenderpreneurship.

**Barry Sergeant**



# Absa fails sums test

**A**BSA CLAIMS THAT INCREASES IN ITS monthly service fees for home loan agreements, after remaining “unchanged” for years, are now only increased in line with inflation. Both claims were blatant lies, a client with the mathematical skills needed to do the calculations has discovered.

Last year Absa’s head of home loans, Carel Gronum, sent clients a letter in which he claimed that, historically, the monthly service and administration fees on Absa’s home loan accounts had remained unchanged since the commencement of these agreements.

“The cost of these agreements to Absa has, however, not remained unchanged and has increased in line with inflation on a yearly basis. The [current] increase in fees takes into account the increase in costs to administer these historic agreements,” he said.

When Henning Wertz of Pinelands took out his home loan in April 2004 his monthly service fee was R5.70. Taking Absa at its word, and using annual inflation rates over the past decade, he calcu-

lated that, by 2014, to keep up with inflation, the fee on his account should have increased by just over 96% to R11.19.

But, by the beginning of last year, his “unchanged” monthly fee had in fact already soared to R34.20. And in April 2014, when he received Gronum’s lying letter, it was “revised” up another 16.66%, to R39.90 (when the inflation rate – CPI – for the year to December 2013 was just 5.30%).

Far from Wertz’s calculated 96% inflation – and contrary to Absa’s claim, the bank’s service fees had increased by 600% over the 10-year period.

Absa went on to assure its clients: “The revised fees fall within the guidelines of the National Credit Act.” Big deal.

This year Wertz has seen another big fee hike of 14.29% to R45.60 (when inflation to December 2014 inflation was just 5.32%).

“These annual increases are not in line with the annual inflation at all,” says Wertz. “And far from not keeping up with inflation they have consistently exceeded the inflation rate by a huge margin. Absa clients are being taken for a ride.



“Apply these increases to millions of home loan accounts and one begins to understand how simple it is for Absa to generate ‘extra’ income – simply increase monthly fees by 500% more than inflation over ten years on millions of accounts!”

Absa’s income to December 2014 was R44.3 billion. ■



Stent

# SEX, DRUGS, LIES AND BLACKMAIL

How spy seduced SARS, the tobacco industry and the Sunday Times. By the Noseweek Investigations Team



IT WAS A BOMB OF A STORY: A BLONDE Pretoria lawyer confessing to *Sunday Times* journalist Malcolm Rees that she was an agent of the State Security Agency (SSA) and that her “handler” was then intelligence head Gibson Njenje.

Belinda Walter told Rees that she had not only sold information about her clients – mostly alleged tobacco smugglers and independent tobacco manufacturers – to the spy agency, but that she was a double agent: she had also spied for tobacco giant British American Tobacco (BAT) which in turn paid her a fortune for furnishing them with the confidential details of her other tobacco clients.

The double-crossing spy then went on to tell the journalist – who recorded the interview – that she had just ended a romantic relationship with SARS investigations head Johann van Loggerenberg, then one of the most powerful officials in the revenue service and investigating variously Julius Malema, Dave King, Christo Wiese, Glenn Agliotti, Radovan Krejcir and Lolly Jackson.

Van Loggerenberg was in fact investigating the very tobacco producers that Walter represented as a lawyer – while not only betraying their trust but also the ethics of the legal profession.

She told Rees that Van Loggerenberg and his colleagues in the SARS investigations unit were a law unto themselves: they tapped telephones and il-

legally spied on suspected tax evaders.

She also claimed that Van Loggerenberg had revealed confidential taxpayers’ details to her – a crime under the Tax Act.

This meeting took place in Norwood, Johannesburg on 1 February 2014. Walter’s relationship with Van Loggerenberg, she said, had gone sour the previous day after she discovered “certain personal messages” (said to involve other women) on Van Loggerenberg’s cellphone.

Walter presented herself as a woman scorned and wanting revenge. Thus fired up, the SSA spy was about to trigger the destruction of the entire top leadership of the South African Revenue Service. First she summoned her clients, alleged tobacco smugglers Adriano Mazzotti and Mohammadh Sayed, both executives of “independent” tobacco manufacturer Carnilinx, which was under investigation by Van Loggerenberg’s unit. The Carnilinx men suggested she summon Rees from the *Sunday Times* to hear her story. She had got to know Rees at a tobacco conference and, according to Walter, her clients had also established a relationship with Rees.

Walter not only told Rees her story; in her tobacco clients’ presence, she also handed him documents that supported elements of the story.

A second meeting took place later that day in the office of Johannesburg Senior Counsel Nazeer Cassim, appar-

ently at the request of the Carnilinx directors – with all the same parties present.

The plan was for the *Sunday Times* to publish her shocking revelations on Sunday, 9 February 2014.

(Details of these meetings are contained in a series of affidavits, made by – among others – the Carnilinx directors, in support of a high court application that they later brought against Walter and their competitor [and Walter’s other client] British American Tobacco. *Noseweek* has these affidavits.)

Van Loggerenberg was unaware of the meetings taking place between Walter, Rees and the Carnilinx directors and their plans to sink him in the *Sunday Times*.

However, the very next day, maybe overnight, Walter bethought herself. Perhaps she realised she was committing professional and commercial suicide by alienating all her clients – and as a result of the imminent media exposure – in all likelihood, ending her legal career and blowing her cover as a spy.

Her first step back from the precipice was to hurriedly kiss and make up with Van Loggerenberg. On 2 Feb-



ruary she sent him an sms that read: “I love you with all my heart. I feel so disgusted and disappointed in myself that not only did I betray you, but the types of things I said to those scumbags. You should hate me.”

And: “I want to sleep so that all these emotions of extreme guilt, remorse, regret and sadness don’t consume me.”

Walter also had to stop the *Sunday Times* from publishing the stories. In order to do that, she cunningly set out first to solicit pity (providing

the newspaper with an ostensible reason for dropping the story) and then, *Noseweek* can now reveal, she sealed the deal by blackmailing the *Sunday Times* (clearly the real reason for their dropping the story).

*Noseweek* is in possession of a series of extraordinary, even bizarre emails that Walter sent to *Sunday Times* business editor Rob Rose on 5 and 7 February last year. In them she says that

“between 31 January 2014 and 1 February 2014”, she had suffered severe “mental and psychological trauma”, presumably a reference to her fall-out with Van Loggerenberg.

She said this had caused her to have conversations with certain parties “which included Malcolm Rees”, who had recorded the meetings.

“I retract my utterances. Simply put, I was under severe emotional distress. Much of the content were [sic] untrue. Fact and fiction were interwoven to give credence to what I wanted to say.”

Walter added that she was receiving treatment to deal with the “mental and psychological trauma, stress and my state of mind which led me to such an extreme act of fear and desperation.”

Walter then warned Rose: “As you know, I do have knowledge of certain

interactions between the same company (her client, tobacco manufacturer Carnilinx) and Malcolm Rees and (*Business Times* journalist) Loni Prinsloo. I expressed my discomfort to you during our very first meeting.

“I also reported to you that offers of money had been made by this same company (Carnilinx) for financial benefit in the form of cash, holidays and cocaine to Malcolm Rees on a number of occasions. He admitted to this in your presence.

“I also told you that Loni Prinsloo received sportswear for her entire [roller derby] team [a sport founded in America which features competitors on roller skates trying to knock each other over], which was told to me was delivered to your offices and paid for by this same company (Carnilinx).”

The suggestion that the latter gift constituted an improper inducement offered to the journalist is supported by the fact that the kit did not bear the sponsor’s name and the donor did not require its sponsorship to be advertised.

Walter continued: “You know the origin of the original information given to Malcolm [Rees] and you also know, as I do, that there exists an understanding between Malcolm and the company that he will not report negatively on them.

“Loni originate [sic] from the same company [Carnilinx] and had the sole

intent of unfairly pushing the attention away from their own unlawful activities and onto those of competitors.”

Walter warned Rose that, should the *Sunday Times* plan to publish any detail of her relationship with Van Loggerenberg, she would apply to court for an urgent interdict stopping the newspaper from doing so.

“This unfortunately would have the counter-productive effect of forcing me to have to bring into the public domain that which I consider to be intimate and private and is precisely that which I would wish to interdict you from doing.”

It was not necessary for Walter to bring the interdict – the *Sunday Times* got the drift of the argument and undertook to shut their mouths and shelve the story.

Apparently unaware that *Noseweek* was in possession of his email correspondence with Walter, Rose emphatically denied all knowledge of *Sunday Times* reporters having received or having been offered bribes to report favourably on the controversial cigarette importer, when *Noseweek* asked him to respond to the allegation. He also denied that Walter had threatened him and the *Sunday Times* with exposure of these matters.

The *Sunday Times* made no attempt to publish the story until August last year, when Walter secretly launched her next torpedo: a confidential memo directed to SARS management in which she accused Van Loggerenberg of any number of offences. By then, the romance was finally over and Van Loggerenberg and various of his SARS colleagues were once again in the double agent’s sights for destruction. She regurgitated in her submission to SARS much of what she had told the *Sunday Times* five months earlier: that Van Loggerenberg was mentally ill, corrupt, a pathological liar and a sociopath “likened to a paedophile”.

It is uncertain whether she was acting as a wronged lover, or did she simply reckon the honey trap was ready to ensnare its victim?

If so, playing the wronged lover was a convenient cover to carry out the instructions of her SSA handlers. One way or the other it certainly suited the spy agency.

But, within no time, Walter learned that someone at SARS had leaked



**Unaware that  
Noseweek  
had his email  
correspondence  
with Walter,  
Rose denied all  
knowledge of  
Sunday Times  
reporters having  
received bribes**

Johann van Loggerenberg



news of her memo to *City Press* – and that that newspaper would, unlike the *Sunday Times*, not be sympathetic to her in their treatment of the story – and would identify her as an SSA spy. She learned all this when *City Press* approached her for comment prior to publication.

Instead of providing *City Press* with her comment, she rushed to her friend Malcolm Rees at the *Sunday Times*.

One would have thought that after the February fiasco the *Sunday Times* would be extremely circumspect in any further dealings with Walter. By her own account she was mentally unstable, untrustworthy and fuelled by malice. She was also undoubtedly a manipulative secret agent with no scruples, and accustomed to *Sunday Times* reporters being induced improperly to serve her clients' interests.

Instead the *Sunday Times* and Rees, Sanlam's Online Journalist of the Year, welcomed her back with open arms.

On 10 August *City Press* led with the story that Walter was an agent for the SSA and that the spy agency was intent on discrediting Van Loggerenberg and the top leadership of SARS.

On the same day the *Sunday Times* front-page story uncritically repeated Walter's earlier allegation that Van Loggerenberg had revealed taxpayers' confidential information to her. The newspaper said not a word about her being a self-confessed SSA spy and that she had admitted to having sold confidential client information to both the SSA and BAT.

They did happily publish her entirely unsubstantiated description of Van

Loggerenberg as an "apartheid spy" – although he was only 21 when the ANC was unbanned in February 1990 (and had, in fact, been employed doing criminal investigations only).

One would have thought that the *Sunday Times* would have kept journalist Malcolm Rees away from the story. Not so. It appeared under his byline.

In an editorial in the same edition, *Sunday Times* Editor Phylcia Oppelt felt compelled to do some explaining: she said that her newspaper had been approached previously by both Walter and Van Loggerenberg with the request that the story not be published as it exposed their private relationship.

Oppelt also referred to Walter's putting pressure on Rees to return documents she had "willingly given to us".

Said Oppelt: "Initially – and this is the reason we did not publish details of

Van Loggerenberg's relationship with Walter – the affair was private." But, asks, "Is this story in our readers' interest, given the significant space that SARS occupies in South Africa?"

"Yes, it is. That is why we publish the story today – not because we have been played," said Oppelt. As the saying goes, "the lady doth protest too much, methinks".

If it was in the public interest to publish the story on 10 August – as it undoubtedly was – what had made it less so six months earlier?

Had the *Sunday Times* perhaps in the interim done additional, independent research on the matter? Clearly not. In fact the entire purportedly factual content and drift of the *Sunday Times* story, as it appeared under Rees's name, was dictated, in an email to Rees, by Walter herself. ■

## Belinda dictates to Sunday Times

**P**RETORIA LAWYER AND SPY BELINDA Walter must have had an extraordinary hold over *Business Times* journalist Malcolm Rees. Not only was she able to dissuade the *Sunday Times* from publishing her sensational story in February last year, and then, five months later when it suited her, persuade them to publish it after all, at short notice; she managed to dictate the contents and drift of the story that appeared under senior reporter Rees's byline.

*City Press* had sent her a list of questions, inter alia wanting her response to allegations that she was an SSA spy and part of a state-sponsored campaign to discredit SARS investigations head Johann van Loggerenberg and a politically inspired plot to remove SARS's entire top structure.

Instead of answering the questions, she rushed to tell the *Sunday Times* that *City Press* was about to scoop them on her story. The *Sunday Times* was not about to let that happen. Throwing all caution to the wind, and with only days to go, the editors put *Business Times's* Rees back on the story.

Both newspapers carried the story on their front pages on 10 August but their versions were vastly different.

*Noseweek* is in possession of two

emails that refer to two meetings that took place on Friday, 8 August – two days before the *Sunday Times* published the first of their SARS stories. One meeting was between Rees and SARS's Van Loggerenberg; the other, between Walter and her handlers at the State Security Agency (SSA).

Walter knew that Rees had requested a meeting with Van Loggerenberg – presumably to get his side of the story – scheduled for 2pm at a restaurant.

An hour beforehand, Walter sent an email to Rees which can only be described as a "briefing document". When Rees left after the hour-long interview with Van Loggerenberg, he accidentally left a copy of Walter's email on the table. This is in *Noseweek's* possession. It is a devastating indictment of Rees's ethics as a journalist and exposes how the SSA agent manipulated – "played" – the *Sunday Times* journalist and his editors.

It is clear from the email that Walter knew that Rees was going to interview Van Loggerenberg. She told Rees what to ask him and how to deal with his answers – effectively controlling the story that was to appear on the front page of the *Sunday Times* under the headline "Love affair rocks SARS".

Walter said in her email: "Malcolm,



once you have [comment] from the other side, I will provide comment. The notes and affidavits set forth my version, to a large extent, but I would like to ensure that we exclude all and any other state initiatives.” She then listed several statements that Rees should put to Van Loggerenberg (who she referred to as JvL) for comment:

- “JvL made use of illegal interception to groom me prior to meeting me...

- “JvL lied to me about various persons and entities with whom I was associated and threatened and manipulated me into terminating mandates with clients and withdrawing as the chairperson of FITA (Fair-Trade Independent Tobacco Association);

- “Due to JvL’s extensive [electronic] interceptions, he did not require any client information [an indirect admission that he had not improperly asked her for client information or, in any event, a denial that she had given him such information]... but certainly appeared to be promoting criminal syndicate agendas by removing me as chairperson of FITA;

- “JvL repeatedly and without restraint disclosed confidential taxpayer information to me.”

Walter encouraged Rees to brand Van Loggerenberg as an apartheid spy and added: “You may also want to ask about JvL and the RS-programme. If he insisted on secrecy and his identity being kept secret in the [Jackie] Selebi case, why is his picture and name linked together all over his charity site and Facebook page? Why was he pulled out of the programme? How did he jump from sergeant in the SAPS to head of the TCEI (Tax and Customs Enforcement Investigations unit) at SARS?”

(The apartheid police, and more specifically the notorious Security Branch, had in the 1980s used the so-called RS-programme to recruit and train undercover agents to infiltrate liberation movements. The police continued to use the programme after the unbanning of the ANC in 1990 and the 1994 election in other areas of combating crime, mainly investigating organised crime syndicates.)

This is the email Rees left on the table after his meeting with Van Loggerenberg. He sheepishly phoned minutes later and asked whether he could collect it from the SARS executive.

Van Loggerenberg told Rees and



subsequently his *Business Times* editor Rob Rose, that he was never an apartheid agent. He told them he was employed to operate undercover for the SAPS organised crime intelligence unit from 1992 to 1999, mainly to investigate drug-related organised crime.

The *Sunday Times* ignored all his explanations and denials and repeated Walter’s allegations.

Belinda Walter was a busy person on 8 August. She also met her SSA handler and former lover Chris Burger, and a member of the SAPS’s crime intelligence unit, Lt-Col Hennie Nieman, at the Life Café in Waterkloof, Pretoria. It is not clear whether this meeting took place before or after she emailed her instructions to Rees.

It is also not known what she and her spy handlers discussed, but Walter refers to the meeting in an email to Brigadier Casper Jonker of the Hawks on 7 June this year. *Noseweek* has obtained a copy of the email. This meeting is significant because shortly after Van Loggerenberg and Walter became lovers, he discovered she was a spy and asked her to resign, which she said she had done. It was obviously a lie and it is clear from the letter that she remained in contact with her handlers – and that they were directing her while she was persuading the *Sunday Times* to run her story “un-influenced by other state agencies”.

*Noseweek* learnt that Van Loggerenberg laid eight separate complaints

with the Press Ombudsman against the *Sunday Times*, which he withdrew when he resigned in February this year. The withdrawal was a condition of SARS’s accepting his resignation. By that time, he had already been subjected to three internal investigations where he was not allowed to defend himself. (*Noseweek* will have a closer look at those in due course.)

Asked whether the *Sunday Times* still stood by its reports on the so-called “SARS rogue unit”, *Sunday Times* legal editor Susan Smuts, acting as spokesperson, initially dismissed our question as a “fishing expedition” but subsequently replied as follows:

“Our stories were confirmed

- by the Sikhakhane report.

- by a panel headed by Judge Kroon.

- by members of the rogue unit who confessed in sworn statements to the Hawks they had bugged NPA offices.

- by emails from the rogue unit to Hacking Team released by WikiLeaks.

- Our stories will no doubt also be confirmed when SARS releases the results of a KPMG investigation into the rogue unit.”

Her reply demonstrates how obstinately the *Sunday Times* has persisted in getting things wrong.

The next issue of *Noseweek* will deal in greater detail with those SARS investigations to which Smuts refers, but in the interim, some observations:

There have been four SARS investigations relating to the “rogue unit”. The first, by a panel headed by commercial lawyer Moeti Kanyane and two SARS executives was required to investigate





the original allegations made by Walter against Van Loggerenberg. It was “unable to conclude that the evidentiary material presented by Walter was credible or reliable” as the majority of her allegations were unsubstantiated.

The brief of the second panel, headed by Advocate Muzi Sikhakhane, was to investigate whether any SARS officials had broken the law, including by alleged illegal interception and monitoring of communications. Most of Sikhakhane’s findings were based on prima facie (superficial, untested) evidence, and he recommended that the Inspector General of Intelligence, or a judicial commission, investigate whether a covert or rogue unit operated within SARS. He was critical of Van Loggerenberg, but, again, based this mostly on prima facie, evidence. Sikhakhane was later criticised in the labour court for failing to make findings of fact.

The third probe, the so-called Kroon Advisory Committee, headed by retired Judge Frank Kroon (with, as one of its members, Adv Rudolf Mastenbroek, a former senior ANC, Scorpions and SARS official who happens also to be the former husband of *Sunday Times* editor Phylicia Oppelt) was appointed by the finance minister to advise him on developments at SARS. Kroon endorsed the Sikhakhane’s panel’s finding that the establishment of the intelligence unit was unlawful because SARS didn’t have the statutory authority to “covertly” gather intelligence. (It is worth noting that Van Loggerenberg did not establish the unit, that the existence of the unit was not hidden. It was part of SARS’s formal structure. Kroon’s committee also did not conduct its own review of the evidence relating to the alleged misconduct of “rogue unit” members.)

On to Susan Smuts’s next assertion – that members of the rogue unit confessed in sworn statements to the Hawks that they had bugged the NPA offices.

This allegation contains an element of truth, but unpacking that and the *Sunday Times*’s more laughable claims that the unit ran a brothel and bugged President Zuma’s home make for such a great story that we have decided to save it for a proper telling in next month’s issue.

Finally, there is Smuts’s reliance on those emails that, remarkably, she still alleges were sent by the rogue unit to an Italian supplier of legally suspect

## **No mention was made in the panel’s report of the spy equipment Acas had acquired, or what it proposed doing with the equipment**

spyware called Hacking Team.

The *Sunday Times* – or its suspect sources – regularly confuse two distinctly separate SARS units: the National Research Group (NRG), which they have labelled the “rogue unit” – headed by Van Loggerenberg – that investigated tax subjects considered “too high risk or dangerous” for conventional staff to look into, such as illegal poaching and smuggling of abalone, ivory, rhino horn and their links with organised crime syndicates inside the country; tobacco and cigarette smuggling and the illegal trade in narcotics.

The other unit with which it is often (conveniently) confused by both the *Sunday Times* and various dishonest current and former SARS employees, is the Anti-Corruption and Security unit (Acas), headed by Clifford Collings, that is tasked with investigating the delicate matter of corruption and security issues within SARS itself. There is good reason to suspect it was the latter unit that may have been bugging suspect SARS staff members’ telephone and email communications.

First an earlier example of this confusion to be found in the *Sunday Times*. In a report published on 7 June this year, the newspaper mischievously

attributed to the “rogue unit” a series of payments made to former apartheid operative Steven Whitehead’s company. The payments were for training and equipment supplied by Whitehead’s company.

What the *Sunday Times* did not reveal was that it was in fact the Acas unit headed by Collings that used Whitehead’s services. This is easily established from the payment schedule referred to by the *Sunday Times*. It reflects Acas as the cost centre from which the funds are derived, and the approvals given by managers at Acas.

According to *Noseweek*’s sources, it was, ironically, Van Loggerenberg who drafted a detailed memorandum to SARS management in 2012 warning them of the reputational risk involved in dealing with Whitehead and recommending his services be terminated.

On 12 July this year, the *Sunday Times* yet again mischievously mis-attributed to the “rogue unit” an inquiry that SARS official Helgaard Lombard had sent to an Italian firm called Hacking Team, asking about the capabilities of legally suspect spying equipment. The letter, dated 14 July 2014, was recently published online by WikiLeaks. The *Sunday Times* conveniently failed to note or report that Lombard signed the letter describing himself as “Manager: Technical Physical Security” – in the Acas unit. It better served the *Sunday Times*’s purpose to rather describe him as “a former SARS rogue unit member”.

*Noseweek* was easily able to establish that Lombard had, for a brief period several years ago, been a member of Van Loggerenberg’s NRG unit, but by 2010 had been transferred to the Acas unit headed by Collings.

When Lombard wrote that letter, Van Loggerenberg had already been placed on special leave and was being subjected to scrutiny by the Khanyane panel for supposedly having spied on taxpayers with sophisticated equipment. Collings was a member of the three-man investigating panel. No mention was made in the panel’s report of the spy equipment Acas had acquired, or what it proposed doing with the equipment.

● *Noseweek* also approached Van Loggerenberg and Pillay for comment. Both refused, saying they were contractually constrained from talking to the press. We did not see any point in seeking Walter’s comment. ■

# The mysterious case of the disappearing millions

How R600m vanished, under the expert care of Investec.

By Barry Sergeant

**A**T 11AM ON 13 JULY 2015 the Sheriff auctioned and sold 326 million ordinary shares in JCI Limited, equal to 9.72% of that company's issued share capital. The shares belonged to Black Bear Resources Ltd and had been attached by the Sheriff in execution of a costs order granted against Black Bear in September 2012, when it failed in its bid to put JCI into liquidation.

JCI remains, of course, at the centre of the wreckage left behind by the late Brett Kebble, who was shot and killed on 27 September 2005.

At the recent auction, there were no known bids from JCI itself, or from its controlling shareholders, Allan Gray (26.1%), and Investec Bank (26.7%). The latter had been principal lender to JCI from 1997, when Kebble clandestinely seized control of the mining investment company, until mid-2014.

There were only two bidders. One – a proxy bidder for an unnamed principal – dropped out when the price reached R590,000 as he apparently had difficulties reaching his principal for further instructions by mobile telephone. The bundle of shares was then knocked down to Jan Kruger, a Unisa (University of South Africa) professor, not aligned to JCI or any institution, for R600,000 or just 0.1840 cents per share (cps).

The most telling outcome of the auction is that it provided an event to “mark-to-market” the value of JCI's

shares, showing them now to be essentially worthless. Based on the results of the auction, JCI is worth about 0.18 cps, or R6 million for the whole company. On 31 December 2009 JCI's directors published a statement in which the company's net asset value (NAV) – after providing for the notorious settlement with Randgold & Exploration – was declared to be R658 million.

Simply put, more than R600m-worth of value has vanished since 31 December 2009 – if the statement issued by

JCI's Investec-appointed directors on that date is to be believed.

It can be said with some certainty that only one thing is certain: not a cent was ever returned to JCI shareholders, not since the start of the Kebble era during 1997.

So how does that amount of money simply disappear? How did JCI's value decline by 99% over the space of five-and-a-half years?

Back on 31 December 2009, the main component in JCI's asset register was its holding in Boschendal, a wine estate in the Western Cape. There is little doubt that Kebble used cash stolen from Randgold to buy a controlling stake in Boschendal, and housed some of the holding offshore, but no one has ever worried about that. These holdings ended up in JCI. Leaving the tainted history aside, it can be argued that JCI vastly overvalued its bastard stake in Boschendal, at R397 million on 31 December 2009.

During 2014, JCI sold its total stake in Boschendal for a mere R142m. Even then, however, the decline in JCI's value seems too extreme, at 99%.

JCI also held a stake, valued on 31 December 2009 at R141m, in unlisted Jaganda (which later changed its name), which in turn had a stake in listed Simmer & Jack, which suffered an ever-declining fall in value. Once again, however, this goes only a small way to explaining the overall decline of 99% in JCI's value.

JCI'S NET ASSET VALUE			
Date	Value	CPS	Notes
31 Dec 2009	R658m	19.68	1
19 June 2014	R29m	0.87	2
13 July 2015	R6m	0.18	3

#### References

- 1 Source: page 182 of the Randgold 12 May 2010 Settlement Circular (this is the pro forma post-settlement [with Randgold] figure)
- 2 Source: page 59 of the JCI 9 July 2014 Sale-of-Boschendal Circular (this is the pro forma post Boschendal sale figure)
- 3 Source: the not-contested-by-JCI-or-the-controlling-shareholders (Investec/Allan Gray) price paid by an individual to buy 326 173 367 JCI shares (9.72% of JCI's issued share capital) on a public auction conducted by the Sheriff in Midrand

DATES OF PUBLICATION OF JCI REPORTS		
Year of report	Published	Notes
<b>2005–2007</b>	<b>22 July 2011</b> 75, 63 and 51 months after year end	Unaudited, disclaimed, consolidated
<b>2008–2010</b>	<b>22 July 2011</b> 39, 27 and 15 months after year end	Group and company
<b>2011</b>	<b>8 October 2012</b> 18 months after year end	Group only
<b>2012</b>	<b>18 December 2012</b> 8 months after year end	Group only
<b>2013</b>	<b>Not yet published</b> “Audited statement” – but without auditor’s report published on 8 July 2014	Group only
<b>2014 &amp; 2015</b>	<b>Not yet published</b>	

#### Note

JCI’s listing on the JSE was terminated on 16 April 2013

The only reasonable explanation for this massive collapse in JCI’s NAV since 31 December 2009 is that the 2009 figure was deliberately inflated through a combination of asset overvaluations and the omission of liabilities, presumably for purposes of inflating the value of the shares tendered to Randgold shareholders in settlement of their claim.

Does this not beg the question: when will the post-Kebble directors of JCI (principally David Morris Nurek, Peter Henry Gray, Peter Richard Suter Thomas, and Les Maxwell) together with Marais Steyn of Randgold (who clearly failed to do a proper due diligence on JCI) ever be brought to book for this patent misrepresentation which has harmed so many local and foreign shareholders of Randgold?

For some context: it was in his affidavit deposed for Black Bear Resources that director Andrew Gregory stated that by August 2005, JCI “and indeed the Kebble empire, had become finan-

cially and morally bankrupt. Not only had [JCI], despite its plundering of Randgold’s assets, run out of money but no financial institution, big or small, wished to have anything to do with the Kebbles, whose reputation in the market had plummeted – with the notable exception of Investec”.

The Investec Loan Agreement (ILA), drawn up in August 2005, gave Investec the right to “reconstitute” the boards of the three key entities in the “Kebble empire,” JCI (the thief), Randgold (the victim) and Western Areas (a recipient of much of the proceeds from the sale of shares stolen from Randgold), in a manner “acceptable” to Investec.

According to the redoubtable Avrom Krengel, Investec’s chief in-house legal counsel, Allan Gray, the Cape Town based money manager, was “insistent” that “Investec’s interest be aligned with those of JCI’s shareholders”. Allan Gray was the single biggest shareholder, at around 24%, in each of JCI, Randgold and Western Areas.

To meet that demand, the outrageous “raising fee” that Investec was charging on the loan was supposedly linked “to the increase in the value of the JCI assets and the JCI share price”. Here was another reason to inflate the value of JCI’s assets.

Nurek, “Global Head of Legal Risk” at Investec, was soon appointed chairman of both Randgold (the victim) and JCI (the thief) (and a director at Western Areas). Gray was similarly appointed CEO of both. Were these appointments possibly “egregious”?

During January 2010, JCI indeed agreed to pay Investec a “raising fee”, to the tune of R267.5m, allegedly related to a claimed increase in its asset value and/or its share price.

Here it should be noted that PRS Thomas, who has been a director of Investec since 1981, was appointed a JCI director on 12 September 2005 and as chairman of JCI on 31 July 2008.

Thomas, like Nurek before him at

JCI, has played a masterly role in obfuscating whatever was inconvenient to Investec. Consider that after Kebble was removed as CEO of JCI and Randgold in August 2005, KPMG, Investec’s auditors, were appointed as auditors to both JCI and Randgold. (KMPG had long been auditors at Western Areas, Kebble’s main personal interest and ultimate beneficiary of a significant chunk of the funds raised on Randgold’s stolen shares.)

KPMG has earned R66m as auditors and “advisors” at JCI (2006 to 2013: R45m) and Randgold (2005 to 2014: R21m). KPMG’s role at JCI has been incredibly unhelpful; despite the requirement that companies publish annual financial statements within six months of year-end, JCI had invariably delayed such publication for years. Since 2011, moreover, JCI has stopped publishing unconsolidated accounts, thus obscuring its financial affairs beyond the grasp of even the most seasoned experts.

At this point, consider that an unchallenged independent forensic analysis published by Randgold, and which has long been in the public domain, shows that of the proceeds from the sale of the shares purloined by Kebble from Randgold, R896m made its way into JCI’s coffers; a separate R522m was diverted by Kebble into Western Areas (JCI’s main interest), and a further and separate R106m went to Investec.

During mid-2008, Randgold sued, among others, Gold Fields, for R11.5bn, Investec for R271m, and Investec Bank UK for the return of 5.46m Randgold Resources shares stolen from Randgold (currently worth R4.3bn).

The two cases against Investec were later settled for zero – mainly because Investec made such settlements a precondition for the release of the JCI assets that had been pledged to it as security.

Randgold CEO Marais Steyn, in a 95,000-word affidavit filed in December 2011 in the case of the Randgold minorities vs. Investec, states, inter alia, that:

- “Investec... was insistent upon receipt of its raising fee from JCI, albeit in a compromised amount, which receipt would then enable it to relinquish its security, thereby allowing assets which underpinned such secu-



rity to be freely dealt with by [JCI]

- “Investec agreed to reduce its raising fee to R267.5m, thereby foregoing its potential entitlement to payment of a further amount of approximately R308m

- “As against all of this, Investec required that the action which had been instituted against it and Investec UK be abandoned”.

In the face of Investec’s absolute refusal to itself pay, JCI (under Investec’s direction) also assumed liability for the costs associated with minority shareholder Monty Koppel’s litigation against Investec; “after much debate” [Seriously?] Koppel was handed R40m by JCI to settle his claim against Investec!

In addition, Investec demanded that various directors of JCI and Randgold – including of course those who had been seconded from Investec – be indemnified against any claims for damages. And there was a huge fish to be caught: Randgold’s R11.5bn case against Gold Fields.

Randgold, as Steyn puts it, “was most reluctant to furnish an indemnity in respect of the Gold Fields action because the prospects in relation to that action

were considered good and Gold Fields had the means to satisfy a judgment of substance. Despite its grave reluctance, Randgold eventually decided to extend the indemnity to the Gold Fields action. On this score there is no doubt in my mind that, had Randgold declined to do so, the settlement would have collapsed in its entirety”.

In other words, Randgold was greenmailed into dropping its two cases against Investec: never mind that the full loan by Investec to JCI (which had increased to over R1bn) had been repaid (along with interest) by JCI as far back as 15 November 2006.

According to Randgold’s 12 May 2010 circular, JCI settled with Randgold, by handing to Randgold shares purportedly worth some R900m; of this, some R300m was attributable to 1.556bn JCI shares – valued, for the purposes of the settlement, at 19.7 cps. The latter shares, according to the recent auction, are now worth 99% less, at 0.2 cps. (The other shares handed by JCI to Randgold were six million shares in Gold Fields).

It is arguable, at this stage, that the apparently massive over-statement of JCI’s asset value could have had, at

its heart, the intention to provide pro forma justification for Randgold (also under Investec’s control at the time) to accept the “settlement” of its claims.

The ugliest feature of the aftermath of the Kebble era is, arguably, the fact that JCI was never sued by Randgold for the value of its stolen assets. Its claim was so large that JCI’s liquidation would inevitably have followed, as would a formal insolvency inquiry in terms of the Companies Act. There the suspects – not least the Investec directors – could have been summoned to answer questions to determine who had benefited from the stolen assets, and what role they had played in hiding the loot.

Instead, to avoid that awful prospect, Investec and its appointed auditors demonstrably did whatever was required to maintain JCI’s appearance of “solvency”.

Part of this, if one is a little cynical, was to create a smokescreen to, inter alia, hide the disappearance of that R600m-plus in net asset value that they had alleged existed in December 2009.

Is there an honest broker left in the house? ■



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# The monster that ate Berea

**Judge orders demolition of towering R60m Durban development.**

**By Elisabeth Hamilton**

**T**HE COMPANY RESPONSIBLE FOR building a multi-million-rand development in Currie Road, Berea, Durban, may soon own an expensive heap of rubble instead.

On June 29 Serengeti Rise Industries was ordered by the High Court in Durban to demolish its half-built R60-million, nine-storey investment. Judge Esther Steyn's finding left little room for an appeal and her judgment has left mud on the faces of both Serengeti and eThekweni Metro.

The council and Serengeti failed to inform the affected neighbours of plans to build a massive structure in the heart of a residential area that would block the views of dozens of homeowners, rob them of any privacy and destroy the aesthetics of the sought-after suburb.

Last year, when the neighbours attempted to interdict construction, the developer said that if the interdict was eventually overturned, they would hold the applicants liable for R600,000 per month in damages for the period in which work had ceased.

Most of the applicants backed off, but for those who stayed the course, it was Tayob "Pops" Aboobaker, a member of the Society of Advocates of KwaZulu-Natal – and a stickler for fair play – who led the charge.

Aboobaker is the kind of principled man who walked away from the Sereti Arms Deal Commission over the lack of transparency. He was also the leader of "Group Seven", an organisation

formed in the 1970s made up mostly of anti-apartheid advocates and lawyers whose members included the late Chief Justice Pius Langa, retired Chief Justice Sandile Ngcobo, the current KwaZulu-Natal High Court Judge President Achmat Jappie and retired head of the Special Investigating Unit, Vas Soni.

Aboobaker was outraged when the view from his luxury penthouse was obstructed by Serengeti's construction. If there was a man who was ready, willing and able to take on the big boys, it was "Pops". He set his sights firmly on the owners of Serengeti, who have interests in mining, energy, property development and agriculture.

The "gargantuan development" – as Steyn called it – stole a large portion of Aboobaker's view, looking north over the Indian Ocean and obstructed his view of the historic Greyville Racecourse and of the Moses Mabhida Stadium. What he now has is a block of concrete that faces his main bedroom and robs him of any privacy in his lounge and balcony.

In a report submitted to the court on behalf of the applicants, professional valuator Kevin Dunkley found that the development would not only remove views, invade privacy, change the aesthetics and cast shadows, it would lead to a total loss in joint property value of R25,796,000.

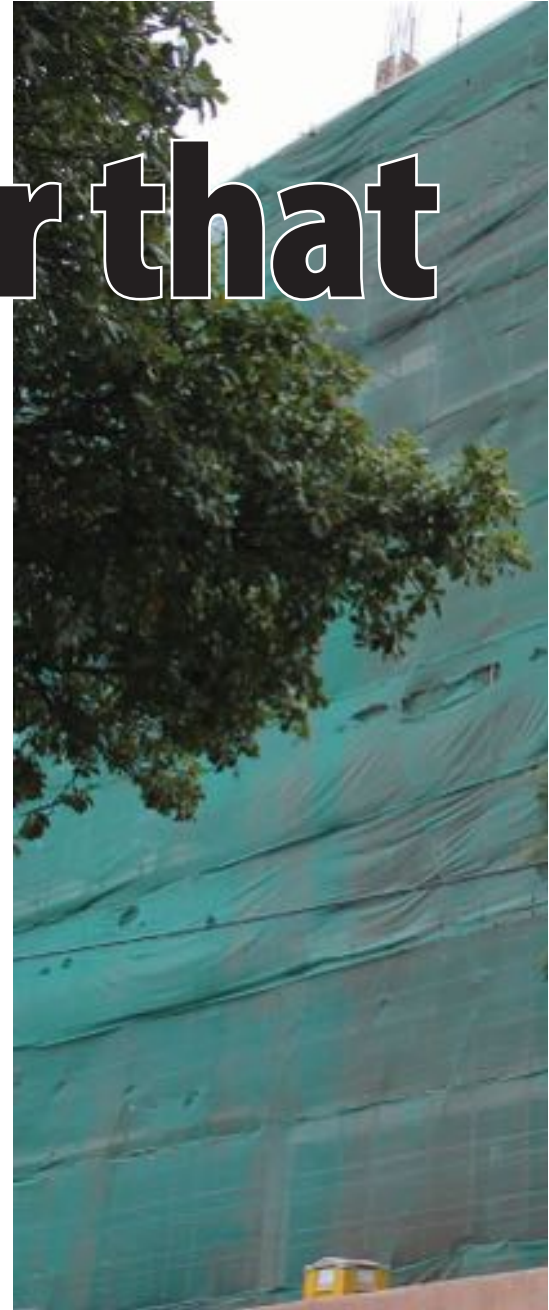
"There is therefore no doubt in my mind that this development WILL [Dunkley's emphasis] derogate from the values of adjoining and neighbour-

ing properties."

The report also found that land, bought for R5.8 million on the assumption it would be GR1, which allows for four stories, would increase in value sixfold to R30.8m with the zoning change, while the gross income would spiral from R32m to well over R120m.

"We tried to stop them earlier," said Pops. "They told us if we interdicted them we would suffer a damage claim of R600,000 per month and would need to provide security. So we then decided against the interdict and sought to have a review. When we tried to get the review before a judge, the developer tried to get the matter away from court."

"This is not a situation where you have two gunslingers about to shoot each other and one has to speculate about what would happen; the blood has been spilled for all to see. This is







The Serengeti development looms over its neighbours

not a matter about opinion and speculation. You can see the devastation.

“There is an unsavoury smell about this development which no amount of pontification can ever remove. People say I am emotional about this. If you are not emotional about this, you are not normal when you have to walk outside and see the development next to you,” said Aboobaker.

Now, despite all of Serengeti’s posturing and threats, the pressure is on the developers. Aboobaker said: “They didn’t expect this litigation, they have a nearly R60m bond to service and their high-end potential buyers may have already walked away. It is not in their interest to drag this matter on.”

If Serengeti is granted leave to appeal, it can take up to four months for the application to be set down for hearing, and if the matter goes to the

**Professional  
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Supreme Court of Appeal, it could be another year. Thereafter there is the possibility it could go to the Constitutional Court, taking another year.

“We have argued that this is an urgent matter. It cannot wait. Some of those affected are elderly pensioners. They might not live to see the end if it is dragged out,” says Aboobaker.

The advocate has since taken the matter to the city’s own City Integrity and Investigations Unit, whose reputation in city circles is as unremarkable as their ability to make a ruling. Aboobaker says this is a clear-cut case in which the city’s integrity has been shown to be lacking.

Tozi Mthethwa, spokesperson for the city, said it was “currently studying the judgment and a decision has not been reached as yet”. But Durban had already said in court it would abide



## From previous page

by the ruling, so just what the council intends to study is unclear. However, should other courts uphold the ruling, the city may be liable for a massive civil claim by the developer, reportedly in excess of R60 million.

The unsightly structure sited next to one of Durban's most celebrated

Art Deco buildings, Surrey Mansions, was expected to consist of 12 high-end units, complete with a vehicle elevator.

Opposing Serengeti was "a matter of principle", said Razak Essack, who has close ties to the family that sponsors national and provincial cricket through the brand Sunfoil Oil.

Rezak occupies an apartment in a complex owned by that family, which

is situated directly behind the development.

"We never saw any plans. We don't even know who's involved. The sad part is, this is a Catch 22 situation. We are paying our rates to a city [that has] an interest in the outcome of this case, yet we are paying for our own legal costs too. This entire matter will cost an arm and a leg for all involved." ■

# How to duck due process

**T**HE SERENGETI GROUP APPEARS TO be chancing its luck again, this time in Ballito with a development that is far more elaborate, costly and potentially controversial than their Berea debacle.

Serengeti is looking for investors to build a five-star development named the Serengeti Glades Resort, consisting of a hotel of 200 rooms and suites and 50 villas, complete with spa. The resort will include conference rooms, two speciality restaurants, a coffee shop and patisserie, a pool bar, tobacco lounge, ballroom, pre-function rooms, night club, business centre and health club and its "own private beach and access to main beach".

The information is packed into the KwaZulu-Natal Investment Opportunities 2013 and 2014 brochure, drawn up by the provincial government investment agency – Trade and Investment KwaZulu-Natal (TIKZN). In the pamphlet, Serengeti says it already has an Environmental Impact Assessment (EIA) and the required zoning for the 9.7 hectares of land bought in 2006 for R11.4 million.

All they need, according to the brochure, is "an investment partner (equity or debt) to contribute R130 million".

But the Glades's biggest neighbour, Simbithi Eco-Estate, has told *Noseweek* that the property earmarked for Serengeti's development is zoned residential.

Asked if they had ever been informed of the commercial development to be built on Erf 406, or informed of any zoning change, or whether an EIA had recently been conducted, building control manager for the eco-estate, Shiven Singh, offered an emphatic "no".

*Noseweek* has established that the

only time an EIA was completed was about a decade ago, in conjunction with the Simbithi Eco-Estate.

Singh said the estate's homeowners' association board "may object to another large commercial development on our boundary".

And officials at KwaDukuza Municipality, under which Ballito falls, confirmed that the land is deemed a "Special Zone" for medium density housing, not commercial. They also confirmed that no plans for Serengeti Glades Resort had been submitted to council.

Then there is the matter of the private beach. Department of Environmental Affairs spokesman Albi Modise said the National Environmental Integrated Coastal Management Act, 2008 "does not allow for private beaches".

Additionally, the provincial department of environmental affairs said that if the development were to be commercial, it was highly likely that a new EIA would be needed. No such application had been lodged.

Sizwe Mbanjwa of Trade and Invest-

ment KwaZulu-Natal (TIKZN), a trade and inward investment promotion agency, who called *Noseweek* after being informed by Serengeti that we had contacted the group Chief Operating Officer Ridwaan Gouse via email, said the Glades Resort had been removed from their brochure for 2015 at the developer's request as they were apparently in discussion with potential investors.

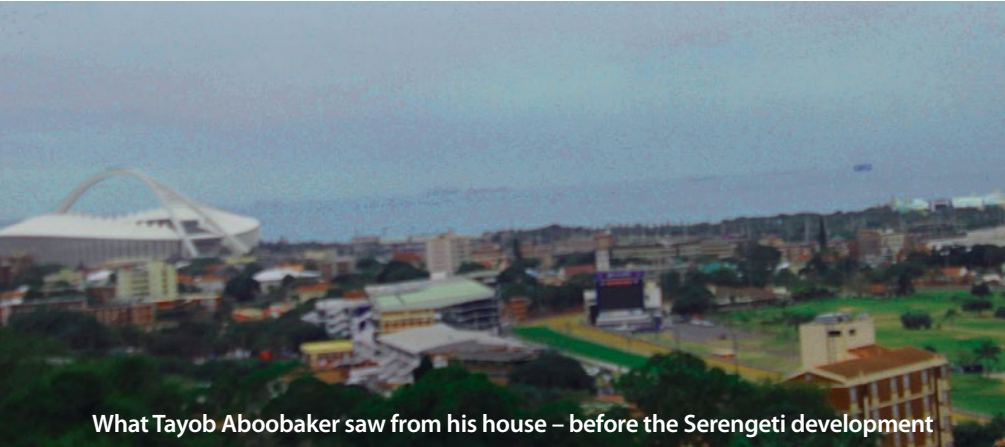
Mbanjwa said the brochure was for investors, not the media, and that the project proposed could change drastically. He said he would check the wording of the brochure, when *Noseweek* pointed out that it could be deemed misleading to claim that the development had the required zoning, an EIA and a private beach.

He said the "private beach" would have been "artificial" – a fact omitted from the brochure. The development will be about a kilometre from the "real" beach.

"We don't want to release any information but we have been facilitating with the project," he said. ■



Artist's impression of Serengeti's proposed Ballito development



What Tayob Aboobaker saw from his house – before the Serengeti development

# Room with no view

**I**N ORDERING THAT A NEWLY BUILT block of apartments in Durban be torn down, Judge Esther Steyn quipped that the “gargantuan” nine-storey structure “bears no resemblance to the name of the developer, [*Serengeti Rise Industries*] since the structure is definitely not flat”. The Maasai word “Serengeti” means “Endless Plains”.

Key to the case of the majority of applicants was that they were not informed by the developer or the city of a “deviation” from the original plan whereby the development changed from a modest four-storey building – as is standard on the Berea – to a nine-storey “monster”, complete with a vehicle lift. In construction-speak, the building’s floor space changed from a GR1 code covering 1,860m<sup>2</sup> to a GR5 covering 9,786m<sup>2</sup>.

On 10 May 2010 Serengeti submitted a plan for a four-storey building to the city that was approved on 3 August. “This is in stark contrast to the present structure that consists of nine storeys,” said Steyn in her ruling.

Serengeti then applied for the development to be rezoned. On 9 December 2011 a full metro council approved the zone-change from GR1 to GR5. The change was no “mistake” by a single city technocrat in the planning department, Judge Steyn noted.

Council minutes show that 161 councillors were present at the sitting, of whom 127 (ANC 101, Minority Front 10, NFP 9 and IFP 7) voted in favour of the zone-change and 33 (DA 33) voted against. A COPE councillor abstained.

The developer then submitted a deviation plan seeking to increase the bulk of the building, which was approved in February last year.

It towers over surrounding properties, obstructing their views and compromising their privacy, said Steyn.

Steyn upheld the aggrieved neighbours’ contention that the rezoning of the site from GR1 to GR5, “was not achieved by due process nor was the rezoning in accordance with the applicable law” – the Town Planning Ordinance – and was therefore unlawful.

The applicants wanted the rezoning and deviation sent back to the council for review but the judge thought this pointless since the council was fatally compromised by its previous irregular approvals.

Instead, she ruled: “The development on the property situated at 317 Currie Road that exceeds GR1 zoning [*is to be*] demolished”.

And there was a cost order. The debacle involved a total of seven advocates, including Kemp J Kemp for one of the applicants. *Noseweek* has been informed that applicant costs have exceeded R2 million.

Serengeti’s lawyer, Chris de Beer of Garlicke & Bousfield, said they will seek to have the demolition order set aside by the Supreme Court of Appeal “on quite a few grounds”.

He told *Noseweek*: “With due respect to Judge Esther Steyn, we believe she made some fundamental errors of law in arriving at her decision to order the demolition of the Currie Road development”. Among them: the relief granted in the review application was not the relief being sought by the applicants, he said.

No surprise: the council has given notice that it will be joining Serengeti in appealing Judge Steyn’s order.

● Despite repeated promises by the developers that they would respond to *Noseweek*’s requests for comment on the planned Serengeti Glades Resort (see facing page) that they are punting to investors, none was forthcoming. ■



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# The road to ruin

**Sanral and its cronies are determined to build a wildly expensive new route to Durban, when sensible repairs would do the trick. By Barry Sergeant**

A proposed national road will bypass Harrismith, turning it into a ghost town

**A**S SOUTH AFRICA'S DEMOCRACY "matures", so the legacies of all kinds of interesting prior relationships continue to ripen. One project that cannot escape attention is the proposed N3 highway bypass that will effectively turn Harrismith into yet another South African ghost town, consigning thousands of people to unemployment, and tens of thousands of their dependants to destitution. That's apart from the extra billions that it's going to cost the South African road user.

If state roads agency Sanral and its crony road construction companies have their way, the N3 will be routed down an entirely redesigned and reconstructed De Beer's Pass, rather than the existing Van Reenen Pass at Harrismith, as the gateway across the escarpment. If this project proceeds, an estimated R5 billion (more likely R10bn by the time it's completed) will have to be found to fund the rerouting of the N3 highway between Johannesburg and Durban.

For all this expense, the loss of farmland, the devastation of nature and countless freshly unemployed and destitute people, the new highway between Johannesburg and Durban will be just 14km shorter.

What it certainly will do is generate lucrative contracts for South Africa's notoriously scheming "Big Five" road construction companies. It might also just save the country's most hated parastatal, Sanral, from the embarrassment of not being able to upgrade the existing

Van Reenen Pass because it has blown all its funds – and credibility – on its Gauteng e-tolls fiasco – the only possible explanation for the fact that at no stage has serious consideration been given to further upgrading the existing N3, which, common sense dictates, would be the most logical option.

Following a "public tender" process, the now uber-popular South African National Roads Agency Ltd (Sanral) in 1998 appointed the N3 Toll Concession (N3TC) as the concessionaire responsible for maintaining the Johannesburg-Durban N3 highway.

The 30-year concession, which began on 2 November 1999, is for maintenance only. The capital costs of upgrades and extensions remain for Sanral's account, but for reasons never made clear, the concession contract included a "requirement" that the concessionaire must construct a new route known as the De Beer's Pass Route (DBPR), between Keeversfontein and Warden. Based on the original contract, building of this monumental 97.7km new mountain pass highway, essentially duplicating an existing, perfectly good stretch of highway, should have commenced in 2013 and taken 3.5 years to complete.

Landscape architecture firm Cave Klapwijk & Associates of Hatfield, Pretoria, was commissioned by the concession holders to produce a scoping report, which they did in a 90-page document in February 2011. Only at the last moment and as an afterthought was the possibil-

ity of "upgrading" the existing highway added to the scoping study. This is only one of many pieces of dodgy work associated with the DBPR.

The market-studies firm Demacon was likewise contracted to conduct a regional economic assessment of the proposed DBPR. They published a 168-page report in December 2011. Professor Lochner Marais of the Centre for Development Support at the University of the Free State argues that the assessment is "substandard" and is the work "more of an undergraduate assignment than a specialist report".

Professor Wessel Pienaar, Head of the Department of Logistics at the University of Stellenbosch, was commissioned by Cave Klapwijk to prepare an Economic Impact Assessment of the proposed De Beer's Pass Route. The 55-page document, which appeared in March 2014, finds Pienaar concluding that the proposed DBPR "is economically justified", and "among the technically feasible alternatives it ranks best from an economic viewpoint". There is only a fleeting reference to the possibility of upgrading the existing N3. In his economic assessment he manages to ignore the costs (to the state roads agency) of having to continue to operate and maintain the existing highway as an alternative route, after the proposed new parallel N3 highway is built.

The main opposition to the proposed De Beer's route has come from the Harrismith Business Forum, which une-



quivocally supports upgrading of the existing N3, and opposes the rerouting of the highway through the De Beer's Pass.

In the Cave Klapwijk EIA, commissioned by N3TC, the potential impact on Harrismith of rerouting the highway away from the town is dealt with in just two sentences: "The economic impact of the proposed DBPR on the town economy of Harrismith is expected to be small. A probable loss of 20 retail-related jobs will occur," it claims, without any further explanation or reference to actual research to show how this figure is reached. By all accounts it's a thumb-suck designed to gloss over the problem.

By contrast, in a detailed economic impact report prepared for the business forum by Mike Schussler, it is calculated on the basis of accepted economic models, that Harrismith faces a direct employment loss of 747 jobs and a total employment loss of 1,663 jobs.

The forum commissioned a team of specialists to review the many studies that form part of the Draft EIA report penned by Cave Klapwijk. The forum argues that "the respective specialist review studies clearly indicate that the proposed DBPR project is economically and environmentally unsustainable".

One of the experts who consulted to the forum, Mary-Jane Morris, of Morris Environmental & Groundwater Alliances, says "in environmental terms we talk about irreversible impacts. From an ecological point of view, this bypass has several negative irreversible impacts".

For example, Morris explains that once a wetland (through which the road will pass) is lost, damaged or affected in a way that alters its natural functioning, "humankind, cannot do anything to get these systems back to what they were – or even anything close to what they were".

As such, says Morris, "the only way to prevent these impacts is to not build the road. Various deviations have been considered but the difference in impact between the route with deviations and the original route is not material. The ecological changes that will result from building the road are forever".

Morris argues that "this proposed road cannot be justified on any level, environmentally speaking". She adds that there is also a "high level" of certainty that these negative irreversible impacts will occur – based on scientific analysis.

She argues that the "economic im-

pacts" (more specifically the supposed economic costs and benefits) are less certain due to the nature of economics. She notes that we have seen how the Eskom situation impacts on economic growth projections, the effect of the weakness of the rand, etc. "As I see economics", she says, "changes are far less easy to predict and it takes only one negative factor to enter the picture (e.g. the rand strengthens; the fuel price decreases) and the whole economic picture changes".

Morris says that in terms of economics there was "no sensitivity analysis undertaken from what I could see in the documentation".

This point is also made by roads expert Bernal Floor, who explains that the drop in world price of crude oil substantially reduces the benefits predicted for the shorter route. "As such," argues Morris, "we have no insight into how changes in the economic environment would affect the 'rosy' economic picture painted in the economic impact assessment."

"So, as a country, we are being asked to trade off irreversible negative environmental impacts (such as affecting the wetlands that feed streams and rivers and ultimately the Gauteng water supply) that have a high level of certainty of occurring, with economic benefits that are uncertain, difficult to predict and therefore somewhat nebulous. Does this sound like a 'good deal'? I think not," is his expert opinion.

IT SEEMS THAT ALMOST EVERYTHING that touches promotion of the proposed DBPR ends up on some kind of rack. Cullinan & Associates, environmental attorneys with headquarters in Cape Town (and representing the business forum), have filed a letter with the environmental ministry, strenuously questioning the independence of Alan Cave from Cave Klapwijk as the environmental assessment practitioner commissioned in this case. Cave has no comment.

Looking at the bigger picture, cynics would, of course, find it difficult to forget that Mac Maharaj was transport minister during the period when the N3TC concession was awarded – and resigned to become FirstRand's highest-paid director shortly afterwards. FirstRand was a major financing partner in the N3TC concession (See *nose47*). And that in February 2003 the *Sunday Times* aired

allegations that Zarina, wife of Mac Maharaj, had received more than R500,000 between May 1998 and February 1999 from Schabir Shaik, a businessman who was later convicted of fraud and corruption. Tender documents confirm that Shaik's company, Nkobi Holdings, was a 3% shareholder of the N3TC when it won the bid.

Ironically, some experts believe it's doubtful whether the N3TC will derive any benefit from the clause in the Concession Contract that requires it to build the DBPR, and to bear most of the cost.

Says Floor: "I believe the N3TC might be pleased to be relieved of its obligation, which today amounts to about R3 billion of the total outlay". Back in 1998, it was widely believed that Sanral's motivation was to squeeze a clause into the Concession Contract enabling it to avoid having to bear the cost of upgrading Van Reenen's Pass, which would become essential in the not-too-distant future.

But then again that theory ignores the fact that road construction costs, plus handsome amounts of interest, are recovered by the N3TC and its financiers by levying higher toll fees. For the motorist, savings on reduced fuel consumption are instantly lost to higher toll fees.

*[But then again, maybe since the Gauteng e-tolls disaster, perhaps a fat increase in toll fees on the N3 isn't quite the easy option it once was? – Ed.]*

Should Sanral have been "too clever by half" in not providing for the possibility that environmental permission to build the DBPR might not be granted – as Floor suggests – and should such permission in fact be refused, the N3TC would be absolved of its obligation to build – and pay for – the DBPR, and a currently financially strained Sanral will be left with all the costs of upgrading the existing route. Whatever the reason, good or devious, Sanral is lashing out and doing whatever it takes to try to ensure that environmental permission to build the DBPR is granted.

It appears that in their depravity, Sanral and its political masters are determined to ensure that the penalty for their corruption and financial mismanagement will be paid not by themselves, but by the people of Harrismith, road-users and nature – never mind that the people of Harrismith, road-users and nature will be paying that massive penalty for the entire foreseeable future. ■

# Nightmare rides

The wheels of the bus *don't* go round and round as Volkswagen dodges complaints of faulty vehicles. **By Jack Lundin**

**D**EPENDABILITY IS THE WORD THAT Germany's auto giant Volkswagen likes its dealers to push with potential customers. "You know that when buying one you can count on getting where you need to go, when you want to," assures VW's spiel. Unless you happen to be Baz Bus, that is. The company has had to bring in a psychologist to counsel its managing director and stressed-out fleet drivers after investing R2.5 million in five new Volkswagen Crafters.

Why mental breakdowns over five Crafter 50 2.0 BiTDi high-roof panel vans – converted into "midibuses" to carry 22 international backpackers apiece in a unique "hop-on hop-off" service along our scenic western coastline? Because they broke down, time and time and time again. And again.

And despite the exchange of 1,065 emails at the latest count, Volkswagen South Africa refuses to do anything to mollify Baz Bus's owner and managing director Barry Zeidel over its piles of junk.

Baz Bus is a trailblazer in South Africa's rapidly developing R5 billion-a-year backpacker industry, its fleet ferrying some 10,000 visitors annually between Cape Town and Joburg, via the Garden Route and the Drakensberg. Travellers are collected from any one of Cape Town's 60-odd backpacker hostels and they can break the journey at any points along the way – Hermanus, Mossel Bay, Knysna, Umtata etc – and catch a later bus when they want to. Same thing Joburg to Cape Town.

For the past decade the Baz Bus fleet used only VW Crafters, which they bought on 32-month bank-funded contracts before trading them back to VW's Pinetown dealer Alpine Commercial for the latest model. All went well until 2012, when the former five-cylinder models were replaced – at VW's suggestion – by a four-cylinder version selling at R527,000 apiece. For Baz Bus it has been one long tale of woe. In less than 32 months the latest candy white five have clocked up 50 breakdowns, 109 mechanical repairs and 1,062 days of "downtime" (excluding servicing).

Barry Zeidel calls the 2012 additions to his fleet the "Nightmare Buses". Despite the help of maintenance contracts at R250,000/bus with Motorite, he claims he's out of pocket by R517,000 in towing and breakdown costs, R285,000 for additional bank charges for vehicle replacement and R1.7m for loss of goodwill (it's a word-of-mouth business and Baz Bus has been flooded with complaints from angry customers after breakdowns left them stranded late at night in isolated locations). That's a total of R2.5m, a claim that VW South Africa has rejected out of hand.

"Our staff has been traumatised," says Zeidel. "We've had to deal with breakdowns late at night, unhappy and angry passengers who had to wait hours for a replacement bus. We've had to arrange emergency overnight accommodation for them and hurriedly hire substitute buses wherever we could find them. We've had to wait weeks for parts to arrive from Germany. We've of-

ten received a repaired bus back from a VW service station to have it break down the very next day."

First thing Baz Bus drivers noticed after delivery of two new Crafters in July 2012 was the lack of power – they struggled with Sir Lowry's Pass across the Hottentots-Holland mountain range.

After just four months one of them, ND 487039, had to have a new engine sent out from Germany after overheating and breaking down in Albertinia. That put it off the road for 29 days.

Same story, at the same time, with second new arrival ND 298381. It also needed a new engine after overheating and a persistent water light warning.

Two months later, same story with new Crafter ND 716910. Tyrone Tait, dealer principal at Alpine Commercial and, as the buses' supplier, Baz Bus's main trouble shooter, ordered an EGR Cooler and emailed Barry Zeidel: "I assure you that I will make sure these issues are resolved. They are a priority with us with you being a loyal, good customer of Alpine."

By now all five new buses are leaking water. ND 716910 breaks down in Port Elizabeth. It's released from VW Tavor after 22 days, with a new engine.

Nightmare Bus ND 315744, delivered that September, breaks down in Mthatha after just seven months. Tavor East London orders a rear prop shaft from Germany. There's a parts delay so an obliging Tyrone Tait at Alpine Commercial strips one of their stock Crafters in Pinetown for the part



Baz Bus Cape Town depot manager Taliep Charles and office manager Janine Carelse with a nightmarish VW Crafter bus

to get ND 315744 back to work.

Baz Bus's Zeidel speaks highly of Tait's efforts. "He's a nice guy. He tries to help us and his service has been excellent. He is the middle man who speaks to Motorite or Volkswagen SA. The problem lies with VWSA's two after sales managers, Bohdan de Wet and Warren Kable. Tyrone Tait speaks to them – but nothing happens. Their attitude is quite shocking."

The saga continues. ND 487039 loses all power and breaks down in Plettenberg Bay. A month later the bus goes in to Barons N1 City Commercial Vehicles in Cape Town, leaking water. A month after that it's back to Barons with an oil leak. Two days after being released the engine light keeps coming on. Barons says parts are needed from Germany. Again Tyrone Tait at Alpine comes to the rescue, stripping one of his own Crafters and couriering parts to Cape Town.

The day after it's released, ND

487039 packs up two hours out of the Mother City. The water light is on. It's towed back to Barons, who suspect an airlock in the cooling system. They release the Crafter – and it breaks down again the following day, gushing water.

June 29, 2013: ND 298381 breaks down in Storms River and is towed to VW Tavcor in Port Elizabeth. Water light on again, leaking oil. A new engine is fitted but suspicious noise noted from water pump. The following month the Chaser breaks down in Heidelberg. It's fitted with a new turbo.

July 1, 2013: Three of the Nightmare Buses are down. On July 5 Zeidel emails Tyrone Tait at Alpine: "We are hiring two buses and it is costing us a lot of money and is very frustrating and annoying especially when all the five new 4-cylinder buses are giving us the same problems. It's a nightmare."

"We've had more breakdowns since we purchased the five new buses than we had in total in the previous seven

years. Clearly these buses are not performing like the previous 5-cylinder buses. Given the problems experienced, and given that all of them are still less than 12 months old, I am very concerned."

Tait responds: "We are working closely with VWSA and Volkswagen Germany on the issues with your buses, but it has been more challenging than expected."

It would take pages to fully chronicle the Nightmare Buses horror story, but our vignette paints the picture. On September 18, 2013 Barry Zeidel emails Warren Kable, regional after-sales manager at VWSA. "The most important requirement of any bus company is to get a broken-down bus back on the road as quickly as possible. This is where VW falls short. The problem we are seeing again and again is that a part must be ordered, often from Germany, and that may take several weeks. Clearly I can't run a business if



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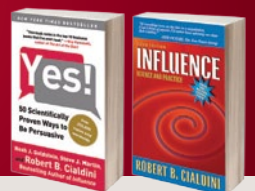
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I have to wait a few weeks for a part to arrive.”

At this time they'd been waiting 20 days for a steering rack for troublesome Crafter ND 298381.

Kable replies: “I definitely understand your frustrations. I have been working with Tyrone (Tait at Alpine Commercial) on just about every issue that you have experienced, so I am well aware of the parts issues and coolant loss problems that you have experienced with the 4 cylinders. We are working very hard on improving the parts availability and overall it has improved substantially.

“We as VWSA are not sitting back and leaving Alpine to handle these issues alone. You are considered as one of our most loyal and valued fleet and I can assure you that every time you have a problem, myself and Tyrone are working together in the background to sort it out.”

Over the following months five upgraded EGR water coolers are ordered from Germany, fuel injectors replaced, a new engine control unit fitted. ND 315744 needs a new gearbox; ND 487039 has a worn steering rack. ND 315744 breaks down in Joburg in a cloud of smoke; new turbo fitted. Three days after being released it breaks down at Villiers (alternator not charging). Half an hour after release, it grinds to a halt with a broken prop shaft bearing.

Email to Baz Bus from Alpine's Tyrone Tait: “Whilst we may give you great service, you and your team's tolerance and patience is to be commended!”

By September 2014 three of the Nightmare Buses are down at the Durban depot. Barry Zeidel tells Alpine Commercial that only Crafter ND 655031, bought that May, is still sound. However, it was being serviced “and so now we have zero buses in Durban but we have passengers stranded in Chintisa as well as in Harding. Besides these, we have many passengers along the route waiting to be picked up.”

Three months later Zeidel emails VWSA: “I'm counting the days till we get rid of these five nightmare VW buses.”

Up to now, Motorite's maintenance contracts at R250,000/vehicle have been shouldering the repair bills. But by this January Motorite had had

## **A curt response from the office of Volkswagen's managing director: 'Mr Schafer is too busy with his daily schedule to read your letter. He will not be getting back to you.'**

enough. Zeidel emailed Alpine's Tyrone Tait: “The problem is that because they break down so often Motorite will not pay for the costs. The way they see it, it is not natural for buses to break down so often and therefore the cause must be due to factors like bad drivers, or driving through deep water, or aliens from out of space. You can't really blame Motorite, because they are not aware that these five buses are defective.”

By now 48-year-old Barry Zeidel has joined his drivers for stress counseling. “Tyrone, I can't handle this any more!” he tells Alpine's dealer principal. He writes: “Ask VW to take these five buses away from us, otherwise my business will be forced to close down. Passengers delayed are not happy. Can you understand now why people are telling us they will not recommend our service to their friends overseas because we don't maintain our buses?”

Passengers from a broken-down Crafter were rescued by a replacement one, which promptly broke down too. A concerned mother articulated a parent's concern in a letter to Baz Bus.

“Vehicles breaking down at night in South Africa is not a safe option. After waiting hours again at the side of the road, the passengers were loaded into

a taxi (also not safe) and driven to East London, where they got another bus.

“My daughter was meant to arrive in Port Alfred at 8pm. Instead my elderly parents had to wait five-and-a-half hours until 1.15am for her to arrive. The worry was enormous.

“My greatest concern as a parent was not only worrying about my child stuck on the side of the road at night in South Africa, but it makes me wonder if the buses are properly maintained and safe? My daughter has several more journeys to make with you and I'm so worried that something else may go wrong.

“My Australian and European friends are waiting to hear how my daughter's travels are going before sending their kids, but so far there is nothing good to report.

“My daughter is safe with family at the moment, but I am dreading when she has to catch the next bus.”

In April this year Zeidel dispatched a 16-page letter articulating his complaints about the Nightmare Buses to Thomas Schafer, managing director of Volkswagen SA, copying in Martin Winterkorn, Volkswagen's group chief executive in Germany. Neither responded.

Says Zeidel: “Elvah Potgieter from Volkswagen SA in Port Elizabeth phoned me and said ‘Mr Schafer is too busy with his daily schedule to read your letter, so he will not be getting back to you.’”

A subsequent note from Potgieter, who carries the title of “Specialist: Office of the Managing Director,” mellowed this curt response: “Regrettably, due to their extensive portfolios, it is not possible for Mr Schafer and Dr Winterkorn to attend to all communication in their personal capacities. Please do not regard this as a discourtesy, but rather as a normal delegation of functions.”

Today Baz Bus's 32-month purchase contracts for the Nightmare Buses are drawing to an end and the company is restocking its fleet with replacements. No more Volkswagen Crafters, though. From now on Baz Bus's backpackers will be carried in Mercedes 519 Sprinters. Two have already arrived and are running well, with a third due at the end of July.

• *Baz Bus has produced a short animated video about their Nightmare Buses at [www.50breakdowns.com](http://www.50breakdowns.com)* ■



# Acting Hawks boss rushes to appoint 'friends and cronies'

Senior officers excluded from selection committees. By Glynis Underhill

Former Hawks chief Anwa Dramat, who resigned in April

**W**HEN IN MARCH JUDGE ELIAS Matojane of the North Gauteng (Pretoria) High Court described acting Hawks boss Major-General Mthandazo Berning Ntlemenza as “biased and dishonest” and “lacking integrity and honour” for making false statements under oath in court, it was expected this would be his undoing. Yet no action was taken against the man in charge of the Directorate for Priority Crime Investigations (DPCI) despite opposition calls for his axing.

(Ntlemenza had applied for leave to appeal a court finding that his suspension of Gauteng Hawks head Shadrack Sibiya was unlawful.)

But Ntlemenza remains secure in the knowledge that he enjoys high-level political backing, say senior Hawks members. He has recently fast-tracked around 60 promotions and appointments, sidelined experienced people, and suspended key senior Hawks figures. Particularly controversial has been the composition of the selection panels he has appointed to interview and select candidates for these jobs

A high-ranking Hawks member says: “We do need to capacitate the Hawks, but Ntlemenza must follow due process. Don’t use this excuse to hijack the pro-

cess and appoint people who should not be there.”

Ntlemenza’s spokesperson Brigadier Hangwani Mulaudzi says his boss has radically transformed the unit for the better. However, several Hawks members say a number of the new appointments do not have the necessary investigative skills and that Ntlemenza has “taken cronyism to new levels”.

While the South African Police Union has publicly voiced its concerns about Ntlemenza’s hiring processes and questioned whether he is fit for the job, Mulaudzi insists the union has ulterior motives for its criticism of his boss: “I’m starting to think they are aggrieved that their ‘candidates’ did not perform, and now they are formulating conspiracies, abusing Maj-Gen Ntlemenza’s good name.” He says that for the past five years nearly 600 funded posts were left unfilled and members had become despondent. “The gloomy outlook is gradually changing with Maj-Gen Ntlemenza’s gallant interventions. The directorate is getting out of intensive care.”

There are differing schools of thought about why Ntlemenza rushed into making so many changes. Some believe it is to prevent the Hawks from pursuing high-profile investigations, while others say his political motivation might

be combined with an egotistical need to “make his mark”. At meetings with staff, he has often asserted: “It will go down in history that at some stage Berning Ntlemenza headed the special unit, the Hawks.” Some staff members say meetings with Ntlemenza are like “a comedy show”.

The police minister unexpectedly parachuted 58-year-old Ntlemenza into the top Hawks job from his post of deputy provincial commissioner for Limpopo.

Laughing off suggestions that Ntlemenza is a political appointment, Mulaudzi (a colleague Ntlemenza brought in from Limpopo) insists his boss would tackle any high-profile investigation needed. He confirmed Ntlemenza had not applied for the key post but was selected because of his track record.

The position has now been advertised by police minister Nkosinathi Nhleko, who is legally obliged to begin the process of making a permanent appointment. It is believed that Ntlemenza has applied for the job, but that an attempt to appoint him permanently is likely to be challenged in court: “As long as [Judge Matojane’s] ruling stands, Ntlemenza does not qualify as a ‘fit and proper’ person – a legal requirement for the job. The Hawks is one of the last bastions of law and order we have; if you





are going to appoint a person found to be a liar by a high court judge, then we are on very treacherous ground,” says a senior Hawks member.

Ntlemenza took over from the respected Anwa Dramat, a former leader of the ANC’s military wing Umkhonto we Sizwe, who quit the Hawks in controversial circumstances. People in his office who were perceived to have been close to his predecessor have been shifted to other posts.

Ntlemenza’s appointment has heralded an era of distrust at the priority crimes unit. Senior Hawks members believe their phones are being tapped, which is why they sought anonymity in speaking out. They risked their jobs to find ways to communicate their concerns to *Noseweek*, as staff are repeatedly warned by Ntlemenza to stay away from pesky journalists – or risk being suspended and then fired.

Senior Hawks members complain Ntlemenza displays a disconcerting arrogance.

Clearly unfazed by this assertion, spokesperson Mulaudzi explains: “You see his arrogance comes from his voice. They have never had a commander who can speak like a police officer. He has a very high-pitched voice and when he talks, he talks like a police officer ...a

commander. He is not somebody who will come soft, and say ‘Please can you do your job.’”

Ntlemenza is known for sporting well-cut suits – which could be an indication of how much he enjoys the perky annual salary of around R1.3 million.

On his visits to Hawks members in the various provinces, Ntlemenza has been driven around in high-performance vehicles with tinted glass windows, as requested by the hand-picked staff with whom he surrounds himself. He is accompanied everywhere he goes by his personal bodyguard.

“Lt-Gen Dramat was head of the DPCI (Directorate of Priority Crime Investigation) and according to procedure, he was entitled to a driver, who doubled up as a bodyguard. Just like Maj-Gen Ntlemenza,” explains Mulaudzi.

At meetings with Ntlemenza, senior Hawks members have been asked to hand over their cellphones and place them in an envelope bearing their names, to be returned when they leave – because, Ntlemenza revealed to staff, someone had once tried to record him.

Hawks members say that under Dramat’s leadership, the unit was a united force to be reckoned with, and its success rate was high.

The DPCI, popularly known as the Hawks, was launched in 2009 to replace the disbanded Scorpions unit that was shut down in 2008 to public outcry.

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The Scorpions had come under fire by some in the ANC for initiating sensitive investigations, including one into alleged bribery and corruption involving the 1999 Arms Deal. This resulted in the raiding of houses of political and business figures, such as President Jacob Zuma and Schabir Shaik.

Another turning point was its investigation leading to the charges against the National Police Commissioner Jackie Selebi. The Scorpions were eventually disbanded in line with a resolution passed at the ANC national conference in Polokwane in 2007.

The Scorpions fell under the Department of Justice; the Hawks were placed under the authority of the SAPS. Many of the investigators from the Scorpions moved to the Hawks, and Dramat successfully managed a tense amalgamation process. Those close to Dramat say he was forced to negotiate his exit and resign, after years of fending off what his legal team describe as trumped up accusations that he participated in the alleged illegal rendition of Zimbabwean nationals in 2010. It was a long emotional journey for a man who risked his life to fight for the liberty of South Africa.

When police minister Nhleko suspended Dramat, his legal team claimed he was targeted because he wanted to investigate politically sensitive cases, including Zuma’s Nkandla home.

Dramat’s advocate Johan Nortje dismissed the reasons given for his suspension as baseless, saying his client had already been cleared of any participation in the alleged renditions. In the end, Judge Bill Prinsloo of the North Gauteng High Court ruled in favour of Dramat and set aside his suspension, ordering that Ntlemenza be removed from the post. However, when Dramat was persuaded to resign in April, Ntlemenza was once again reappointed to the acting post of Hawks head by police minister Nhleko.

Hawks members point out that Dramat was prevented from filling all those vacant posts after the Helen Suzman Foundation and businessman Hugh Glenister instituted court actions in alleging that the Hawks were not properly independent and did not have adequate protection from political pressure. Dramat had feared that, were he to fill the vacant posts, all those appointments could be contested and

set aside if the court applications succeeded.

The Constitutional Court ruled last year that parts of the SAPS Amendment Act relating to the functioning of the Hawks were inconsistent with the Constitution, and it declared sections of it invalid. Chief Justice Mogoeng Mogoeng ordered that provisions of the act should be deleted to ensure the Hawks could operate without any political interference. Despite the legal action to protect the Hawks, some unit members still feel they are under siege.

Ntlemenza only came into the public spotlight after he formally placed Gauteng Hawks head Shadrack Sibiyi

on suspension, accusing him of involvement in the illegal rendition of Zimbabwean nationals in 2010. Neither Dramat nor Sibiyi had ever been criminally charged over the allegations.

It was when Ntlemenza applied to appeal the ruling in Sibiyi's favour that Judge Matojane delivered his scathing assessment of Ntlemenza's character. The judge said Ntlemenza had "fabricated" repeatedly in his bid to oppose a ruling to set aside Sibiyi's suspension. "The conduct of [Ntlemenza] shows that he is biased and dishonest," the judge said. "To further show that [he] is dishonest and lacks integrity and honour, he made false statements under oath.

"Under the circumstances, and having regard to the vindictive and injudicious conduct of the third respondent, I am unable to find there is a reasonable prospect of success on appeal."

The judge pointed out that Ntlemenza had deliberately withheld from the court the IPID report and the docket on the illegal renditions, which he had had in his possession.

Mulaudzi's comment: "What the judge said is a separate matter that he [Ntlemenza] is dealing with himself. It is a personal matter. Remember his integrity was questioned, and we still maintain: 'How did the judge come to that decision?'. Already he... has taken it to the Judicial Service Commission."

Until the commission has dealt with the judge's comments, says Mulaudzi, Ntlemenza is "on the ground" and the right man for the job. "He is here to work... The issue of him not being fit for the job – well, I don't know who they want in the job. He did not actually apply for the post, he was appointed from his track record."

Sibiyi alleged in court papers challenging his suspension that Ntlemenza's motive had been to avenge his "ally", suspended Crime Intelligence head Richard Mdluli, as it had been Sibiyi's team that had arrested Mdluli on charges of fraud and corruption. The case against Mdluli and two other crime intelligence officers – accused of employing family members and friends as intelligence operatives and misusing police secret funds – was recently struck off the roll in the Specialised Commercial Crimes Court in Pretoria. However, NPA spokesperson Luvuyo Mfaku says the case will be placed back on the court roll after an outstanding investigation has been carried out.

On top of those allegations, Mdluli faces charges of intimidation, assault with intent to do grievous bodily harm, kidnapping and defeating the ends of justice, relating to the 1999 kidnap and murder of Oupa Ramogibe, who was married to Mdluli's former girlfriend.

Ntlemenza's name was first publicly linked to Mdluli when a report written by him was submitted as part of a "top secret" dossier sent by Mdluli to President Zuma. In it Ntlemenza claimed there was no evidence to link Mdluli to Ramogibe's death. It was also submitted to the Boksburg Magistrate's Court at an inquest into Ramogibe's death.

## Testing, testing, testing

**A**DVOCATE SHAUN ABRAHAMS WILL face many tough prosecutorial decisions in his new role as Director of the National Prosecuting Authority (NPA). And the country will not have to wait long to assess just how independent a prosecutor he is. There is already a queue of such controversial and celebrity cases waiting to put his independence to the test. One of the first will be deciding whether to prosecute President Jacob Zuma's son Duduzane Zuma over a fatal crash he had in his Porsche in February last year.

The matter has been with the NPA since December, when an inquest, presided over by Randburg magistrate Lolita Chetty, found that Zuma Jnr "failed to conduct himself in a reasonable manner under the circumstances" and had been negligent in causing the accident.

Duduzane Zuma's sports car rear-ended Jabulani Dlamini's minibus taxi on the M1 South off-ramp to Grayston Drive in Sandton in February last year. Phumzile Dube, a passenger, was killed instantly and three others were injured. Zuma claimed he lost control of his Porsche after it hit a puddle while driving at a normal speed in rainy conditions.

Chetty found he should have

slowed down and that by not doing so, he had exposed himself and others to danger.

In his defence, Duduzane Zuma's attorney Gary Mazaham blamed the accident on bad weather and poor drainage on the highway.

In July last year, prior to the inquest finding, the NPA declined to prosecute due to insufficient evidence. Following the inquest, the NPA should have reassessed the situation but had yet to do so seven months later. Legal sources say it could drag on for much longer as each aspect of it will have to be investigated afresh, and witnesses interviewed.

"No decision has been taken yet," says NPA spokesperson Luvuyo Mfaku.

While Abrahams will have to apply his mind to this and the other outstanding cases requiring a decision, fatigued legal staff at the NPA joke about how long he will last in the job. His predecessor, Mxolisi Nxasana, was forced out of office by President Zuma, who set up a commission of inquiry to look into his fitness for office. The inquiry lasted only a few minutes before it was shut down. Nxasana was eventually said to have been given a golden handshake of a startling R17 million. ■





**Not of a feather: Major-General Mthandazo Berning Ntlemenza (above) and suspended Gauteng Hawks head Shadrack Sibiyi**

Despite Judge Matojane's condemnation, Ntlemenza has not lost any of his determination to do things his way. Hawks members say he launched into the hirings and promotions without stopping to consult or inform his provincial Hawks heads.

"Most of the people hired are out of their depth," says a senior Hawks member, who decried the lack of transparency in the hiring process. "It is important the way you address organised crime and people appointed to these posts have to be experts in the game."

In the first rounds, up to 20 senior and middle management appointments were made, without the involvement of the provincial Hawks heads. Neither were the provincial heads invited on to the selection panels, as in past years.

While secrecy surrounded the process, it appears that many of those invited on to the panels were from the SAPS, and not from the Hawks. They would not have had expert understanding of organised crime, or the functioning of the unit, say Hawks members. Of the four people invited on to the first panel, one was from human resources in the SAPS; another, from the police's forensic science laboratory.

After complaints about the composition of the first panel, an acting provincial head from the Eastern Cape was invited on to the second panel for the next round of promotions and lower-level appointments. Again, the rest of the high-ranking provincial Hawks heads were excluded from the process,



in which about 40 people were appointed or promoted.

"In the six years of our existence, the provincial heads have always been included and consulted on appointments or promotions. It was never done this way. Everybody was taken aback," says

a concerned Hawks member. "But nothing can be done about it now. The damage is done."

The appointment process appears haphazard to some Hawks members. "Those brigadiers and generals appointed in the first round are only now going to be vetted and polygraphed. One or two might have security vetting already, but the rest need to be vetted," says a senior Hawks member. "If they don't get clearance, then it means you promoted a person to the post of a general, yet you cannot keep them in the Hawks. What are you going to do then? Send them back to the SAPS?"

Spokesman Mulaudzi says correct procedures were followed with internal and external advertising of posts; suitable candidates interviewed; and the best appointed. But, he says, he cannot recall the number of Hawks appointments made in the two recent rounds of hiring and promotions.

And in response to written questions from *Noseweek*, Mulaudzi declined to provide details of who took part in the two selection panels, nor would he give the names and ranks of those appointed to key Hawks posts by the interviewing panels set up by Ntlemenza.

Mulaudzi told *Noseweek* in a follow-up call that all appointments are of highly-skilled people with investigative skills. "This is not your *pap en vleis* area where you can just come in. You need

**"Most of the people hired are out of their depth," says a senior Hawks member, who decried the lack of transparency in the hiring process**



experience and you must also learn within the environment.”

Mulaudzi joined Ntlemeza’s team a month after he took over the top post. He replaced Hawks spokesperson Paul Ramaloko, who was suddenly transferred to the police media centre.

“I understand Maj-Gen Ntlemeza, we know each other,” Mulaudzi enthuses. “I worked with him in Limpopo as his communicator, so I guess he felt it would be better if he works with somebody he knows. He is definitely fit for the job. He is a seasoned police officer. He has been everywhere, he worked in Limpopo, Gauteng, and he has never been called to any disciplinary hearing. Any allegations against him are just an effort by people who are aggrieved – I don’t know for what.”

In contrast to the complaints from concerned Hawks members, Mulaudzi says the mood at Hawks branches around the country has lifted, and there is a newfound optimism since Ntlemeza’s arrival.

“We still have more posts outstanding, and it is necessary for us to make sure we beef up our members by giving them new posts. They have been sitting in posts for 10 to 20 years, some of them. It is not fair.”

Yet senior Hawks members say the discomfort about what is happening in the Hawks is palpable at meetings with the boss. And the fact that Ntlemeza chose to cut his provincial heads out of the selection process adds to their suspicions about why he acted with such haste to fill vacant posts.

These concerns were echoed by South African Police Union deputy president Tumi Mogodiseng, who said in an article published in the *Sunday Independent* in June that Ntlemeza was not suitable for the job, and that he allegedly brags in Hawks circles that he is carrying “a political mandate”.

Mogodiseng says in the article that Ntlemeza was too junior to interview people for posts more senior than his own. Ntlemeza was reported to have chaired the first selection panel, which appointed senior to middle management people to the Hawks, but he says the police’s command and control principle “doesn’t allow him to chair over senior officers,” says Mogodiseng. “Even provincial commissioners are his seniors.”

Mulaudzi was quoted as saying:

“There is nothing wrong with Ntlemeza overseeing the process. He is the acting head of the Hawks.”

Adding to the confusion around the hiring process, Mulaudzi tells *Noseweek* that Ntlemeza did not head up either of the two selection panels that interviewed people for the Hawks posts. “Ntlemeza is a Major-General, and according to policy there must be a higher person to appoint those generals. If it was a brigadier post, there is no problem. So in terms of the general posts, there was a lieutenant-general heading both panels.”

The article also states that Major-General Yolisa Matakata, the provincial Hawks commissioner for the Western Cape, sat on the first panel interviewing candidates for the middle to senior management posts. This had caused a stir among senior Hawks members, as Matakata insists she did not sit on the selection panel, and was not consulted on the appointments. Matakata would only confirm to *Noseweek* that she did not sit on either panel.

The Sunday Independent has since issued a correction, clarifying that Matakata did not sit on the selection panel for Hawks senior and middle manage-

ment posts. Yet it is still a mystery as to how a list purporting to detail the composition of the first selection panel came into circulation among Hawks members, claiming that Ntlemeza chaired it, and Matakata was a member.

South African Police Union general secretary Oscar Skommere says the union wrote to National Police Commissioner General Riah Phiyega to question some of the appointments and apparent irregularities around the selection panels. “We are seeking the truth,” says Skommere. “But we are not getting any answers.” The Hawks appear to be losing independence from the SAPS – a matter of serious concern for the union, says Skommere.

The police union is hell-bent on criticising Ntlemeza’s restructuring moves, says Mulaudzi. “It is quite amazing how they view the appointment of Maj-Gen Ntlemeza as a thorn to their hold on the directorate,” he says. “In so far as Maj-Gen Ntlemeza is concerned they must familiarise themselves with acting policies, both in government and in the private sector, that if you are acting in a position you assume full responsibilities of that organisation.”

Nothing untoward happened around the appointments, he insists. “The General has the authority to set up the panels. He works closely with our human resources team and if there were irregularities, they would have informed us.”

*Noseweek* was told that two brigadiers appointed to Hawks posts in the first round came from the SAPS. Yet after just a week in their posts they were placed on the second selection panel.

Again, Mulaudzi was asked the names of the people on the two panels that promoted or hired up to 60 people and why the two newly-appointed brigadiers were placed on the second panel, when they were new to the job.

“Your line of questioning is too contemptuous,” came Mulaudzi’s response. “This is becoming too personal and undermining the competency of the Acting National Head, the DPCI as an organisation, and those involved in the process. I refuse to stoop to your source’s shenanigans.”

• As *Noseweek* went to print, Ntlemeza began another two rounds of “frenzied hiring”, according to Hawks members. This included the selection of senior provincial anti-corruption heads. ■

**“This is not your  
pap en vleis area  
where you can  
just come in. You  
need experience  
and you must also  
learn within the  
environment”**

Brigadier Hangwani Mulaudzi

# Glimmer at end of tunnel for Transnet pensioners

**A** COMBINED SUMMONS HAS FINALLY been issued against South Africa's national transport monopoly, Transnet, by about 60,000 impoverished pensioners who, for over a decade, have received piffling 2% annual increases on their generally minuscule pensions.

The class-action summons issued by first plaintiff Johan Pretorius of Bloemfontein and second plaintiff Johan Kruger of Pretoria – both pensioners – draws a new element into the case. This involves the discovery of a remarkable R310 million “donation” given by the trustees of one of Transnet's pension funds, the Transport Fund, to Transnet.

According to the papers this “donation” was 40% of its members' supposed pension fund surplus, which totalled R632m at the time. The donation was confirmed in a document signed on 23 November 2000 at Johannesburg by the trustees and paid over on 7 March 2001. According to the document, “the intention is to innovatively use Transnet's share of the surplus to enhance [this] fund and improve the relationship between Transnet and the members of [this] fund. The ultimate decision regarding the use of Transnet's share of the surplus will rest with the board of Transnet.”

There is no evidence that it was ever used to benefit the pension fund.

Counsel for the pensioners argue that this donation was unlawful because the trustees did not have the power to make it. They also argue that the trustees made the donation in breach of their fiduciary duty to act in the best interests of the Transport Fund and its members. They argue that Transnet is liable to repay this amount to the fund.

The summons and particulars of claim are signed by advocates Wim Trengove SC, Jaap Cilliers SC and Leon Kellerman.

The Transport Fund (TF) has a number of sub-funds. They are the South African Airways Sub-fund; the Transnet Pension Fund Sub-Fund; and the Pas-

**By Donwald Pressly**

senger Rail Agency of South Africa Sub-fund. Worth noting: all the funds are administered from Transnet's offices in Johannesburg.

The TF itself was a merger of the “New Railways and Harbours Superannuation Fund (the so-called “White Fund”) created under the Railways and Harbours Superannuation Fund Act 24 of 1925, and the Railways and Harbours Pension Fund for Non-White Employees (the “Black Fund”) established under the Railways and Harbours Pensions for Non-Whites Act 43 of 1974. The latter two funds were merged into the TF in 1990.

The second defendant is the Transnet Second Defined Benefit Fund (TSDBF), a pension fund established on 1 November 2000. The third defendant is Transnet Limited.

In the summons, reference is made to “the legacy debt”. The pensioners' lawyers say the SAR&H and SATS – forerunners of Transnet – had an obligation to pay the white and black funds “such amounts as were necessary to maintain them in sound financial condition”. The State Actuary determined this debt to be R17.18 billion plus interest from 1 April 1990.

The lawyers argue that the Transport Fund and the Second Fund (the TSDBF) inherited the right to receive the legacy debt in the respective proportions of 43.1% and 56.9%. In 1990 Transnet issued so-called “TO11” bonds to the value of R10.3bn in favour of the Transport Fund. The Second Fund apparently received a pro rata share of these bonds from the Transport Fund. But in February 2001 Transnet, the Transport Fund, and the Second Fund inexplicably agreed to cancel the bonds without receiving any payment.

Most of the Transnet pensioners are battling financially and are desperate, having received inflation adjustments of only 2% each year since 2003. Infla-



tion has seen to it that their real earnings now are worth half what they were getting when they first retired, even though, with age, their medical costs have doubled.

Transnet has been asset stripping the pensioners for two decades. About 62% of the pensioners are receiving less than R2,500 a month. Some get as little as R200 a month. The average age of the pensioners is 77, their average pension is a mere R2,850 a month.

Freedom Front Plus MP Anton Alberts, who has led the battle in Parliament for the embattled pensioners, said it is good news that summons has been issued – by attorneys Geyser Coetzee. He believed that when the high courts sit again at the end of July after their recess, a court date could be applied for.

Transnet and its shareholder, the government, are expected to continue employing legal delaying tactics as their prime defence strategy, he! he! he!

The pensioners have come to expect nothing else, having seen their last years tick by in ever-greater poverty. ■



# That sinking feeling

Not since the Battle of Trafalgar have we witnessed such marine hostilities.

By Jack Lundin

**M**ORE THAN A FEW OF THE R500,000-plus luxury pleasure boats that ply the waters of the Vaal River and dam have passed through the Vereeniging boat yard of Honda Marine's one-time authorised dealer Tony Lindhorst. And this can be a painful experience.

Take the case of Sue Brownlie and her 18-foot custom-made Premier Pontoon. Brownlie hails from East London, where she spent 22 years building up her own Landvest estate agency. For family outings on the water she turned to Tony Lindhorst, then operating a boat business in Gonubie, and picked up the pontoon for R300,000. Standard Bank obliged with R201,420 and Brownlie paid the R100,000 balance in cash.

Last year, after the Brownlies' marriage collapsed, they sold their six-bedroom canal-side home in Port Alfred (read on for the new owner Tony Lindhorst's horror yarn) and Sue Brownlie retreated to Joburg, where she joined the Chas Everitt International estate agency.

By now Lindhorst had also left East London and was established as owner of a Honda Marine dealership in Vereeniging. Brownlie instructed him to sell her pontoon for around R240,000. The boat, of course, was still legally owned by Standard Bank. Three months later Lindhorst phoned announcing he had a buyer. He promised to settle the bank (then owed about R160,000) and pay her the balance of R80,000 balance, less 10% commission. But nothing arrived, except for contin-

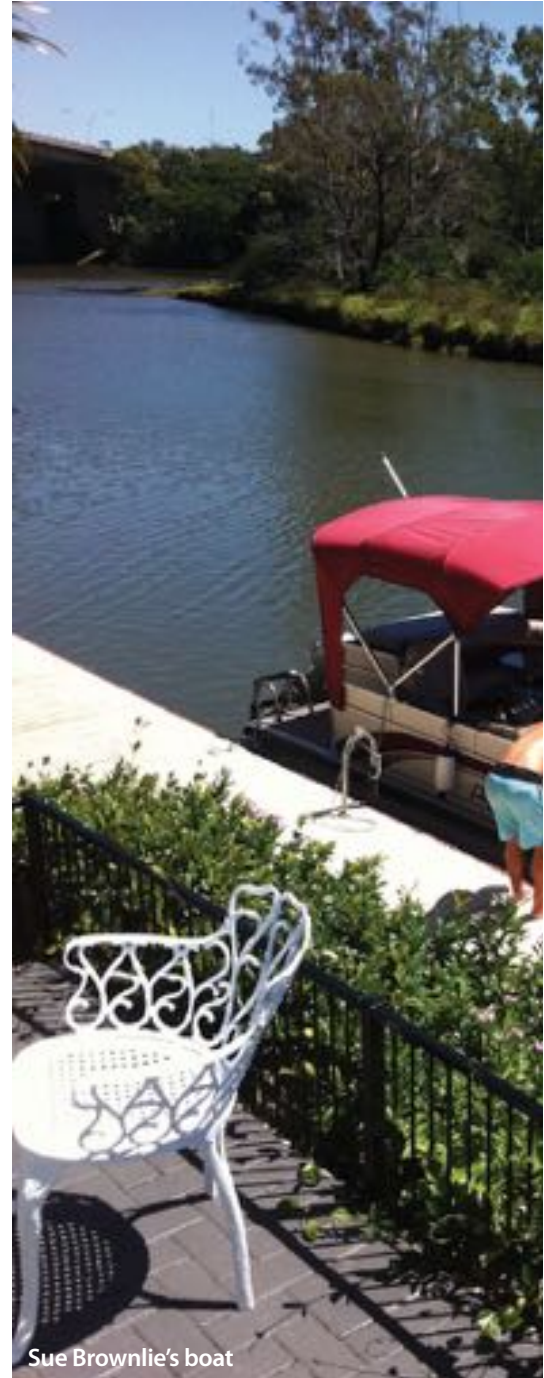


Sue Brownlie

uing monthly statements from Standard Bank, which apparently hadn't been paid off either.

"I'm going through financial difficulties," Lindhorst told Brownlie, although he has managed to come up with R55,000 for her to be going on with.

Terrified of getting a "black name" Brownlie decided to maintain the R5,000 monthly payments to Standard Bank for a while. She contacted the bank and explained what had happened, expecting their investigators to swoop on Lindhorst, establish who had bought the boat, and repossess it. "But they just said they wouldn't get involved; there was nothing they could do as long as I was maintaining the payments."



Sue Brownlie's boat

Women who star in successful estate agencies tend to be tough cookies. So Zambian-born Sue Brownlie's next step was a visit to Lindhorst's boat yard, accompanied by a heavily-tattooed gent in the form of car salesman Andrew Turnbull – who brought along two of his desperado-looking associates. Turnbull, as our picture indicates, is a nonsense sort of geezer who attended school with Brownlie's eldest daughter.

There are two wildly conflicting accounts of what ensued during this excursion to the Vaal Triangle. "She arrived here with three heavies, with all kinds of threats," claims Lindhorst. "She says she wants her boat or I must pay her the money. The guy that was with her, Andrew Turnbull, happens to





## According to Tony Lindhorst, Sue Brownlie arrived with three heavies, and all kinds of threats

be the son of a second cousin of mine. He's involved in all sorts of things.

"Turnbull told me the two coloured guys with him were gangsters, hitmen that he controls down in Cape Town. He showed me a metal baton in the boot of his car that they break guys' legs with. He had a pistol there too. I've been selling boats for 47 years and I've never had an experience like this in my life."

Absolute nonsense, declares 58-year-old Sue Brownlie. "An arrangement was made between Mr Turnbull and Mr Lindhorst that Mr Turnbull would sell two vehicles in Mr Lindhorst's yard for him, and Mr Turnbull would then pay me so that the debt would be reduced," says Brownlie.

"As far as heavies and hitmen, I have no knowledge of this. I wouldn't even know where to find heavies. Mr Turnbull had two gentlemen come with us to help, hoping to collect my boat from Mr Lindhorst's yard."

With Lindhorst's agreement, the two vehicles were taken away – all very friendly and amicable, according to Brownlie. Turnbull apparently sold one of the vehicles, though Brownlie says she has not received a cent from him.

Lindhorst tells a hair-raising story of how he flew to Cape Town to recover the other vehicle, a Ford F250 bakkie, claiming that he had to pay R15,000 to one of the coloured "hitmen" before he was able to escape with it.



Tony Lindhorst

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*Noseweek* was unable to obtain clarification from Andrew Turnbull. The lad never answers his cellphone.

For a year, Sue Brownlie has been battling to discover who Tony Lindhorst sold her boat to, so that she can repossess it. Lindhorst refused to tell her. She sought the help of attorneys and then a private detective. Their investigations all drew a blank. Finally, Brownlie took the well-trodden route of last resort – she called *Noseweek*.

Who owns Sue's boat? we asked Lindhorst. "That's irrelevant," he replied, adding that since Brownlie stopped making the monthly payments earlier this year he's been "paying it off and the bank is now only owed about R120,000." (The latest settlement figure is R103,000).

A couple of calls by *Noseweek* answered Sue Brownlie's quest: her pontoon now sits outside 717 Caversham Road, Henley on Klip, home of Reinier Fourie, owner of Crusher Support Services, Meyerton rock-crushing specialists for the mining industry.

However, Fourie didn't pay Lindhorst's stated net figure of R240,000 (after his 10%) for it – he paid R350,000, which he met by trading in his Formula ski boat for R200,000 and R150,000 cash. "Or R250,000 for the ski boat and R100,000 cash, I can't remember exactly," he says.

How does he feel now to learn that "his" boat belongs to Standard Bank? "I don't know what to tell you," gasps a shell-shocked Fourie. "I never saw this coming. The way I feel now is to go and grip him (Lindhorst) by his throat and strangle the money out of him."

Armed with Reinier Fourie's details, an excited Sue Brownlie sped off to her attorney. Later she reports that they were "getting a warrant issued against the person in possession of the boat (Mr Fourie) so that I can collect it. We're also issuing a warrant against Mr Lindhorst for damages, and we will lay a criminal charge against him."

From Standard Bank, a sharp reprimand. "The fact that Tony Lindhorst did not pay for Mrs Brownlie's boat should have led to her laying criminal charges with the police," says Nicholas Nkosi, head of Vehicle and Asset Finance – Personal Markets.

"However, even if Mrs Brownlie had laid charges, she would still have had to continue paying Standard Bank for



Car salesman Andrew Turnbull

her debt. The onus falls on Mrs Brownlie to take care of the boat, for example arranging adequate insurance cover to protect the boat against damage and losses resulting from theft and other forms of crime.

"Now that the individual that purchased the boat from Tony Lindhorst has been identified, Standard Bank would advise Mrs Brownlie to open a criminal case and seek help from SAPS to recover the boat. Mr Fourie would then have to take legal action and make a claim against Tony Lindhorst for selling him a boat he did not own."

Which brings us back to Sue Brownlie's former home, spread over a double stand in Royal Alfred Marina on the Jellicoe Point Canal, down in Port Alfred.

The new owners, professional hunter and entrepreneur Fred Burchell and his wife Laura, also bought a boat from Tony Lindhorst – a massive 15-seater Suntracker river craft with leather seats and all the trimmings, which they called *Bounce Back* ("like the fertiliser," explains Mrs Burchell).

However after her husband died, boating no longer appealed and she asked Lindhorst to re-sell it. Lindhorst said it would fetch no more than R425,000.

Months passed with no word, but when Mrs Burchell's son visited Lindhorst's yard the boat was no longer there. Eventually Lindhorst admitted he had sold *Bounce Back* – for R560,000. Of this, Burchell's attorney Rob Parker says Lindhorst has paid the Burchells' FBB Trust R200,000.

They are suing him for the balance and Mrs Burchell thinks Lindhorst

should be charged with perjury for claiming in court in June 2014 that the boat had not been sold when it had changed hands (on 22 October 2013).

*Bounce Back's* new owner, Harry Coetzee, who operates a transport company in Johannesburg, says: "He's quite a piece of art, Tony Lindhorst. I wanted a boat to sail on the Vaal. I had another one, which was too small for me. So I traded that in with Lindhorst for R300,000 and bought a bigger one for R560,000. Nedbank paid him the balance."

Is he happy with his "party barge" buy? "Lindhorst was supposed to do a lot of extras," says Coetzee. "The stuff that was done was a rush job, not a good job at all. I wasn't very happy with my dealings with him, definitely not."

Tony Lindhorst, who runs half-day skipper courses at R2,000 per person every month from his yard in Vereeniging's Peacehaven, comments: "I'll settle what I owe. If you want to drag us through the mud it's not going to do us any good, just make it much more difficult for us to get our money."

Last year Honda terminated Lindhorst's dealership and he now operates as Lindhorst Marine, trading as Tony's Boating CC.

"It's been a nightmare," he says. "Honda owes me R600,000. They debited me for goods instead of crediting me for payments. I spoke to the CEO just last week and they want to get together with me and settle out of court. If I get that money I'll settle everybody I owe money to."

Lindhorst continues: "It's not easy in the boating industry, believe me. If they really want to get nasty I'll liquidate the bloody company and you'll have 20 people out of work. At my age [*he's 67 in September*] I couldn't give a damn."

Honda Motor Southern Africa comments: "Mr Lindhorst's dealership agreement was terminated on 18 September 2014. According to him, Honda owes him some R620k. His allegations that he spoke to the CEO who wants to get together with him and settle out of court is untrue."

"We are not in a position to comment on the termination of Honda's relationship with Mr Lindhorst, as we have instituted legal proceedings against Tony's Boating CC, which are ongoing." ■





## Hawking. Star wars

**S**O, MRS HAWKING, WHAT'S IT LIKE, BEING married to a genius? Hell on wheels, judging by this brilliant autobiography of the woman who shared Stephen Hawking's fantastic life for 25 chaotic years.

It says a great deal for Jane Hawking's character and intelligence that she can, after a marriage that would have broken a saint, retain dignity and insight in the depiction of a wildly challenging struggle with the great mind and crippled body of the physicist who changed the world with the publication of *A Brief History of Time*.

The teller of the marital tale is a highly civilised individual, who has somehow contrived to survive a battle for which she was unprepared. Perhaps that's not true: she had been moulded by the spiritual strengths of her decent family.

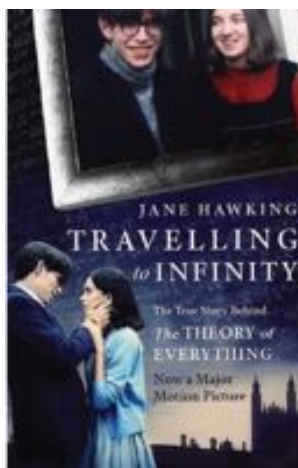
And every ounce of those strengths was needed in the battle to cope with the searing demands of Stephen's horrific motor neuron disease, while raising three children (four, in effect, considering the dedicated 24-hour daily nursing required for her husband's survival).

Picture the harassed wife and mother shoving his heavy wheelchair along, encumbered by a shoulder sling for the baby, and with a toddler in tow.

It is a relief to know that the early stages of their courtship and marriage had its joys. Medical opinion at the time was that Stephen was unlikely to live for more than two years, but the romantic couple decided to tie the knot in hope and faith. The fear and exhaustion that accompanied rapid physical deterioration soon overtook them.

They lived in modest circumstances. Many years of deprivation were to follow before the world stormed into their lives, pressing accolades, money and medals on a man who had by then lost the power of speech. The throat is a seat of motor neuron, and it took a long time before a suitable voice synthesiser became available. In the interim, his wife and some students had to interpret the whispers of wisdom about the nature of the universe – and of ordinary human needs. Eventually, of course, he commanded the dalek-toned machine that allowed television to broadcast his insights directly to an awed globe.

**TRAVELLING TO INFINITY**  
by Jane Hawking  
(Alma Books)



• *This is a review of an extensively revised version (with new material) of Music to Move the Stars*

Academe in the 1970s was not kind to wives. While the Oxbridge male scientists disputed loftily, their women were not expected to utter more than hospitable witterings. Nobody was interested in Jane Hawking's dreams of a career, and there was scarce time for a quick glance at textbooks while heaving her husband in and out of bed, feeding him medications and tending to clamorous children. It is awe-inspiring that she managed, after ten years of helter-skelter languages study, to gain a PhD.

When fame and fortune visited the Hawkings, the social and nursing demands rocketed. The stresses involved in dragging the fragile Stephen and his now-sophisticated wheelchair and vocal equipment on to planes and up staircases were eventually modified when nurses could be afforded to ease constant international lecture tours and formal calls on the great and the good.

Hawking gained social confidence from his success and, astonishingly, loved air travel. The family stumbled in his wake, and managed some fun in foreign places. But the unrelenting publicity created an intrusive circus atmosphere. So did the star-struck nurses, who flattered Stephen at the expense of his increasingly weary wife. Eventually, of course, he divorced Jane and married one of his suite of attendants.

It says a great deal for the author that she preserves a courteous calm while gliding over the painful details of the parting. She had had more than enough of pushy media, hangers-on and the lunatic fringe lurking in the garden. Family life had been seriously disrupted. And she could no longer bear the snubs of her icily intellectual in-laws ("You know, we never liked you"). She mentions Stephen's second divorce without comment.

Jane joyfully notes her eventual marriage to an old friend and accomplished musician. Now she teaches Modern Languages and has learned to sing, sometimes solo, in concerts.

Stephen always relished Wagner, at full volume, and tended to jeer at Jane's romantic preference for Brahms. Nowadays they socialise occasionally. The three children are grown-up, and well, and good.

Oh, and Jane has become a writer. An impressively fluent and sensitive writer, with a gift for the cliff-hanger. ■



# Letter from Umjindi

## Say aaarghhh! Hospital horrors

**I**N JUNE A VERY GOOD FRIEND OF MINE, Sipho Masuku, died as a result of internal injuries sustained from a hit-and-run incident. This was a hit-and-run in more ways than one; the culprit, driver of a Toyota Venture taxi, dropped off the vehicle at the taxi owner's house and made a run for it out of Barberton.

Sipho's death was closely followed by a car accident involving another close friend – let's call him Bush – a valuable employee on my farm. There were four in the car and the driver died in the crash. Although Bush was lucky to have survived, he was nearly paralysed – and of course it was yet another road accident that could have been prevented.

Their stories have brought to mind my own experience of state medical care as well as the tragedy that I shared with readers a few years back, of a child whose penis was accidentally amputated at Barberton General Hospital. Although reckless driving is so common in this country, it is the state medical care that needs to come under scrutiny. Sadly there appear to be too many mistakes and possible misdiagnoses by unsupervised junior doctors doing their residency at Barberton General Hospital – one that is classified by the Mpumalanga Department of Health as a training facility for both doctors and nurses.

In the early 2000s I was referred to Barberton General by a local clinic after complaining of a shortness of breath that I had been experiencing for roughly two weeks while jogging. I was sure I had contracted TB. After all, my mother, with whom I spent a lot of time, had recently died of respiratory failure, TB.

The young hospital doctor performed the basic stethoscope test on me – breathe in, breathe out – then said, No Sir, you are fine. I said that's impossible. Why are you not taking me for an X-ray? He said an X-ray was not necessary since he was confident his diagnosis was correct. I said f\*\*\* your diagnosis. I demand an X-ray! After expressing his displeasure at my tone and use of foul language, he agreed.

Back in the examination room, the X-ray would reveal that I was in the early stages of TB. Although the doctor apologised profusely, my response was by no means forgiving. What if I'd been one of those poor unsophisticated people who cannot stand up for themselves?

In the tragic story of the penis amputation, the little boy's mother had been sent from pillar to post for nearly two years – with everyone from the hospital's administrators to the Mpumalanga Department of Health ducking and diving – despite the fact that the boy's file had clearly stated

**“We have years of experience but because we are just nurses the doctors don't care about our input”**

“amputated penis during circumcision”. A copy of the file was leaked to this journal by an inside source angered by the boy's plight and the mother's anguish.

Naturally when I heard the news of my friend Sipho Masuku's death and received subsequent information from an inside confidential source, I immediately suspected misdiagnosis. My hunch was validated by a nurse who said, “We have seen many casualties like your friend and he should have been referred to Pretoria instead of to Nelspruit's provincial hospital, Rob Ferreira. We tried to tell the doctor this but our advice was ignored. This happens all the time with these junior doctors. We have years of experience but because we are ‘just nurses’, they don't care about our input”.

It would appear that the same misdiagnosis scenario befell Bush when he was simply put in a neck brace and sent home. It was only after a week-or-so, when he went back to the hospital to complain about being in excruciating pain, that he, too, was then referred to Rob's, where the injury to his spine in the neck area was diagnosed as being more severe than originally thought at Barberton General.

At Rob Ferreira he was operated on and a metal plate was inserted in the back of his neck to (as he said the doctors said) stabilise his spine in that area, since it appeared to be slightly dislodged.

No attempts were made to get comment from Barberton General by this experienced scribe; history has shown they just refer one to the Mpumalanga health department. And, as is often the case, attempts to get comment from the department were unsuccessful before going to press. However, in Masuku's case, two doctors – one, a former member of Barberton General's board, Dr Younis Vawda, and the other, a trusted advisor to this journal on medical matters, Dr FA Saley – both agreed that the suspected misdiagnosis of Masuku's internal injuries was a hard call even for a seasoned doctor.

And on the Bush matter, Dr Saley said this, too, was a hard call but the insertion of a metal plate might not have been the best treatment, since research had cast doubt on its long-term suitability. However, Dr Saley echoed my own sentiments as well as a comment made by the nursing source: “The biggest problem is that these junior doctors are attending to serious cases unsupervised and this is a bad reflection on the Mpumalanga Department of Health's responsibility to patient care, and not so much on Barberton General and, as such, the junior doctors.”

Be that as it may, we, the patients, expect that these matters should be addressed by our hospital administrators, not by some deployed party loyalist sitting in a cosy office at the Nelspruit provincial government complex.

May Sipho rest in peace, and a speedy recovery to Bush. ■



## Fiddle-de-dee. Sound advice

**W**ELL, WHEN THEY'VE DUG UP Rhodes's evil bones in Zim and hurled them down the abandoned shaft of his favourite old gold mine in Gauteng, when they've dumped a whole lot of rocks on top with a bulldozer, and tipped in Joey's municipal refuse so no racist madpersons can make a shrine of it, and when we've called our misbegotten country Ancenia and tippexed every piece of paper with South Africa written on it, and... and... you know what I mean... then we'll settle down to the Big One: a new national anthem. I mean, *Inkosi Sikelele* is okay but by the time the singing of it is over at the stadium the sun's going down and there's no time for the rugby. And anyway it's all about God and we are supposed to be a secular country, are we not?

So now, take an unfortunate lesson from Australia, where they forgot that a camel is a racehorse designed by a committee and appointed one for the anthem job, which came up with a piece of doggerel so abysmal as to sicken all citizens, certain states just sticking with th'Almighty saving Queenie Windsor. It is called *Advance Australia Fair* and in brief it says that Australia has a whole lot of v. nice trees and nice golden beaches if you like surfing and if you are good at business you can get v. rich and that's nice too. Choon? Hel, man, they could have got a Vrystaat Boereorkes to cheer it all up a bit. I'd thought there was a competition, and submitted the following:

*Once a woolly wumboot  
widdled in a gooligong  
under the shade of a nullarboo tree,  
And he sighed as he sang  
and waited while his willy weed  
You'll never take me alive says he.  
Down come a shagman  
peeping in the gooligong,  
up come his dingbat one, two, three,  
And he sang as he stuffed  
that wumboot in his sleeping bag  
You'll come a-tiddla-widdling  
Walter with me.*

One should take note that music of the above should be of solemn measure, as

befits a nation's sacred sensibilities, something in the nature of *Deutschland über Alles* by the composer Josef Haydn who specialised in solemnity.

But no simple acknowledgement of my submission, music or words, came from the Anthem Selection Committee, if only as a matter of common courtesy. Why, Poet Laureate the Hon. Spichaell Milligan himself submitted an anthem of great fervour, and he too was callously ignored. His submission went thus:

*Australia Australia  
we think of you each day  
Australia Australia  
at work and a-at play.  
We think of you each morning,  
and in the evening too,  
We even wake up at midnight  
so that we can think of you,  
Australia Australia  
we love you from the heart,  
The kidneys, the liver and the giblets too  
And every other part.*

So then, what's to do? Why, easy, los the committee idea altogether and just employ Ladysmith Black Mambazo to make us an anthem.

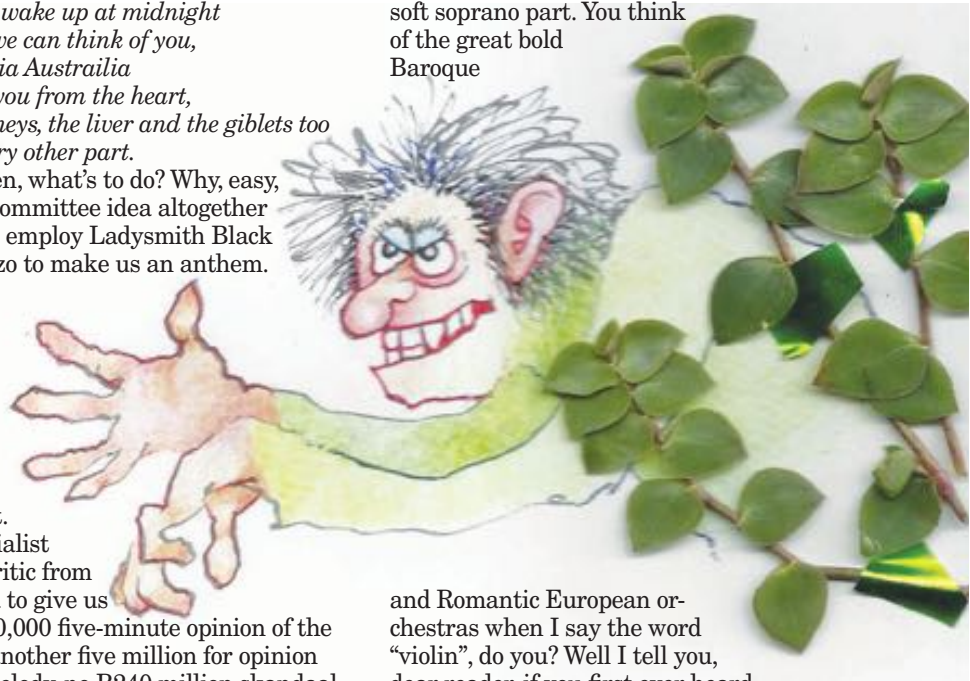
Straight.

No specialist music critic from Pretoria to give us a R5,000,000 five-minute opinion of the words, another five million for opinion of the melody, no R240 million skandaal, just plain concert rates from the country's best traditional musicians.

The orator Moses Mabhida comes to mind, at Currie's Fountain bantu football field, Durbs, 1950s. Unlawful assemblies, these: thousands of souls jam-packing the ground, and he on the not-so-grandstand chewing on a matchstick as was his oratorial style. Unpretentious gatherings: housemaids, garden boys, full-on

factory working proles, old men with walking sticks, young men with carrying sticks. Young mums. Street loafers. The lot. And when Mo gave it to them he gave it straight: this is a struggle for redistribution of wealth. And always always, when the crowd had got the message the closely blended singing would start, spontaneously, and the slow swaying soft-shoe dancing: We will not relent, even though we are imprisoned, only give us freedom. I can't think of anywhere else in this world where rebellious political meetings end in intuitive song and slinky dance. Song is the African art medium.

And Black Mambazo has it. A cappella singing group, all male, plus, blow me down, of all things a solo violin to sing a soft soprano part. You think of the great bold Baroque



and Romantic European orchestras when I say the word "violin", do you? Well I tell you, dear reader, if you first ever heard it as part of Zulu isicathamiya music you'd swear down blind it was an old trad African instrument. It doesn't shout at you, it has no glorious crescendos, it sings modestly for you, personally, it speaks gently, it smiles with you. And that's what we need for our ailing culture. We are not a nation of blustering bullshit heroes proclaiming our superiority on this ailing earth. ■



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