

**Bheki Cele heads
probe – into
himself**

**Muslim charity
rides in to rescue
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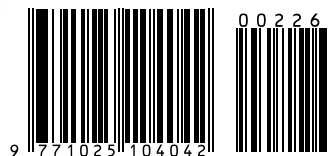
Who's to blame? What's to be done?

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**Knysna fire:
Another resignation**

**Vodacom clients
fight on**



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It's always handy to have parents in high places

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Letters

Bravo at 25!

SO, MR WELZ, NOT FAREWELL, IT SEEMS, but onward and upward! (With a nod to *Private Eye* – and poet EJ Thribb (17½) which I subscribed to for years – until the demise of the rand.

Congratulations and accolades are definitely due to yourself and your committed writers, cartoonists and advertisers. And for having outlasted the notorious *Scope*.

Bravo to you all!

Your content, always so bare to the bone and precise as any crime scene or murder autopsy, has sometimes driven me to the bottle after trolling through the misery that infests this unfortunate yet beautiful and opportunity filled country.

I sympathise with your despair at the South African psyche's inability to discern satire from news, but please do not give up entirely. Allow those of us endowed with a bit of intellect, cynicism and quirkiness to get to the back cover with a smile and some hope instead of feeling the knife turning in our guts.

I will drink a glass of decent chenin blanc to the next 25 years, after *nose225*, which was an excellent read.

Robert de Vos
Simon's Town

■ CONGRATULATIONS TO YOU AND YOUR team for 25 years of publishing *Noseweek*, which I have long enjoyed. I wish you luck for the next 25 years – and may your readership grow!

Philip Strachan
Cape Town

Proposed basic income grant

DA MP KAREN JOOSTE EXEMPLIFIES Stephen Covey's basic requirement for getting something done: knowing what to do, how to do it and why. As in the three-legged stool, if one is missing it falls over.

In today's amateur society how often do you wonder if politicians know what they are doing, how to do it and why.

Jooste stands out as a rare professional in a sea of amateurs.

Piglet
Elandsbaai

■ HOW UP-TO-DATE WAS YOUR ARTICLE "How to defuse SA's ticking time bomb" thesis (*nose225*)? In it Karen Jooste told us how essential it is to have a liveable basic income grant in South Africa and that she was going to present her "ground-breaking document" to an international conference in Finland in August.

I can't see how it could be described as ground breaking but that's not my real point. What I didn't see mentioned, unless I could not see for looking, was that in April this year Finland ended its basic income trial with 2,000 unemployed people, presumably because it didn't work. So this blew a huge hole in her entire case which, ironically, she is going to promote in Finland.

Jon Abbott,
Cape Town

Karen Jooste's response:

NOBLE AS THE AIM MAY BE, MY suggestion is not simply about paying a liveable, additional grant as a form of poverty alleviation through increased taxes. My proposal goes much deeper into creating a socially just society in which socio-economic policy improves the security of the least secure groups; does not impose controls on some groups that are not imposed on the most free; focuses on rights as opposed to charity and promotes dignified work. This entails a complete restructuring and re-prioritisation of government's budget, including but not limited to policies such as BEE.

As far as Finland is concerned there has unfortunately been much incorrect and uninformed reporting on the pilot. The project is continuing as planned till the end of the year. The aim of this project is primarily to test the effect of unconditional payments on job incentives particularly whether it will encourage Finns, who are afraid of losing their

generous unemployment benefits, to take up short-term jobs. I will happily write a comprehensive overview of Finland's experiment when I return from my visit in August.

Shade to the Berggruen picture

ANNE SUSSKIND'S COLUMN ON HER VISIT to Berlin (*nose224*) was a sensitive piece of writing that resonates. Just one correction: as Heinz Berggruen himself emphasised, he did not actually flee the Nazis. He left Germany precipitously for other reasons.

Thanks to the Nazis (with whom he rather sympathised) and his Jewish roots (which he spent a lifetime repudiating, except when it was financially advantageous to acknowledge them), he had a visa to the US and a scholarship to Berkeley University in his pocket.

He never fought with the Allies: he held a comfortable desk job in America while the fighting lasted, arrived in Europe when it was over and plunged straight into the lucrative Black Market.

His main aspiration was accumulating vast wealth (gladly at the expense of others) and without paying taxes. In terms of residence and taxes, he never returned to Germany, and as the Jewish *Aufbau* newspaper remarked, his "gesture of reconciliation", ie the tax-free, overpriced sale of his stock to the German government, was more accurately a "business opportunity".

The rest, I'm afraid, is hype, an early exercise in fake truth.

Vivien Stein,
Yale University, USA

Turning tables from Down Under

THANK YOU HAROLD STRACHAN FOR A you-too, me-too view of Down Under (*nose225*). A marriage to an Australian and visits to children in "Seednee" and elsewhere have allowed many observations of that nation's notions of "maitehood".

Highest on the list was reading Sally Morgan's "My Place in 1988",

charting the personal discovery of her grandmother and mother's "forced removals" from their mothers.

"Apartheid South Africa could have learned from this lot," I thought. Yet I met not a few pleasant and friendly pale Australians who, like your nephew's MP, believed that "all that" was best left in the past, y'know?

A rich irony is that I was unaware while reading the book of another revealing event of 26 January 1988. While pale Australia was tan-tarahing over the bicentennial of Cook's dropping anchor in Botany Bay, a dark citizen was raising the Aboriginal flag on Dover Beach, declaring that "I, Burnum Burnum, being a nobleman of ancient Australia, do hereby take possession of England on behalf of the Aboriginal Peoples."

I only discovered his speech in 2011 but re-read it regularly – the most poignantly punchy yet gently humorous history lesson I know.

Forward to 2018 – where the majority of Australians it seems are in favour of amending the constitution to actually mention the "A" word. "A" is the first letter of the alphabet

and Aborigines are the First Peoples, right? Nah, Malcolm Turnbull and the boys aren't coming to that party just yet, maite!

PS: Congratulations on your 25th!

Yvette Worrall
Plettenberg Bay

Nedbank's abuse

ON 29 MARCH THIS YEAR, OUR SMALL business account with Nedbank was frozen without any communication from the bank. The account has been with them for 27 years.

When I contacted their call centre, I was told that we had not complied with their FICA requirements.

I pointed out that we had been dealing with their small business manager since 5 March 2018 and had submitted all documents requested. It then transpired that two further documents were required which they had omitted to mention. (One of these had in fact been handed to them 9 months prior!)

The account was eventually cleared after 12 days. During that time I spent well over two hours on telephone calls

to their Professional Services section, Complaints Division and FICA Division in addition to writing lengthy emails to the small business manager. Three emails to their complaints division went unanswered until after the account had been cleared.

The fact that they effectively shut down, at month-end, a small business that has financial and VAT commitments, without the courtesy of a phone call or email, is disgraceful and amounts to abuse.

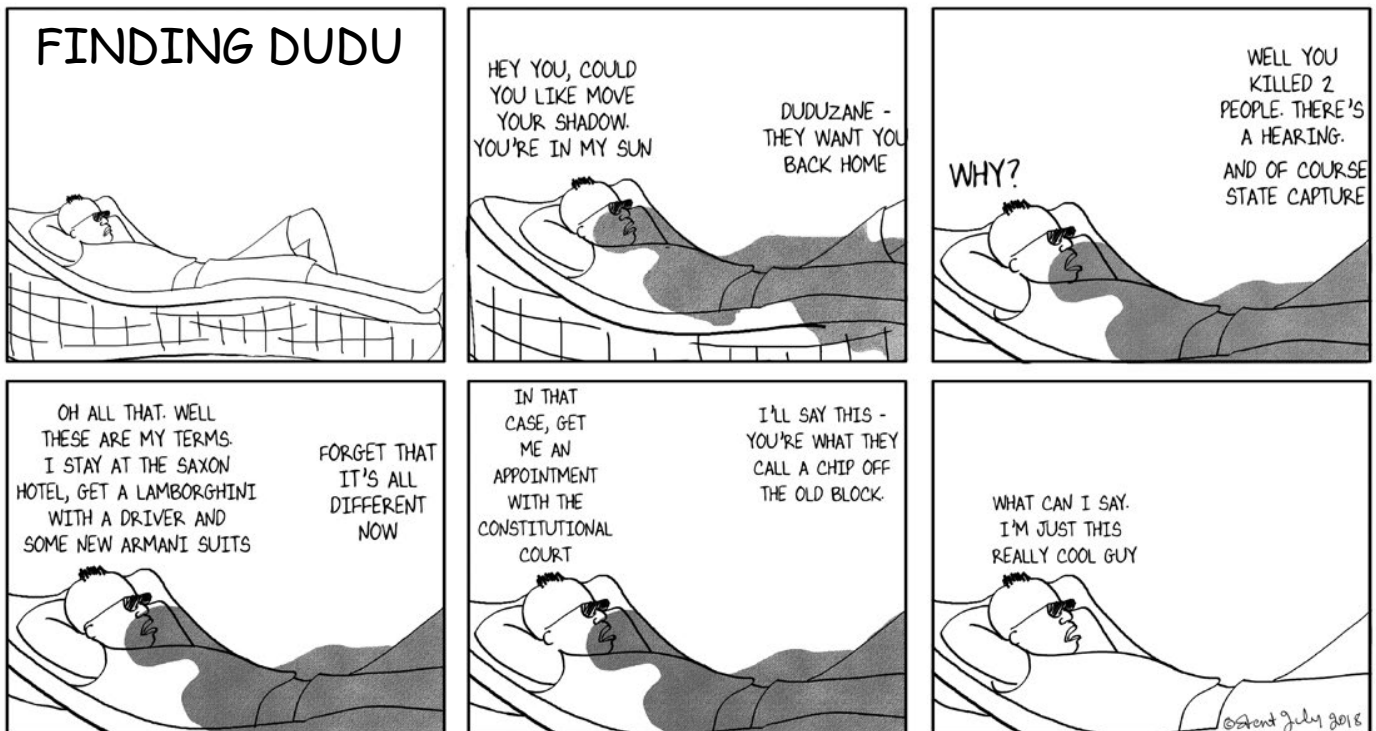
Even after establishing that the fault was on their side they refused to clear the account.

It is apparent that they have a small army of very polite staff where no one has the authority to make a decision or take effective action.

To add insult to injury, three days after the account was cleared it was again frozen as they had discovered a further document missing – again, one that had not been requested. After four days it is still frozen.

Have others experienced the incompetence and abuse of this bank?

C Murray
Cape Town



Stent

Letters

John Binns writes to Vodacom – and the fun begins...

Correspondence with Vodacom about unauthorised Vodafone VLive charges

ON FACEBOOK YOU SAY I DIDN'T SEND YOU an email; well here is proof of the two that I sent you...

I was charged for a fraudulent transaction on my account in February and the subscription was meant to be cancelled. I was credited with the amount and assured this subscription had been removed. Rubbish! Another subscription appeared on my March account.

Pass a credit on my account immediately and remove all subscriptions.

Legal action will be taken, since you cannot charge anything against my account that I have not authorised. A class action lawsuit will be the only way you will learn not to steal from your clients. Get your act together once and for all.

Vodacom replies:

THANK YOU FOR YOUR EMAIL. WE HAVE tried calling you today on 082... but the call was routed to voicemail.

Protection of your account against fraud is critical to us so we need to verify that you have permission to request information on this account by asking you a few security questions: ID Number; address where monthly statement is received; bank name and account type. Once we receive this, we will be able to assist with your query.

Nadeem Jacobs
Social-media@Vodacom

Mr Binns provided the requested information within the hour, whereupon he received the following:

THE ACCOUNT WAS CREDITED ON 14 March for the invoice of March (see statement attached). I have now logged a new request for the subscription in April to be credited. Your SR reference number is... You will be contacted with feedback within 24-48 hours.

Ashwin Abdurahman,
Vodacom Customer Care

Binns responds:

PLEASE EXPLAIN WHY VODACOM ALLOWS unauthorised charges to my account?

We have a contract and under no circumstances can extras be charged without my authorisation – Vodacom is in breach of contract and legal action is an option being investigated.

These subscriptions are fraudulent and a class action lawsuit is being considered.

Vodacom replies:

SIMILAR SERVICES AROUND THE WORLD, such as Apple iStore and Google Play, are active by default and customers have the convenience of paying for content services and subscriptions without having to continuously re-enter credit card/payment details.

Through Vodacom payment platform, customers can subscribe to the likes of Showmax, Deezer, and Office 365 as well as games, sport, and small business services.

For customers that prefer not to have or use credit cards, this means they can access and subscribe to services that they might otherwise not have access to.

Vodacom reiterates that it has a zero-tolerance approach to any type of illegal activity on our network and we take a hard line if a third-party contravenes any agreement they may have with Vodacom or the likes of WASPA's code of conduct. We have and continue to suspend and terminate the services of WASPs and their affiliate content aggregators and will continue to investigate reported transgressions and then ensure that we take appropriate action.

We also seek to ensure that affected customers are fully refunded on first contact with Customer Care ...standard practice is to refund the customer first and then investigate the query/allegation later.

We continuously enhance our systems and processes to eliminate fraudulent activity... [and] make regular improvements to our double-opt-in processes to make it clear to customers what they are subscribing to, the term [length] and the amount they will pay. We actively upgrade anti-fraud detection software.

Vodacom is putting measures in place to curtail all new WASP activations. We apologise for any inconvenience this may cause.

Buzwe Bonga,
Social Media Consultant

Response:

I DON'T CARE WHAT OTHER PLATFORMS have to offer! I have a contract with Vodacom and you cannot fraudulently charge me for something I did not subscribe to. These WASPs, that Vodacom are part of, are illegal and cannot be allowed to continue.

Don't give me your pathetic story – I want to know how Vodacom allows these subscriptions on my account without my authorisation. Give me an answer. Show me you are making an effort to be an ethical company.

Noseweek in copy, as they have been exposing Vodacom's fraudulent activity for some time and they will continue to do so until you desist with stealing from your customers.

John Binns
Chartered Marketer
Cape Town

When Harry writes to Vodacom, things quickly turn nasty

On 7 June 2018 Harry Nelissen of Fourways wrote an email to Saki Macozoma who, besides being chairman of Safika Holdings, is also a director of Vodacom and head of its ethics committee. (His telephone number: 083-2001300). The subject line of his email reads: No problems at Vodacom?

DEAR MR MACOZOMA,
I gather that it is your understanding there are no problems at Vodacom.

Beginning three days ago I am being charged daily with R8.70 in respect of "Winsports" and R8.70 in respect of "Zaplum". I have no idea who they are and certainly have never given permission for these charges.

I have sent a letter of complaint but, of course, Vodacom being what they are have not even acknowledged receipt.

Unless these charges are cancelled and refunded there will be another letter in the next issue of *Noseweek*.

HP Nelissen

*Reply from: Saki Macozoma (mail to: saki@safika.co.za)
Sent: 08 June 2018*

YOU GATHER FROM WHAT? THERE IS NO company without challenges. Please proceed and publish as you see fit. It is a free country. If you are serious in following [up] and resolving whatever concerns you have, please follow the procedures of the company.

Saki Macozoma

Harry to Saki on 25 June (copied to Noseweek):

I REFER TO YOUR LETTER OF 8 JUNE in reply to mine of 7 June. At the outset let me advise you that I don't like the tone of your response and, as suggested by you, I will copy *Noseweek* in on this.

For the past two years I have tried to do exactly what you suggested ie follow the procedures of the company, without much success. It was not until recently that I happened to spot some blatant diversion from my data, which was acknowledged by Vodacom and a refund arranged. Then it occurred to me that if data could be diverted why not airtime? So I decided not to use my telephone function for a week and check my daily balance at the same time every morning. Lo and behold, an amount of R14 was diverted every day (R5,110 per annum).

From previous experience I know there's not much point in going to Vodacom's shop in Fourways Mall, so decided to go to an independent

dealer. There the following was discovered: I was being charged for something called "HIA SPECIAL" and "GAMES" services. I have no idea who these people are and certainly never gave my permission for these charges. How much money has been diverted and over what time span?

I would suggest this certainly is a case for Vodacom's ethics committee to investigate, but won't hold my breath waiting for a possible refund.

Note to editor: I am nearly 87 years of age and most of my working life was spent in a corporate environment, where we would never have dreamt of treating a customer as dismissively as Vodacom routinely does its customers.

Macozoma responds (cc Noseweek) on 27 June (at 6.24am):

PLEASE FOLLOW THE PROCESSES AS SET OUT by company protocols. If you are not happy with that, you have recourse to consumer protection bodies. If you are not happy with their response you have recourse to legal remedies.

Nelissen replies on 29 June:

I'M SORRY THAT YOU STILL DO NOT APPEAR to appreciate the problem. It is not a question of going through all the right channels and protocols at Vodacom or approaching other bodies. All these should not be necessary if Vodacom did the right things in the first place.

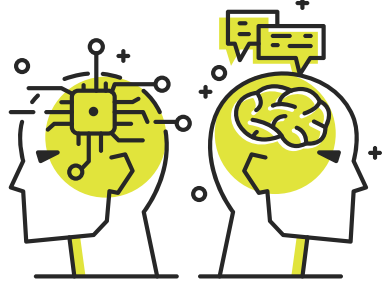
Do not charge your customers with items to which they have not agreed in the first place. Do not divert funds (I could think of use another word for this) from customers' data or airtime without their consent.

Yours sincerely
HP Nelissen



"Now we'll all close our eyes and cover our ears, and the person who took the R428 billion will put it back."

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Editorial

Farewell to a founder

IT IS WITH SADNESS THAT WE RECORD THAT Maureen Barnes, co-founder of this magazine in 1993 and author of many of its early investigations, died at Halesworth, Suffolk, England on 24 June, weeks following a stroke.

A buoyant, straight-talking personality who loved cooking for friends – many of whom will picture her with a dog on her lap and a green parrot perched on her shoulder, lovingly nibbling her ear.

After her retirement in 1998, Barnes moved to England where she was born and grew up. She is survived by her son, Andrew, daughter Nicola and a grandson.

Post Office strikes again

MOST SOUTH AFRICANS AND MEDIA APPEAR NOT to have noticed that the Post Office management and many of its thousands of workers are determined to do their bit to finally sink the postal service – and in the process cause further damage to the national economy. Unannounced, they have been on some form of strike since May. Is their ambition to join the social grants queues now forming outside what once were post offices?

In 2009 PO workers launched flash strikes that crippled the entire postal system for months (Christmas cards and gifts were delivered the following June, if at all, remember?). In the process, the Post Office lost a significant percentage of its already diminished client base. *Noseweek* lost many of its subscribers. The remainder were asked to provide PO box addresses as the easier and speedier route and things stabilised.

In recent months, with the financial help of many friends, we made important steps towards implementing plans to update and upgrade both our content and presentation. While much of this is planned to enhance our online presence, *Noseweek* remains predominantly a print magazine: most of our readers prefer our long-form, plotted-out, fact-based sort of journalism in print.

We had hardly taken the first step when the Post Office once again sabotaged everything. Early in May, unannounced, postal workers at the country's two biggest sorting hubs, Witspos, which serves the greater Johannesburg region and overseas mail, and Tshwane, which covers Pretoria and surrounds as well as all towns to the north, went on a go-slow. By the end of May, there was a five-week pileup of unsorted mail.

Because there was no more storage space, Cape Town stopped shunting mail up north.

When *Noseweek* went to investigate, acres of pallets of unsorted Gauteng-bound mail covered the entire sorting hall floor, including mass mailings from Sanlam and Old Mutual as well as tons of magazines from Media 24 and EE Publishers. *Noseweek's* Gauteng subscribers could count themselves lucky to receive theirs five weeks late.

Two-and-a-half months on, and still no change. Hundreds of expired *Noseweek* subscribers have yet to renew. We have dropped everything to cope with the crisis. If you haven't received your June and July issues, call us and we will try to arrange an alternative method of delivery.

Covering for overpriced briefs

IN MARCH, (*NOSE223*) WE REPORTED THAT THE fee bills of three senior Johannesburg advocates who represented Investec in opposing a court action against the bank by various Randgold minority shareholders, had been found by the court's Taxing Master to have charged eight times more than was reasonable. He reduced their total fee bills from R2.4 million to just R305,550.

Noseweek named the three as AP "Tony" Rubens SC, Shanee Stein SC and Jonathan Blou SC. All were briefed by Werksmans Attorneys (who had charged only R69,000).

Subsequently, in March, Korbors Inc acting for the Randgold shareholders who had stood to pay these fees, lodged a complaint of excessive charging against the three advocates with the disciplinary officer of the Johannesburg Society of Advocates (the Johannesburg Bar). On 1 June the chairman of the Professional and Fees committee, PF Rossouw SC, advised the complainants that on 30 May the committee had resolved that "the complaint does not sustain a case of unprofessional conduct" and "accordingly, the committee has closed its inquiry".

The complainants, who plan an appeal to the General Bar Council of South Africa, asked for the reasons for the Johannesburg Bar's decision. The answer, on 5 June, came in one sentence: "The Committee does not furnish reasons for its decisions." So much for those nationally treasured values of transparency and accountability.

One thing the Johannesburg Bar Council can be relied upon to do is look after its own.

The Editor.

The Brakspears fall victim to 'The Jersey Way'

THE ROYAL COURT OF JERSEY HAS dismissed outright the case brought against Nedbank's Jersey bank and trust management divisions by 84-year-old widow Dorothy Brakspear and her two adult children, Ian and Alison, in their capacity as beneficiaries of two offshore trusts set up and managed by the banking group.

In a shocking judgment that seemingly shamelessly ignores the facts and covers and condones the banking group's misdeeds and mismanagement, the Jersey court granted the banking group's application to have the Brakspears' Order of Justice (Jersey's equivalent of a summons with particulars of claim) struck out, without the case having to go to trial for the hearing of evidence.

The facts are so elaborate and the arguments so convoluted that it would have taken more time than was available to compile an intelligible report for this issue of *Noseweek*.

Suffice to say, at this stage, the Jersey court struck out all the Brakspears' claims either because they had allegedly prescribed (were out of time) or the issues had already been adjudicated upon by a South African court – which found the Nedbank trustees and bankers' actions to have been truthful and correct. The Jersey court ignores all the evidence that the Brakspears produced which supports their claim that Nedbank repeatedly produced false evidence under oath to achieve a fraudulent outcome.

A central example involving both these legal issues:

Readers will recall that Ian Brakspear sold the farm – which had been partially funded with money originating from the family's offshore trusts – in a very profitable deal, for R37 million. But the deal fell through when the Nedbank Jersey trustee carelessly let the buyer know that it was a distressed sale. Taking advantage of this information, the buyer pulled out and waited for the inevitable emergency auction that did in

fact follow – where the same buyer again bought the farm, for just R18m.

Nedbank representatives admitted that their trustee had been recklessly negligent, but argued that Brakspear should have sued for the R19m damages suffered as a consequence within three years of the event.

The court agrees, ignoring all the evidence produced by the Brakspears to show that the damages claim accrued to the company that owned the farm, not the Brakspears directly. And that the trustees had contrived, by means of a false claim, to fraudulently put the farm company into liquidation, thus disabling it from claiming the damages in time. (The liquidator was beholden to the Nedbank trustee – fraudulently set up as the largest creditor.)

While the Brakspears already had several reasons in 2008 to believe that the claim advanced by the Nedbank trustees to justify the liquidation was false, incontrovertible proof only became available earlier this year when they were granted access (by another judge) to the Jersey trust's banking records – and when they found relevant documents amongst the leaked so-called Panama Papers. The Jersey court chooses to ignore all this evidence.

Many readers might find my negative assessment of the Jersey court outrageous. Why would a Jersey court brazenly want to cover for a bank over a plaintiff who has so clearly suffered great injustice?

Some passages from the Tax Justice Network's recently published Financial Secrecy Index 2018, and in particular the section titled "Narrative Report on Jersey" should explain why that might be, and help clarify some of the issues at stake.

Jersey is ranked at 18 position on the 2018 Financial secrecy Index. [It] has been assessed with 65.45 secrecy points out of a potential 100, which places it at the lower level of what might be regarded as the 'extreme danger zone' for offshore secrecy.

Despite its tiny size (population

100,000,) Jersey trusts are reported to control an estimated £1 trillion (R17,000,000,000,000) in assets, with £400 billion in private trusts... Anecdotally, Jersey practitioners are on record as having said that "over 90% of their business concerns discretionary trusts" – recognised as highly problematic and open to abuse.

Six of the nine offshore law firms identified as being members of the so-called "offshore magic circle" operate in Jersey...

With its oversized financial services sector, Jersey is politically captured by offshore finance. The island's political and judicial arrangements are peculiarly unsuited to hosting an offshore financial centre, lacking the necessary separation of authority between judiciary and legislature, and with wholly inadequate independent political oversight of the financial services sector. In 2017 an inquiry into child abuse going back over 50 years revealed a culture – known locally as "the Jersey Way" – that inhibits independent thought, scrutiny and accountability.

This is an island culture with little respect for the laws and mores of other countries and generally subservient to 'enterprising merchants' engaged in criminal activities.

In 1998, then New York assistant district attorney John Moscow was quoted saying: "The Isle of Man authorities see their job as keeping the bad guys out. Jersey sees its job as co-operating with the criminal authorities when the law requires it – without necessarily keeping the bad guys out."

There is little indication that the authorities are willing to require basic information about settlor and trustee information to be made public.

"...the revelations in 2017 on child abuse... at a more profound level... shines a spotlight on an island culture that enforces conformity, tolerates official perjury, ignores the perversion of the course of justice, allows extensive conflicts of interest throughout the judicial and political systems.... This culture flies under the name the "Jersey Way". – **Martin Welz**



The killer Quantum stalking SA's roads

Toyota and authorities knew for three years about unsafe jerry-rigged taxis, but did nothing to stop the carnage. By Susan Puren

IF YOU KNOW WHAT TO LOOK FOR YOU will spot them all over South Africa: Toyota Quantum fake minibus taxis which are actually illegally converted Toyota Quantum panel vans that were designed to carry goods, not passengers.

Somehow, with official sanction, these vans have bypassed the safety standards and specifications that are compulsory for any passenger vehicles licensed to drive on South Africa's roads. Since 2005 millions of commuters have used these death-trap taxis for transport, oblivious to the

dangers they posed. Sadly, many did not complete their journeys.

The chief culprit is the South African government along with the Department of Transport's vehicle licensing authority – and multi-national conglomerate Toyota, the world's third-biggest motor manufacturer.

Aware that the illegal conversions broke the law, Toyota South Africa, while warning their dealers about this, nevertheless told them how they might get around the problem and continue selling vans for conversion to taxis while avoiding liability (See *Noseweek's*

website for a copy of Toyota's official notification).

Then there are the banks that put up the money for the taxi recapitalisation programme and then opportunistically funded the scam-taxis as well.

The owners of the converted taxis believed they were buying safe, recapitalised Quantum taxis.

The immense regulatory failure of oversight would have gone unnoticed or been swept under the carpet were it not for one man's perseverance.

Hennie de Beer, a former banker who was once ABSA's national manager



Spot the difference: A genuine Toyota Quantum taxi (top) and a panel van that has been converted illegally to carry passengers

for taxi financing, resigned in 2009 because he could no longer ignore the fact that the panel-van conversions were putting people's lives at risk. For De Beer, the last straw was the banks and taxi financiers' outright refusal to assist any of the affected taxi owners they had financed when they were subsequently taken off the road.

De Beer compiled evidence of no fewer than 165 major road accidents involving illegal Quantum panel-van taxis between 2007 and 2013 which have resulted in as many as 350 deaths (research indicates that the average death rate is 2.4 people killed in each such accident) until he was blocked from accessing the website on which the accidents are recorded.

In 2009, almost four years after

Toyota SA had become aware of the illegal conversions, they finally deemed it necessary to inform the SA authorities. In a letter signed by four senior executives, they wrote to the Department of Transport, the South African Bureau of Standards (SABS) and the National Regulator for Compulsory Specifications stating:

"Toyota SA have not and will not issue letters of approval for conversions of Toyota Quantum panel vans into passenger carrying vehicles... the panel van is ...designed to carry goods"

In 2013 De Beer laid a complaint about the illegally converted Quantum panel-van taxis with the office of the Public Protector. Release of their long-overdue report is imminent.

It is expected to recommend the impounding and scrapping of thousands of these converted Quantum vans – which is likely to result in immense financial losses for owners and cause significant disruption to minibus taxi services around the country.

A case history

BENNET HLUNGWANE (POLICE CASE number 223/10/2013) was the owner and driver of an illegal conversion. He was identified as a first-time taxi owner by SA Taxi Finance, and supplied with an SA Taxi Finance repossession through I&S Motors in Vereeniging and given a taxi permit for R5,000.

The vehicle was grossly overpriced and Hlungwane was fully exploited by the bank and the dealer as an unsophisticated person.

Hlungwane twice complained in person to the motor dealer that there was something wrong with the vehicle's road holding but was chased away.

Eight months later the vehicle rolled while travelling at a low speed, killing a child and severely injuring five passengers.

As a result Hlungwane lost everything, is now unemployed and suffers emotionally. ■

None of Toyota Japan's high international safety standards were adhered to in the conversion process.

In South Africa, the relevant compulsory specifications are described in regulation SANS 10267 and administered by the National Regulator for Compulsory Specifications (NRCS), the inspectorate responsible for ensuring the compliance. A vehicle model is subjected to a process called homologation to approve, confirm and certify its conformity with relevant compulsory specifications. This must be completed successfully before an eNaTIS (electronic national administration traffic information system) number is allocated to the specific vehicle model. This number permits the manufacturer, importer or builder (MIB) to offer the vehicle for sale.

No vehicle may be sold or registered and licensed unless an eNaTIS number has been allocated to it. In the case of the panel-van conversions, the homologation was not done. Yet an estimated 6,000 of these vehicles were somehow registered to eNaTIS.

The purpose of the Recapitalisation Programme that was introduced by the government in 1999 was to replace old, run-down and unsafe taxis with a new standardised fleet of “safe, effective, reliable, affordable and accessible” taxis. The state paid taxi owners a R50,000 scrapping fee for their old vehicles – money they could use as a deposit for a new one.

The scheme came into effect in 2004 but a scourge of fraud and corruption was soon to follow. Perceived stock shortages of the new purpose-built taxis created an opportunity to generate substantial profits and this motivated unscrupulous manufacturers, importers and builders (MIBs) to illegally convert cheaper but similar-looking Toyota panel vans into taxis for huge profit.

The conversions were not undertaken by Toyota dealerships but by outside workshops that had cut back-room deals with official dealerships.

Noseweek obtained a list of 45 used-car dealers who had Toyota buyer numbers. This enabled them to buy panel vans in bulk even though they were not franchised dealerships. Unsuspecting taxi owners paid exorbitant prices for these illegally adapted vehicles.

In October 2005 Toyota South Africa Motors (TSAM) sent a notice to its dealer principals and sales managers warning them that they were contravening the homologation regulations by converting panel vans into taxis.

“You could be placing passengers at risk of injury or death should critical safety points not withstand the impact in case of an accident. You are not only placing yourself and Toyota SA Motors in a situation where the client could sue us but you are also in contravention of the South Africa (sic) road ordinance laws.”

The notice nevertheless then put forward a plan to clinch a sale: “If a client requires such a conversion we suggest that you explain the situation and consequences to the client.”

The client had to agree that:

- the vehicle be licensed and registered before the conversion was done;
- Toyota would not be liable or accountable for any failures – mechanical or other; and
- the warranty would be affected.

This notice could now come to haunt

Unsuspecting taxi owners paid exorbitant prices for these illegally adapted vehicles

Toyota SA. Toyota dealers allegedly ignored these suggestions because there was no evidence that any taxi owner was ever warned about the adverse implications of buying a conversion.

Only in 2009 did Toyota SA formally inform the South African authorities that the conversions were illegal “due to the fact that the panel van is a commercial vehicle and designed to carry goods”.

Elsewhere in 2009, confusion still reigned: SA Taxi Finance chief executive Martin Bezuidenhout, whose company handled 584 converted taxis between 2005 and 2008, told IOL: “We conducted our own investigation in partnership with our vehicle identification desk and found that the legal documents only stated that they were recapitalisation taxis and nothing about being converted panel vans.”

The cost of the conversion was usually included in the total price and then financed without question by the major banks and specialist taxi financiers. Statistics from the National Association of Automobile Manufacturers of SA (Naamsa) show an increase of almost 85% in sales of Quantum vans from 2005 to 2007.

While business was booming Toyota South Africa reportedly kept quiet

about the fake taxis flooding the market. At the time, Japan’s Toyota Motor Corporation (TMCJ) was the majority shareholder in its South African franchise, with Wesco Group holding 25% of the shares. In 2008 Wesco was bought out and TMCJ has wholly owned Toyota South Africa ever since.

Two months after the Wesco sale in 2008 the South African Banking Risk Information Centre (SABRIC) got wind of the illegal conversions and alerted its partners to the scam. The banks were warned not to finance any Quantum panel vans that could be used as taxis. An easy indicator was the VIN-number, which has different prefixes for purpose-built taxis and panel vans.

Naamsa figures show that sales of Quantum panel vans dropped by more than 50% that year after banks stopped financing the illegally converted Quantum panel-van taxis.

The banks allegedly also refused to assist the taxi owners who had already bought converted panel vans with bank finance but instead repossessed their vehicles, only to refinance them to other unsuspecting taxi owners.

Illegal conversions are fitted with up to 16 seats that are bolted to the thin floor. Seatbelts are only connected to the seats and not the vehicle structure. The roof pillars are not reinforced and the windows are cut into the side panels, weakening the structure.

Accident reports and pictures show that when these conversions are involved in road accidents, the rigged windows often pop out, the seats break away from the floor and the passengers become projectiles ejected from the vehicle. Since the back roof holds no support structure it poses a further risk of head injuries. And fatal accidents have been reported in which drivers lost consciousness as a possible result of exhaust fumes that had seeped into the vehicle through the bolted connections on the floor.

To convert vehicles on such a scale requires the approval of the original manufacturer – in this case, Toyota Motor Corp Japan.

Noseweek asked Toyota SA when that approval was obtained, but they declined to comment, saying the Public Protector was addressing the matter. Toyota SA also declined to respond to

ten questions *Noseweek* sent them.

So, what steps did the South African authorities take to protect taxi commuters once Toyota SA had informed them of the scam in 2009? Absolutely nothing!

The Transport department did embark on a retro-fitment programme that was again without the approval of the manufacturer, Toyota Japan.

Taxi owners were afforded the opportunity – for a period of six months – to make their vehicles safer, but only 436 took up the offer. But again, these “safer” versions were still non-compliant.

Sadly several of the 436 illegally approved retro-fitted panel-van taxis were later involved in fatal accidents.

One of the few actions taken by the government since 2009 was to prevent the illegal Quantums from transporting spectators during the 2010 World Cup. In November 2009 Gauteng’s Public Transport, Roads and Works department held a presentation and produced a brochure to inform taxi owners about the vehicle criteria for taxi transport during the soccer event: Only vehicles compliant with the 2006 Taxi Recapitalised Programme should apply for permits, it read, then underneath: “(NO PANEL VANS)”. No such safety consideration was afforded ordinary South African commuters.

Around 2,000 Quantum panel-van taxis were recently identified and red-flagged on eNaTIS. Their owners won’t be able to renew their licences when the current ones expire. However, the Special Investigating Unit (SIU) found that close to 6,000 illegally converted Quantum panel-van taxis are registered on the eNaTIS system.

Asked to comment, Mandla Mzelemu, head of the Ugu Taxi Association, KZN South Coast, said that at one stage taxi associations had no issue with the converted panel vans as they were cheaper than regular taxis.

“We now ask for documents at our association, such as log book, details of the seller and vehicle registration. I don’t think it is happening on a large scale in KZN,” he said.

Noseweek has learned that affected taxi owners and family members of those who died in accidents caused by the negligence of Toyota SA and the South African authorities are considering a class action against them. ■

Knysna fire: now top man quits

JUST EIGHT DAYS AFTER THE COUNCIL for Scientific and Industrial Research (CSIR) published its disgracefully long-delayed report into the cause of Knysna’s Great Fire, Kam Chetty submitted his resignation as the town’s municipal manager.

His surprise July 6 resignation, citing personal reasons, came just weeks after the equally unexpected departure of Knysna fire chief Clinton Manuel who, as reported in *Noseweek*, has returned to Cape Town to become head of training for the city’s Fire and Rescue Service.

The arrogant municipal manager has been a staunch supporter of fire chief Manuel’s “scientific” theory that the Great Fire that engulfed the tourist town last year was started by someone lighting a pine cone in the forests of Elandsdraal. The nation’s media dutifully swallowed this bizarre explanation at the duo’s press briefing held last August, two months after the tragedy which claimed seven lives and destroyed at least 1,000 homes.

Both Chetty and Manuel ridiculed *Noseweek*’s revelation in January this year (*noseweek*219) of the still-under-wraps finding of the then-secret CSIR report – that the real cause of the runaway western inferno was a smouldering fire caused by a lightning strike. It was only on June 28, a full year after the fire, that the CSIR finally released its report with its extensive corroborating scientific evidence approved by an international peer review.

At the August 2017 media briefing held to “foster transparency” (as he put it), Kam Chetty appealed to the assembled hacks: “We desperately need your assistance to dispel any myths that are around.” (ie the “myth” already doing the rounds regarding the smoulder).

Chetty assured the press that fire chief Manuel “has been involved in a number of forensic investigations on fires. All of those have gone unchallenged, or where they were challenged, his version was sustainable. His conclusions have been verified and stood the test of a lot of interrogation and we have utmost confidence

in his professional ability.” Suitably impressed, the nation’s press dutifully swallowed the pine-cone bait.

The CSIR report dates the lightning strike that caused the smoulder as 22 March, 11 weeks before the underground fire ignited to become a runaway inferno. In those weeks Manuel’s fire department received many requests from Elandsdraal residents to put it out, to no avail. Now that the pine-cone theory is finally debunked, the municipality faces negligence claims that could total R4 billion. But municipal manager Kam Chetty and fire chief Clinton Manuel will be long gone, leaving their successors to carry the can.



KAM CHETTY, 59, BARELY COMPLETED one year in the Knysna Municipality’s top job. He was previously briefly administrator at Oudtshoorn, tasked with restoring proper governance and developing a turnaround strategy for that crisis-riven town.

At Knysna, Chetty raked in the big bucks; his precise wage packet is not known but in 2014 the municipal manager was pulling in R1,395,113 p/a – R203,633 more than the amount recommended by national government.

Chetty also supported largesse for Knysna’s 21 councillors – R798,913 p/a for his pine-cone ally and also now-departed executive mayor Eleanor Bouw-Spies; R596,936 for councillors gracing the mayoral committee. Even part-time councillors now get R251,877. These included maximum increases, approved by the councillors in February and backdated to 1 July 2017. Cellphone cash stipends were increased from R1,900/month to R3,400, with no requirement to account for the amount actually spent on calls. Plus, of course, new cellphones and iPads for everyone.

As befitting his position, Chetty sought approval for his own office staff to be increased from 23 to a staggering 37. Pretty lavish for a small coastal town (population: 73,835) with a municipal income of R713m. ■

Frankel family goes on offensive against sex assault complainants

Executors of serial paedophile's estate want to put victims in the dock to avoid paying them damages. By Mitzi Kaplansky

BESIDES BEING A TRUSTED TAX advisor on tax matters to President Cyril Ramaphosa, Michael Katz is the chairman at Africa's largest law firm ENSafrica, an honorary professor and a trustee of various trusts including the South African Holocaust and Genocide Foundation, the Nelson Mandela Children's Trust and the Constitutional Court Trust.

The illustrious Professor Katz is also executor of the deceased estate of his fabulously wealthy paedophile brother-in-law Sidney Frankel, in which capacity he is vigorously opposing the claims for damages brought against the estate by eight of Frankel's child victims (all now adult) who have testified to having been sexually assaulted by him and to have suffered serious psychological damage into adulthood as a result.

Katz, who is currently an advisor on the Nugent Commission investigating SARS, is one of five executors of Frankel's estate who are determined to oppose a R40-million claim – R5m per plaintiff – against the estate by the eight victims who have had the courage to openly declare that they were sexually molested by Frankel as children – some, when as young as six years old – over a 40-year period.

They were the children of friends and neighbours, children from the Jewish orphanage of which Frankel was a patron and in later years, even the children of trusted employees.

In court papers the victims relate that, as a result of Frankel's inter-



Chairman of ENSafrica Michael Katz

ference, for the better part of their lives they have battled depression, an inability to form meaningful relationships, been subdued, felt dirty, shame, humiliation, and psychological trauma, having had their childhood and sexual innocence ripped away from them.

The victims are hoping the civil trial will take place either later this year or early next year.

The other executors who, with Prof Katz, appear determined to force the complainants into the witness box to prove they were sexually assaulted as children by Sidney Frankel and suffered damages as a consequence,

are his widow Carolyn Frankel, his sister Babette Katz, tax specialist and advocate Beric John Croome and a director at ENSafrica's private client department Deon Beachen.

(The unusually large number of executors appointed lends credence to rumours that it is a particularly large estate.)

Initially Frankel was himself the defendant but when he died in 2017, his executors stepped in to defend the case. They are represented by celebrity lawyer Billy Gundelfinger who has filed a plea by the defendants in which "each and every allegation... is denied".

Well-known Sandton attorney Ian Levitt has taken up the cause of the victims – the group being referred to as "the Frankel 8".

Noseweek was the first to publicly identify Frankel as a paedophile in 2014 (*nose180*).

Levitt told *Noseweek* he now knows of "at least two dozen" victims, some of whom are still young adults, suggesting that Frankel continued with his paedophile practices until late in life.

"Through the courageous persistence of these eight, the Constitutional Court has already been persuaded to remove the prescription period after which such cases could no longer be prosecuted – a clear signal to the world that South Africa has entered an era of zero tolerance for child abusers.

It is known from the case that "the abuse was not just confined to chil-

dren associated with his family. We have people calling on a regular basis, pledging their support. For many of them it's still just too raw and in most cases their husband or wife is still unaware of the trauma they experienced as a child," continued Levitt.

Besides preying on his young relations as well as their friends, children of friends and even his employees' offspring, he would regularly appear at the Arcadia Jewish Children's Home to collect one of his "favourites" for a weekend stay at his farm. No questions were asked by any of the home's management despite at least one of the victims raising the alarm – only to be dismissed as a liar.

"A victim from the orphanage said abused children told orphanage officials at the time but they did nothing," said Levitt.

The victims who have found the courage to bring the current case are Nicole Levenstein, Paul Diamond, George Rosenberg, Katherine Rosenberg, Daniela McNally, Lisa Wegner, Shane Rothquel and Marinda Smith.

The particulars of claim filed in the case paint a horrific picture of the perverse "grooming" and sexual assaults Frankel unleashed on them. He made inappropriate sexually suggestive conversation with them and sexually abused them, touched their private parts, masturbated young boys, masturbated himself while touching the children, made them bleed when he penetrated them with his finger and then offered them a "Rolo" when he was done, telling them it was "their secret" and that they "enjoyed" the experience.

"The defendant sexually assaulted the plaintiffs when they were children and at a time when they were between the ages of six and 15 years old at six different locations," reads the claim.

He is alleged to have committed these acts at his horse farm Ballifarm, Kyalami; at 19 2nd Street, Abbotsford, Johannesburg where his cousins lived; at Baobab Ridge Game Farm, Buffelshoek; at the Jewish Children's Home in Arcadia; at his home at 81 East Avenue, Athol and even at his office, known as Sidney Isaacs Stockbrokers, Fourth Floor, Diagonal Street, Johannesburg.

It appears Frankel started his



Sidney Frankel

Besides preying on his young relations and their friends; on children of friends and even his employees' offspring, he would regularly appear at the Arcadia Jewish Children's Home to collect one of his 'favourites'

sordid ways at the age of 25 and continued until only a few years before his death. Some of his most recently identified victims are still minors.

The plaintiffs in the case all state that they "only gained a full appreciation of the criminal acts committed" by Frankel as they reached middle age.

"The plaintiffs experienced traumatic sexualisation as a result of the sexual assaults and/or violations at the hands of the defendant. This traumatic sexualisation developed and shaped the plaintiffs' sexuality inappropriately and dysfunctionally at an interpersonal level."

The catalogue of assaults is spelled out by each of the victims in graphic detail in court papers.

In his responding papers filed before his death, Frankel admitted having the children swim in the pool, admitted that the Rosenbergs were cousins and that Smith lived on the farm next door – but he denied "every deviant act". While this point is now moot due to the subsequent Constitutional Court ruling (see *nose224*), at the time Frankel pleaded that their damages claims had in any event prescribed (lapsed through the passage of time).

Frankel died before either his criminal trial or the civil court proceedings could commence.

The criminal trial has fallen away as a result of his death, but the civil case for damages is proceeding against his estate.

"For the plaintiffs, where there was once fear, they now want to get going. Some are still receiving counselling. They are ready. Of the eight plaintiffs, five live abroad and are willing to travel to South Africa to testify," says Levitt.

"I have consulted with several more victims who, for whatever reason, are not comfortable with sharing their story in a public space. However they have provided support.

"At this stage no offer of settlement has been made. If they decided to pay our clients' however, that would be a different matter," said Levitt.

It is anticipated that the expert psychological reports relating to the claims made by the victims will be filed in August. Only then will a trial date be set. ■

Bheki Cele heads investigation – of himself

Police minister uses state-funded legal advisor in fight with own ministry. By Rob de Wet

MINISTER OF POLICE BHEKI CELE has sacked his private attorney and instead is using his state-funded legal advisor to help him fight his own ministry in a private civil matter in which – given his new position – he is also a respondent.

It is no doubt a conundrum for his new legal advisor Advocate Simo Chamane; more so because he denies providing advice to Cele-the-applicant despite court documents stating the contrary. Chamane should only be giving Cele-the-minister advice, as his mandate is to protect the ministry, not fight it. Chamane is faced with a clear conflict of interest – although he doesn't see it.

Cele, who previously served as national commissioner of SAPS, was appointed Minister of Police in February this year by President Cyril Ramaphosa. Although he has been lauded for his stance towards crime, in 2012 he was certified by the Presidency-commissioned Moloi Commission of Inquiry as “dishonest” and “conflicted” and “not fit to hold office and... unable to execute his official duties efficiently”.

The late Judge Jake Moloi's findings resulted in Cele's being fired by former president Jacob Zuma in June 2012. This came after two damning Public Protector reports against Cele titled “Against the Rules” and “Against the Rules Too” which concerned two lease agreements in Pretoria and Durban worth more than R1,7 billion that SAPS wanted to sign with busi-

nessman Roux Shabangu between March and July 2010.

The deal, said Moloi and the Protector, had signs of interference by Cele who had purposely guided the deals in Shabangu's favour. Moloi called for an immediate investigation by “competent authorities,” saying the evidence “proved abundantly that there was a questionable relationship between the national commissioner and Shabangu on one hand and between Shabangu and Public Works officials who facilitated the lease agreements on the other” as well as between the national commissioner and some members of the SAPS.

That “competent authority” is the SAPS. A criminal investigation was opened by the DA shortly after the findings were made public but the charges have only gathered dust in the past six years. With Cele now back at the helm the investigation is unlikely to progress.

Cele's move to use his legal advisor as his personal lawyer is directly related to the review application Cele launched in August 2012 in the North Gauteng High Court. His founding papers said he wanted all the Moloi Inquiry's “findings, conclusions and recommendations... reviewed and set aside,” along with the former president's reasons for sacking him.

The record stands at 546 pages including a replying affidavit from the Presidency defending the Moloi findings. Cele cited as respondents Moloi and his assistants Terry Motau SC and Anthea Platt SC, the National

Police Commissioner, the Minister of Police and the President of South Africa.

But since then his fortunes have changed. Six years on and with no movement on his review application entirely by his own making, he is both the applicant and the fifth respondent (Minister of Police). He has authority over the fourth respondent (National Police Commissioner) and he was appointed to his position in early 2018 by the sixth respondent – the Presidency.

However a state advocate told *Noseweek* that until the Moloi findings are set aside, they stand.

Cele, his sacked law firm Strauss Daly, and Cele's various spokespeople have refused to answer any questions put to them by *Noseweek* over a period of weeks as to the reason for the delay in the review application, whether they accept the Moloi findings and whether Cele is now abusing his office.

Ministry spokesperson Reneilwe Serero eventually sent *Noseweek* the following response from Cele: “Advocate Chamane is my legal advisor in my official capacity as the Minister of Police, and he is not involved in this matter, save to say the notice of withdrawal was sent by Strauss Daly and any questions relating to that I suggest that you contact them.”

“Regarding the status of my review application, the matter is still pending before the Court and I will respect those processes till they are concluded.”

Up until 6 July 2018 Cele was repre-

sented by Andile Khoza Strauss Daly in Umhlanga, Durban. The review application was launched by Cele in his private capacity.

In mid-July after several unsuccessful attempts by *Noseweek* to get comment from Khoza, Dinesha Deeplal a director at the law firm, replied unexpectedly: “Herewith our Notice of Withdrawal as Attorney of Record, which we are in the process of serving and filing. In the circumstances you are to liaise directly [with Cele] and not through our offices.”

The notice of withdrawal said: “Kindly take further notice that, the Applicant, Bheki Hamilton Cele, appoints Advocate S Chamane, as his contact person.” Chamane was copied into Deeplal’s email. It said Cele would “accept service of all documents” at the address of Simo Chamane, his “special advisor” in the “police ministry”.

But Chamane tried to feign igno-

rance when contacted by *Noseweek*, stating he had no idea why Strauss Daly had elected him to receive correspondence for Cele.

“I only deal with the state matters and official matters. I don’t deal with personal matters with the minister,” said Chamane.

Not wanting to commit on whether he would be conflicted in providing advice to Cele-the-applicant he said he was not the “personal attorney for the minister”. “I don’t know why Strauss Daly wrote my name in the notice of withdraw,” said Chamane.

Asked if Cele-the-minister had ever mentioned the review application to him and asked for advice on how to defend it as a respondent, he said: “The discussions between me and the minister are private and I can’t disclose them to you. It would be unethical and unprofessional of me to do so.”

Andile Khoza would later confirm that the appointment of Chamane to receive service for Cele was “proper” and no doubt on the authority of Cele.

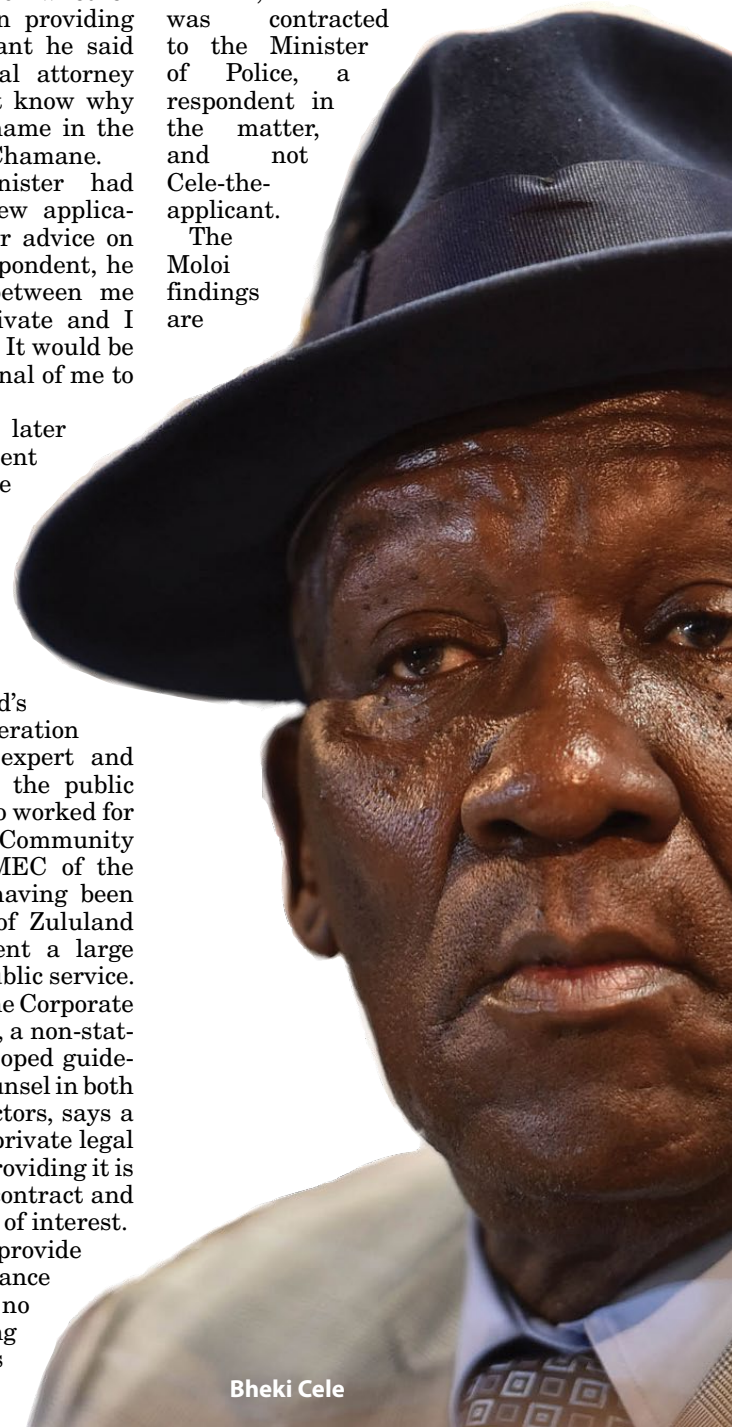
According to the Department of Water and Sanitation, Chamane, who sits on Mhlathuze Water Board’s finance and remuneration committees, “is a legal expert and holds senior positions in the public and freight sector”. He also worked for the KZN Department of Community Safety when Cele was MEC of the department, as well as having been President of University of Zululand Convocation. He has spent a large part of his career in the public service.

Alison Lee, the CEO of the Corporate Counsel Association of SA, a non-statutory body that has developed guidelines and rules for legal counsel in both the private and public sectors, says a legal advisor can provide private legal advice to their employer providing it is not in conflict with their contract and if there is no clear conflict of interest.

“Legal advisors can provide support and assistance providing there is no conflict,” said Lee, citing former president Zuma’s use of legal advisors paid by the state for his

personal matters. However, as in the case of Zuma’s current legal woes, if the executive using the legal counsel loses a personal case, they could be liable for the costs, she said. From her understanding of Cele’s matter, as discussed with *Noseweek*, there could be grounds for a conflict-of-interest, as Chamane was contracted to the Minister of Police, a respondent in the matter, and not Cele-the-applicant.

The Molozi findings are



Bheki Cele

Not wanting to commit on whether he would be conflicted in providing advice to Cele-the-applicant he said he was not the ‘personal attorney for the minister’

technically the property of the Presidency. Questions sent to Ramaphosa's office also went unanswered. These included whether any investigation, as called for by Moloi, took place; and whether Ramaphosa considered the report before appointing Cele to the ministry.

The DA's shadow minister of police Dianne Kohler-Barnard told *Noseweek* she has religiously asked for an update of the criminal charges laid against Cele on the strength of the Moloi findings.

"The police haven't even said they will not investigate. Now no policeman is going to risk his career and investigate the minister. Cele has enjoyed political protection on this matter. My questions to the ministry are simply ignored. All institutions meant to investigate Cele fall under Cele. The defunct Scorpions would have looked into it but that is why they no longer exist," she said.

In Cele's founding affidavit he accused the board of ignoring his successes in his "primary functions and duties of combat, prevent and prosecute crime". He called the board "biased" and said Moloi was "intent on finding me wrong and guilty at all costs". He denied knowing Shabangu prior to the lease agreement or interfering in the agreements which in the end were not finalised.

He said he was not an "evasive and vague witness".

He said Moloi and his advocate Motau had received his submissions with "open disdain" while accepting submissions from the evidence leaders with "laughing and glee". He said his witnesses were unfairly "criticised

as being dishonest". But his witnesses did lack moral authority. They were his since-demoted CEO Lt General Bonang Mgwenya who was hand-picked by Cele without advertising the post, contrary to policy; the now suspended KZN provincial commissioner Lt Gen Mmamonye Ngobeni and legal advisor Lt Gen Julius Molefe whose appointment was also clouded in controversy.

Ngobeni is embroiled in her own lease-for-pals scandal about police accommodation during the 2010 World Cup, involving Durban businessman Thoshan Panday who reportedly paid nearly R20,000 for Ngobeni's husband Brig Lucas Ngobeni's birthday party in 2010 while Panday was being investigated by the provincial Hawks unit.

Cele said in his review application that he wanted the findings of dishonesty, conflict-of-interest and contraventions of various pieces of legislation reviewed as well as the president's decision overturned.

In Zuma's answering affidavit filed in September 2012 by legal advisor Bonisiwe Makhene on behalf of Zuma, it said Cele had failed to "demonstrate that the President's decision was irrational or arbitrary" nor could he provide evidence to "substantiate his bald assertion that the President's decision was actuated by ulterior motives".

Zuma dismissed Cele's claim that he didn't know Shabangu prior to the lease agreement debacle: "Even if this court were itself to assess the evidence anew, I submit that it would, as the board did, find that on the probabilities, the applicant knew Shabangu before 5 July 2010".

Zuma said the board had found "five" instances where Cele had been dishonest, among them his not disclosing his relationship with Shabangu. The affidavit said that in deciding whether to sack Cele, the president had to consider the severity of the misconduct and Cele's role as police commissioner.

"For this reason the President took the view that a punitive sanction short of removal would not be appropriate."

However it is clear there was never any desire to pursue Cele, neither by the Zuma or Ramaphosa administrations and that South Africa's security and justice apparatus is still a political tool.

When Zuma fired him as the top cop, he gave Cele a glowing send-off and said: "I would in particular, like to extend my personal gratitude to General Cele for his unquestionable commitment to his work as National Commissioner. Leading from the front, he brought much needed passion, energy, expertise and focus that boosted the morale of the police."

In 2014 Zuma appointed Cele deputy minister of Agriculture and Fisheries.

In 2017, Cele changed political camp – backing Ramaphosa and attacking Zuma in the run-up to the ANC's December 2017 national elective conference. He was promptly rewarded with the ministerial post where he can manipulate the investigation into himself. The wolf is in charge of the hen house.

The "New Dawn" promised by Ramaphosa is, it appears, simply the continuation of the old kleptocracy of the ANC where political allegiance trumps principal and rule of law. ■



Cash-hungry Tongaat wins in court

Company did surreptitiously grab pension fund money to prop up its ailing balance sheet, but court says it was within the law. By Jonathan Erasmus

ALTHOUGH a GROUP OF TONGAAT-Hulett pensioners may have lost their civil claim against the sugar company which they accused of looting their pension fund to buoy the balance sheet and inflate executive salaries, recent disclosures reveal they were not wrong in their supposition of what was happening to their money.

On 31 May the Supreme Court of Appeal, in a full bench judgment written by Judge Stevan Majiedt and supported by judges Carol Lewis, Boissie Mbha, Nambitha Dambuza and Ashton Schippers, upheld a December 2016 judgment by Judge P Koen in the High Court, Durban, where he declared that Tongaat-Hulett had legally taken R363.2 million from the Tongaat-Hulett Defined Benefit Pension Fund when it was wound up in 2012 and its members were transferred to an Old Mutual Benefit Fund.

Approximately 80 pensioners supported the action, led by Bruce Moor and Willem Hazewindus. They contended that their former employer systematically looted the Tongaat-Hulett Defined Benefit Pension Fund (and its predecessor, the Tongaat-Hulett Pension Fund).

Valued at R1.8 billion, in 2012, the fund had more than 2,500 members. They contended that the looting happened over the course of five years by means of: opaque communiques; withholding of information; a coopted board of trustees weighted in favour of the company; intimidation; delaying tactics; and “devious accounting” before the fund was outsourced to Old Mutual’s Platinum 2003 Category A Benefit Fund which, on average, performed nearly 4% poorer than the company’s own fund.

Just a day before the judgment, Investec Securities analyst Anthony Geard argued in a note to investors that Tongaat CEO Peter Staude should resign – shortly after the sugar-giant released its audited results for the year

ending March 2018.

“This is an appalling set of results. We think it is time for the CEO since 2002 to step aside,” said Geard.

“...Property was disappointing and Sugar was a disaster, especially in South Africa where output actually rose 45%. The most frustrating aspect of the [results] is the painfully slow pace of unlocking value from Tongaat’s land portfolio. Only 1,233 hectares have been sold during the past ten years out of a portfolio that exceeded 8,000 ha at the start of the period: the run-rate is barely 1% per annum,” said Geard.

The group has massive property interests in KwaZulu-Natal and is the third-biggest landowner there after the Zulu King and the provincial government.

No allowance was made for the perhaps more-obvious possible reasons for a decline in Tongaat’s fortunes: the introduction of a sugar tax; the campaigns encouraging people to consume less sugar to curtail the diabetes epidemic; and the threat, greatest in KZN, of the expropriation of land without compensation

Shortly afterwards Old Mutual Investment Group weighed in, expressing concern about Tongaat’s executive remuneration structure: “We will be engaging management on this issue in order to seek greater alignment between company strategy and reward structure.”

(*Financial Mail* reported that last year Staude took home R16.7m, including a R6.6m bonus for the previous year’s performance. This was 30% higher than the R12.8m he got in 2016.)

But then, true to Investec form, the bankers tossed their analyst Geard under the bus – much like its CEO Fani Titi did with the friendship of former struggle and business partner Peter-Paul Ngwenya (*nose224*) – and then rushed into press with an apology to Staude. But the damage was done.

FM explained that at least R8.2bn in value at Tongaat-Hulett had been



While pensioners were cheated to shore up Tongaat, the company’s CEO Peter Staude took home a R6.6m bonus

destroyed over the past seven years, with investors all pointing to the “over-generous remuneration for its top brass”, the fact that its share price tumbled 35% in a year while the JSE rose 12.9%, and failure of the overall strategy driven by the board under Staude’s leadership.

Tongaathulett saw it differently. In their commentary of the year-end results, Staude and chairman Bahle Sibisi blamed the poor performance on imports of sugar into the local market, low global prices and drought – all factors outside the company’s control.

“Overall, Tongaat-Hulett’s earnings for the 2018/19 year will be impacted by a wide-range of dynamics. The organisation is focused on driving improved performance within its areas of influence and using its experience to navigate influences outside its control,” said the top brass.

As indicated at the beginning of this report, Tongaat’s management and shareholders can expect little sympathy from the pensioners who not only lost their appeal for redress but were ordered to pay Tongaat’s legal costs in addition to their own – in excess of R2 million.

See Editorial. ■

Digging deep to save lives

A charity better known for its work in Middle-Eastern war zones, has recently gone to the rescue of Afrikaner farmers and their workers in the remote, drought-stricken town of Sutherland. By Susan Segar

IT'S NINE O'CLOCK ON A WINTRY Tuesday in June and Billy Joel's *Piano Man* is playing loudly as I jump into the Gift of the Givers' four-by-four driven by Badrealam "Badr" Kazi, the relief organisation's government and corporate relations manager. I'm joining him on a mission to deliver emergency supplies from Cape Town to drought-stricken Sutherland in the Karoo.

Following us will be two huge trucks loaded with water tanks, food and blankets for the farmers and farm workers of the Northern Cape town – better-known for the deep-space observatory sited in this remote location because of its clear, dark night skies and relative absence of human activity.

It is Ramadan, and although Kazi is fasting, he offers me water and points to a big bag of figs and dates, my padkos for the trip. We stop briefly to see that all is on track at the NGO's storage facility in Maitland where the

trucks are being loaded. Gift of the Givers stores packs of bottled water, water tanks and other emergency supplies here – enough to literally pave fields. This site, formerly the Maitland abattoir, is now owned by the Department of Public Works.

A news update in June issued by Gift of the Givers – also known as Waqful Waqifin Foundation – warned that Sutherland was in serious trouble. It reads:

"Man, animal and the environment are in tremendous difficulty. The area is experiencing its worst drought in 100 years. All 200 boreholes that served the region have dried out. As the water table has dropped substantially, the total sheep count has dropped to 25%, [either] from urgent sell-off or death of the animals. Grazing is non-existent, pregnant sheep will lose their new babies and more deaths will follow unless there is an urgent intervention with fodder. In the past year, 11 farmers have lost everything,

another 56 are about to suffer the same fate. The knock-on effect is the loss of jobs of virtually the entire farm labourer population and the resultant economic effect on their families. The local schools are also in crisis.

"Gift of the Givers is intervening urgently to try and save Sutherland. Generous Free State farmers have donated the first 500 bales of fodder. Our trucks will start distributing these in the next 48 hours. Our hydrology team will be on site soon to drill deeper boreholes.

"Food parcels, blankets, warm clothing, hygiene packs, special supplements for fodder, and school items are all urgent requirements... Saving Sutherland is going to be a mammoth task."

The organisation's founder, director and chairman Dr Imtiaz Sooliman (see profile in *nose188*) founded Gift of the Givers in 1992 after a Turkish Sufi master instructed him to set up a humanitarian organisation. Since



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Gift of the Givers bringing supplies and digging for water in Sutherland; and (right) Andre 'Smurfy' Cilliers with his drilling team

then it has grown to become Africa's largest disaster relief group which has helped people in distress around the world, including in Haiti, Bosnia, Somalia and Pakistan and it has set up hospitals in Yemen, Syria and Gaza.

The group helped after flooding in Zimbabwe, with the outbreak of xenophobia in South Africa, the efforts to rescue Stephen McGown when he was held hostage in Mali, and it has negotiated in other hostage situations including that of South Africans Pierre and Yolande Korkie in Yemen.

But more than 90% of their work is in South Africa.

Gift of the Givers delivered five truckloads of fodder to Sutherland last week, another three trucks arrived yesterday and five more consignments will be delivered tomorrow from farmers in Fouriesburg and Cradock. The food and blankets on their way will help farmers and farm-workers alike.

Says Kazi: "We were rolling out the Free State drought programme last year when we were contacted by farmers who said Sutherland has no

water and no feed. We started with soft humanitarian aid – fodder, water, clothing and food. For months now the community and other small Karoo towns have relied on aid from us."

The area, traditionally part of the lucrative third-generation Karoo lamb and mohair region, has not had good rains since 2013 and boreholes have dried up, making it increasingly difficult to keep sheep in the region alive.

It's not only Gift of the Givers who have stepped in to help. Heartwarming stories abound of farmers from around South Africa, coordinated by Somerset

West resident Elizabeth Visagie, who have sent truckloads of donated fodder and other goods.

Coordinator Visagie's own story is worth recounting: after voluntarily sourcing fodder for farmer-victims of the 2017 Knysna fire, she was approached by Gift of the Givers to help with drought logistics in the Eastern Cape. Ever since she has been a full-time official volunteer for the organisation. It was in fact Visagie who sounded the alarm that Sutherland needed urgent assistance drilling for water. For nearly nine months she has been involved in drought and humanitarian aid there and, with Givers, has arranged nearly 40 truckloads and two trainloads of fodder to the beleaguered town.

As we drive along the N1, our Gift of the Givers-branded vehicle elicits many supportive hoots from fellow road users. Kazi points to a site in De Doorns where the Givers recently drilled a borehole to provide water for 20,000 people in the area. "They were running dry so the Western Cape government asked us to help – then someone stole the pipes! I drove back there, stormed straight to the community leaders and demanded we find out who took them. If you show you're weak, you're dead. I am not a Mother Theresa," says Kazi. The thief was found and the pipes were returned.

Further along the lonely road, a farmer turning out of his gate waves down Kazi. "Please stop for coffee on your way back," he says. "Things are very bad in Sutherland. Thank you for what you do."

Dr Imtiaz Sooliman might be the better-known face of the Givers, but it's quite clear that the no-nonsense Kazi, although more of a behind-the-scenes manager, is an old hand when it comes to organising assistance for the full range of disaster situations. In between directing trucks, making payments telephonically and fielding a continual stream of phone calls, Kazi tells me what his job entails and what drew him to Gift of the Givers.

In essence, he liaises with governments and corporations when there is a disaster, to enable Gift of the Givers to do its work. "Because of all our experience, we are able to give a very accurate assessment of the situation and know how to roll out accordingly...

We can then liaise with the different departments, like social development, health, etc.

"We know that some of South Africa's municipalities are under-resourced, so we help. With corporates, they need people to manage their contributions and put them to good use. For foreign rescue missions, we deal with the Department of International Relations and Cooperation. Our relations with government are excellent. There's a lot of appreciation for what we do. We do the work that others don't want to do."

For the mission to Sutherland, Givers has also dispatched a hydrology team, led by Dr Gideon Groenewald, to drill deeper boreholes. The drilling team arrived in advance of us with two rigs. In addition, 40,000 litres of diesel had been delivered – fuel required to establish 200 new boreholes.

Kazi tells me that a large portion of the money donated to Gift of the Givers is from South African Muslims who "see it as a priority to contribute to charities, and though they will help a hospital in Syria, they will not fund a war there". Kazi, who, like Sooliman, is also a Sufi, joined the Givers full-time after volunteering for more than a decade – "the most rewarding decision of my life".

"Some people think because we are

Muslim, we support Isis or are part of the Illuminati – you name it," he jokes. "I just tell people that if there were a humanitarian crisis in Israel, we wouldn't hesitate to go and help. Human issues should be exempt from politics. What attracted me to Givers in the first place was that it is all-embracing. You're South African and you need to help. Our immediate aim is to help South Africans. We first help our own and then others."

The organisation's volunteer base comprises medics, dentists, fire-fighters and others who drop everything in an emergency.

"Dr Sooliman and Dr Achmat Bhab who is based at North West University and heads up Emergency Response, put together the teams. We then work on a roster system. We have Africans, Muslims and Jewish doctors and paramedics, fire, search and rescue teams. We make up a rainbow nation of helpers. It is a real bonding experience of people who might not normally connect.

"During the Haiti earthquake, our doctors were known as the Dream Team. The UK and US doctors were in awe of them. Whenever a difficult amputation or another complex operation was needed, they would say, "send it to the Dream Team". Our team are also always there to simply hug the victims of a disaster. Time after time they show these qualities – in Haiti, Yemen and Knysna..."

Driving along the gravel road to Sutherland, the tell-tale signs of the drought are evident. "For these farmers," says Kazi, "it is very humiliating to receive aid. They do not like to accept aid on a platter. There's a lot of Afrikaans pride there. But, when we come, you can see the gratitude on their faces."

Hydrologist Dr Groenewald is a legend. He is also a geologist and a palaeontologist with 35 years' experience. Sooliman says his water-finding ability is uncanny. The two met in 2016 when Gift of the Givers responded to the Free State drought. "It was an instant spiritual connection. He understood my spirituality. I understood his. Ever since, it has been a magnificent relationship of mutual respect and professional competency."

At a padstal near Sutherland we bump into the Givers' driller Andre

**The organisation's
volunteer base
comprises medics,
dentists,
fire-fighters and
others who drop
everything in
an emergency**

Cilliers, nicknamed Smurfy, who has driven from Bethlehem. He leaps out of his vehicle with the good news that the team has already struck water at 54 metres on Willie de Lange's farm Verlatenkloof on the road to Klein Roggeveld.

"I gather it's producing more-or-less 10,000 litres an hour. And it's drinkable. It was at 2pm yesterday, there were tears in the farmer's eyes. I've seen true gratitude," says Smurfy.

On our arrival we are welcomed by Hester Obermeyer, liaison officer for the Sutherland district's drought committee. She says that among the population of 2,500 there are 141 farming families and 293 farm-worker families affected by the drought.

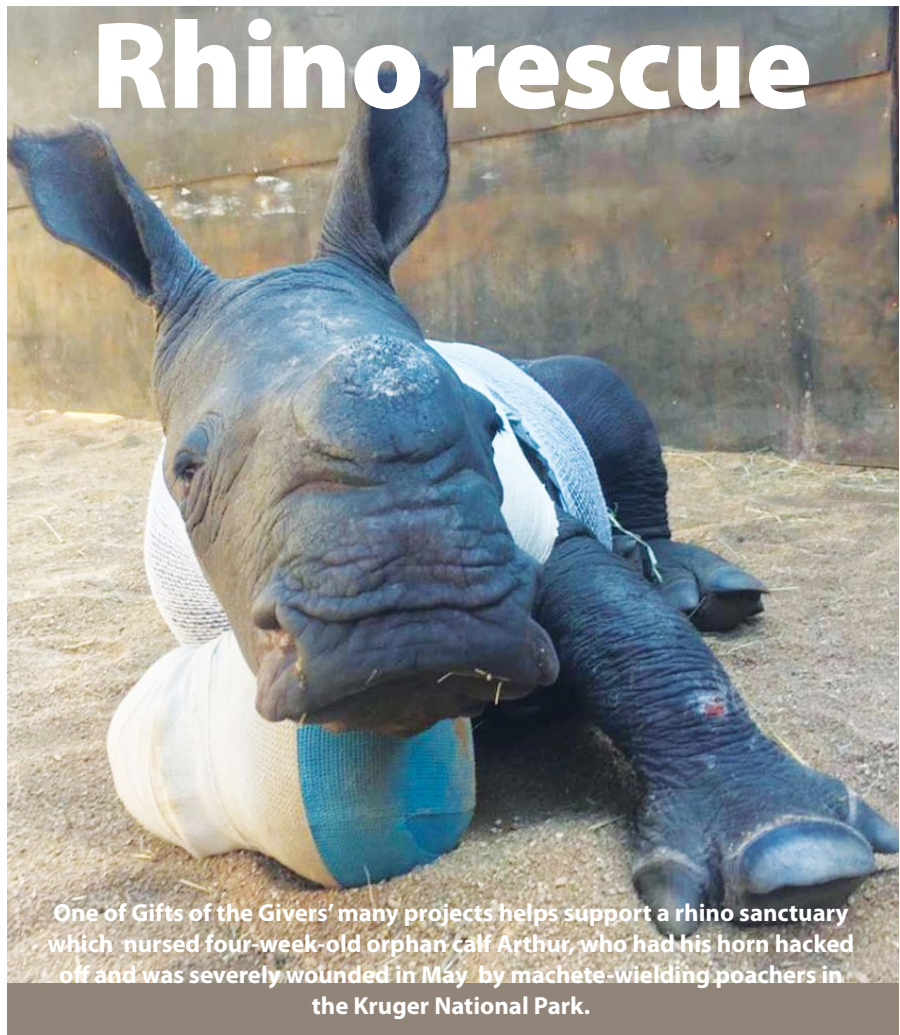
"We had 400,000 sheep in the area and are down to 130,000. Some died, others had to be sold. The veld was too drought-stricken to sustain them. Farmers are battling to pay their accounts. This drought has had a big knock-on effect on business in Sutherland," she tells us. Obermeyer and her team will coordinate the offloading and allocation of fodder and other goods to farmers and farm workers in the next few days.

As the cold evening settles in and Kazi prepares to drive back to Cape Town, he says goodbye to the people of Sutherland, gathered at the storage point at the local sports club. Women line up to hug Kazi. He shakes hands with the farm workers and other appreciative locals.

On Tuesday – the same day we are in Sutherland – Groenewald's team and a drilling company owned by Martyn Landmann drills for water on Hennie Visagie's farm, Jakkalsfontein. On Wednesday it is on Andreas Muller's farm Gunsfontein, as well as Annes Paulsen's at Vinkekuil. The next day there's a water strike at Kraairiver, then on Saturday it's Klipdrif's turn.

The whole process is expected to cost the Givers around R15 million. Says chief driller Groenewald: "The total project area is 1.4m hectares, involving the drilling of at least 200 successful boreholes. If unsuccessful we will not leave the farmer dry; we will keep trying until God shows us the spot where he will provide for the farmer."

After ten days, they have had a 95% success rate for boreholes drilled. The



water will be tested for sustainability and quality and the Givers assist with applications for licensing of water-use as well as water treatment and distribution of water where farmers are not able to do so. The six-year-long drought is expected to last another three-and-a-half years.

A few days after my visit, Dr Groenewald sends me this note: "It is not possible to say what the final project will include. All I can say is that in my 40 years in the Karoo, I do not know of any disaster intervention of this magnitude ever attempted in the history of South African farming. I lift my hat to Dr Sooliman and his unbelievable trust in our almighty God to convince us that this intervention will be achieving its goal with distinction. He would never embark

on such a mission without meditation and exceptional planning for the unexpected. Greetings. Oom Gideon."

Dr Sooliman gets this message from a local farmer: "Dear Dr Sooliman, I hereby want to thank you and your organisation, Gift of the Givers, from the bottom of my heart for your very much needed help for the community of Sutherland and more specifically for me personally.

"The borehole produces a very good flow of water and will be used for my house water, for the workers' houses, my wife's guest house, for sheep water and the vegetable garden for the workers.

"You gave us hope in a hopeless situation. Thank you very much and may God bless you and your organisation. Andreas Muller, Gunsfontein." ■

The media legacy of Iqbal Survé

Cape Times ramps up its vendetta against University of Cape Town and its former Vice Chancellor Max Price By Ed Herbst

THE VENDETTA BY THE *CAPE TIMES* as a proxy for its owner Iqbal Survé against the University of Cape Town reached a new low on 13 June. In that day's issue, no fewer than three pages – one, four and most of the op-ed page – were devoted to articles alleging that senior advocates Jeremy Gauntlett and Geoff Budlender had colluded way back in 2007 to ensure the ascendancy to the Vice-Chancellorship of UCT of the “woefully underqualified” Dr Max Price.

The front page article “Price appointment rigged” referred to a Facebook piece, “A mediocre white man, the noble savage and the not-so-good native”, written by Lebogang Hoveka, a former UCT student and the provincial secretary of Sasco. It echoed previous *Cape Times* anti-UCT articles such as “Apartheid-style’ UCT lashed” (24 June 2015) and “Arrest Max Price” (19 Feb 2016), but on 15 June a right-of-reply article by Budlender showed it to have been devoid of truth.

The country's media fraternity had been cautiously optimistic when in 2013 it was announced that Iqbal Survé was taking over the Independent Media newspapers with an initially clandestine R1-billion loan from the PIC. I hoped his staff would be well treated, that flagship newspapers like the *Cape Times* would prosper and that he would enhance the standing of the Fourth Estate. In an unfolding media horror story, all of these hopes have proven unrealistic.

Survé's war on the group's news staff started immediately and was unprecedented in the country's media history. He instructed his lawyers to write threatening letters to Chris Whitfield and Melanie Gosling because the *Cape Times* had dared to carry an article accurately summarising the Public Protector's “Docked Vessels” report on a dodgy R800-million tender by his investment company, Sekunjalo.

Now *Cape Times* editor Alide Dasnois

was fired on grounds so specious that Survé was not prepared to defend his actions and chose instead to settle her multi-million-rand claim. Simultaneously, his new recruits, Karima Brown and Vukani Mde wrote an article overtly threatening white staff.

Then, Gasant Abarder, the newly-appointed editor of the *Cape Times*, who had absconded from his previous employer, started dismissing white columnists in two-sentence emails – not because they no longer had market value or because of reader objections, but because they were white.

Antipathy towards whites – also a characteristic of the Snuki Zikala and Jeffrey Twala eras at the SABC – was openly expressed from the start of the Sekunjalo takeover, no more so than in an address by Survé on 7 April 2015 to a meeting of the UCT Association of Black Alumni (UCTaba). (It is available on a YouTube clip.)

In this address he openly encouraged the Rhodes-Must-Fall members and warned off those who were opposed to their ethnic hatred and what Jonathan Jansen justifiably described as fascist behaviour. The subsequent RMF rampage did incalculable reputational harm to the country and resulted in infrastructure damage that will cost more than a billion rand to repair.

Survé has allowed Aneez Salie, current *Cape Times* editor, to turn the newspaper against its white readers and the word “racism” now appears routinely in front page leads and headlines. Two recent examples: “Sekunjalo, Indy, Survé subjected to racism”, on 23 April 2018, and “Ashwin: 4 more complain of racism” on 25 June.

Former colleagues say this ethnic hatred stems from the time Salie and his former wife Shirley Gunn were arrested as MK operatives by the apartheid security police and mistreated.

After that, one fabricated news article

after another appeared in the newspaper* including a year-long campaign of falsehoods alleging that Helen Zille had employed a “spook with a grabber”. Another contained a claim by Survé and Salie that the *Cape Times* was routinely victorious in an international competition run by the Newseum website for front-page layouts – bizarre because all the newspaper's senior subeditors had been driven out. On inquiry, it emerged that no such competition exists.

After the shameful dismissal of Dasnois, Max Price asked Survé to stand down from his UCT positions. He agreed, reneged on his promise and pre-empted Price by announcing he was cutting ties with UCT because it was “a racist organisation”. When Rhoda Kadalie revealed he had been forced to resign, Survé sued her for R1m, then backed off when her lawyers said they would meet him in court.

The exodus of Indy staff under Survé might be compared to the exodus of SARS staff under Tom Moyane. All the people he brought on board in 2013 have left – Gasant Abarder, Karima Brown and Vukani Mde among them. In May, three editors, Abarder, Yunus Kemp and Chiara Carter resigned within a fortnight.

More than a dozen editor-level news staff have left in less than five years – dismissed, retrenched or resigned.

Also unprecedented has been the uncouth verbal abuse that Salie dishes out to white readers, something Zille complained about in an open letter to Survé on 22 March 2015. I am told that a de facto policy of not employing whites at the *Cape Times* has created a media Orania-in-reverse.

Survé, a confidante of the late Brett Kebble, tried unsuccessfully to link up with the Guptas and when that failed, linked up with “New Gupta” Kenny Kunene by hiring Kunene's friend and business partner Steve Motale to edit the *Sunday Independent*. To do this he

first had to fire the incumbent editor, Wally Mbhele. Survé then threw his weight behind the Nkosazana Dlamini-Zuma campaign and Motale tried to undermine Cyril Ramaphosa by publishing his now-notorious “Blessed” front-page lead.

In February, Motale suddenly resigned and an article on the Africa News 24/7 website claimed this was a result of Ramaphosa’s warning Survé in Davos that if he did not fire Motale, his newspapers would not get state advertising. The claim has not been denied and Motale now works for Kunene.

In a letter to staff published on News 24 on 12 December 2013 Survé wrote: “I do not expect special favours or puff pieces to be written by any journalists. All our stories must adhere to the highest standards required.” Thereafter between August 2013 and June 2015 his editors felt obliged to publish nine *imbongi* (praise-singer) interviews with Survé, lauding him as an international business icon and philanthropist. Then, in April this year he forced his editors to carry articles denigrating Tim Cohen, Sam Sole and Anne Crotty as “Stratcom journalists”, which Sanef decried, calling it “a sad day in South African journalism”.

Survé’s personal interests are constantly promoted in his newspapers in contravention of the SA Press Council’s code of conduct. On 15 February this year, the day after President Zuma’s resignation, Aneez Salie got in on the act. The *Cape Times* featured, as the only photograph on the front page, an enigmatic, indeed macabre, picture showing sculptures of headless men in suits in a squatting position. By cosmic coincidence the sculptor turned out to be Salie’s son, Haroon Gunn-Salie; this, on a day when the front pages of other local newspapers featured photographs of ex-President Zuma. Survé’s attempt to list his Sagarmatha Intergalactic Highway African Unicorn on the JSE failed when it was revealed that Sekunjalo Independent Media was technically insolvent. He was hurriedly bailed out by the Maserati-driving CEO of the PIC, Dr Dan Matjila, with a R4.3bn loan to Survé’s Ayo Technology Solutions company. The PIC, according to Carol Paton of *Business Day*, also used R7.5m of civil servant pension money to pay off its chief IT executive Vuyokazi Menye, while acknowledging she had

Survé’s personal interests are constantly promoted in his newspapers in contravention of the SA Press Council’s code of conduct

done nothing wrong. That sounds like hush money to me.*

The UDM’s Bantu Holomisa, is justifiably calling for a probe into the PIC.

Survé has undoubtedly brought the former Argus Group newspapers into disrepute – a conclusion quickly reached by its own readers and then spelled out in black and white by *The Economist* on 27 June 2015 in an article headlined “Happy, patriotic news – freedom of the press is being chipped away under an embattled ANC”.

SURVÉ’S SORRY HISTORY AS OWNER OF Independent Newspapers and his recent dishonourable bid to promote and launch his Sagarmatha Intergalactic Highway African Unicorn – which is as short on assets as it was long and fanciful in name – prompts a closer look at two of his seemingly more respectable and way more profitable company connections.

German electronics giant Siemens has had a South African subsidiary since 1923, and in the apartheid years became one of the biggest suppliers to state enterprises such as Spoornet, Eskom, Telkom and the SABC. In 2000 it rushed to acquire BEE partners, allocating 13% of shares in Siemens SA to a wholly-owned subsidiary of New Africa Millennium Telecommunications (Afri-com) and – significant here – another 13% to Linacre Investments (Pty) Ltd, a company 100% owned by Sekunjalo Investments (Pty) Ltd, which in turn is 100% owned by Haraas Trust whose

two beneficiaries, it emerges, are Survé’s children Sarah and Rayhaan.

In December 2000 Survé became a director on the Siemens SA board. In 2007 the two BEE partners increased their shareholding in Siemens SA to 15% each.

A similar BEE arrangement was arrived at in another Siemens enterprise: a 26% BEE stake in Nokia Siemens Networks Holdings RSA, was equally allotted to the same two BEE partners.

Nokia Siemens Networks is a major supplier to state-owned Broadband Infraco, cellular operators Cell C and Vodacom, and second national operator Neotel. The dividends these companies have generated are substantial.

In a press statement issued at the time, Sigi Proebstl, CEO of Siemens SA, said this reinforced the company’s “commitment to the transformation process ... and recognises the significant contribution by the two partners in growing the regional Siemens company.” He added: “BEE is all about how our strategic partners are able to add business and financial value to the organisation and contribute to our overall objectives as one of the region’s leading electronic and electrical engineering companies.”

If that statement rings uncomfortably in the South African context, particularly in the Gupta Age, read *nose120* (of October 2009) about Siemens’s decades of international bribery and corruption and the methods by which they achieved their dishonest ends (they claim to have radically reformed in recent years) then ponder: what do we make of the fact that the detailed questions *Noseweek* put to Siemens SA in *nose121* (November 2009) still remain unanswered nearly nine years later?

Given that context, what exactly could our Survé have done to advance Siemens’s businesses in South Africa in order to deserve such fulsome praise and rewards from the German giant with a shady past?

* See “Tiger Tiger Five” by Ed Herbst on *Politicsweb*.

* For further context on the Sekunjalo takeover of the *Indy* newspapers, read Terry Bell’s article, “Fact checking Iqbal Survé’s bold bio leaves more questions”, published on the *Fin24* website two years ago – so far, without the promised response – and Peter Flack’s *Daily Maverick* article: “The day I asked Mandela about Iqbal Survé.” ■

Magistrate battles on with judiciary

Phumelele Hole of Kimberley turns his guns on new target. By Gilbert Mwanza

IT'S BEEN SEVEN YEARS SINCE FORMER Kimberley magistrate Phumelele Hole put his boss, Khandilizwe Nqadala – then-president of the Northern Cape Regional Court – in the dock, accusing him of interfering in a rape case.

And he is still not done with fighting his berobed kind. He is now accusing Judge NV Khumalo of the South Gauteng High Court of “gross incompetence or lethargy, bias, revenge” and lying.

It all follows from an ill-fated day on 7 June 2011 when Hole subpoenaed Regional Magistrate Nqadala and interrogated him as to why he had allegedly tried to derail a rape trial. Hole complained that Nqadala had moved the case away from his court for no good and summarily arranged, without permission, to have the case back in his court where he then questioned his boss. He also questioned Nqadala under oath about his right to allocate or re-allocate cases (*nose146*), demanding that his boss refer to him as “Your Worship” and insinuating that he was ill-qualified for his job.

Nqadala and Hole had already been butting heads (*noses130&131*). Hole would later make a submission to the Magistrate’s Commission in which he accused Nqadala of peddling influence with his “braai buddies,” among them, John Block, then leader of the ANC in the Northern Cape, who is now in jail for fraud and corruption. Hole claimed Nqadala protected his braai chums from any form of judicial inquiry.

The commission investigated Hole’s claims but decided not to act (*nose163*) but did proceed with disciplinary proceedings against Hole over what he had done to his boss.

After numerous delays Hole was eventually removed as a magistrate and had his salary stopped on 1 December 2016. He had been found guilty of 10 offences.

Hole launched proceedings for an urgent interim interdict which was heard in the South Gauteng High Court before Judge Khumalo on 14 February 2017. She reserved judgment.

Hole had asked for his salary to be



Former president of the Northern Cape Regional Court Khandilizwe Nqadala is a previous target of Phumelele Hole’s ire

reinstated pending a review of the disciplinary proceedings, which he viewed as flawed. But judgment came only 106 days later on 30 May 2017 – which became the reason for his next complaint – about Judge Khumalo to the Judicial Conduct Committee.

After numerous letters via his law firm, Meyers Enzo Attorneys, requesting a date for when judgment would be delivered, Judge Khumalo’s registrar (judicial secretary) Boitumelo January confirmed that judgment would be ready on 28 April 2017.

But on that morning his attorneys were told that judgment in the urgent application would not be handed down as Khumalo was attending a funeral that day. “We had reserved counsel for no cause,” said Hole in his submission to the conduct committee.

He would later learn that Judge Khumalo was in fact still busy with the judgment. So a letter was sent to Deputy Judge President Aubrey Ledwaba about the matter and on 30 May 2017 judgment was handed down.

“Perhaps more shocking to me than

the inordinate delay... are what appear to be lapses of honesty on the part of Khumalo. Besides what appear to be gross incompetence or lethargy... there appears to be a pervasive disdain for litigants.

“This was no longer about handing down a long-outstanding judgment but about salvaging what was left of her credibility and perhaps also abuse of her office to exact revenge.

“It is inconceivable that she would have found in my favour after having delayed for so long,” he wrote to the Judicial committee.

Hole then accused her of “bias” as her senior fellow judge of the same high court division, Judge Francis Legodi, was the chairperson of the magistrate’s commission that had previously found against him. He complained that Judge Khumalo should have recused herself.

In her response to his complaint, which she filed with the committee in May, Judge Khumalo admitted that during that period she “was also busy with other outstanding judgments...that equally required to be resolved speedily”.

Judge Khumalo confirmed she had planned to hand down judgment on 28 April but that “on that day I was not satisfied that it was ready to be delivered and therefore withheld its delivery”, while she also confirmed attending a funeral “of a colleague in the Pretoria Division”.

She bemoaned her heavy workload, on which she had to conduct her own research without help while continuing to be allocated new cases.

“I never intended to deliberately cause any inconvenience to any of the parties. I do not understand the accusations made by Hole on revenge and about bias. It would be ludicrous to infer that judges in Pretoria Division will decide matters that involve the Magistrates Commission in favour of the commissioner, based on the fact that Legodi is the chairperson [*which I was unaware of at the time*],” said Judge Khumalo.

The judicial conduct committee is still to rule on the matter. ■



American tribes. Lessons for South Africa

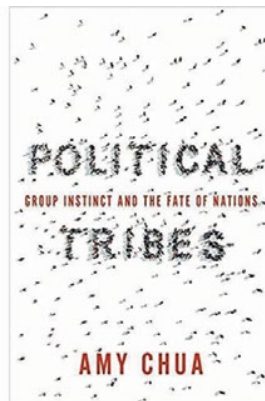
AMY CHUA IS BEST KNOWN FOR HER 2011 best-seller, *Battle Hymn of the Tiger Mother*, a highly controversial manifesto of zero-tolerance parenting, Chinese style. As a first generation Chinese American – her parents immigrated from the Philippines – Chua was determined that her two daughters were not going to grow up in the American Way, with TV, play-dates, sleep-overs and suchlike decadent practices. They were offered in exchange – not that there was a no-thank-you option – three hours of music practice a day and an insistence on straight As at school.

Chua was reviled for what was seen as psychological abuse, but survived the insults and the death threats (and her daughters survived to study at Yale and Harvard respectively), and returned to her other occupation, as Professor of Law at Yale.

This new book has nothing of the tiger mother about it, except perhaps in the stern conviction with which Chua anatomises what she sees as the failures of American foreign policy in particular and societies in general.

In Chua's view, most or all societies are structured upon – or perilously balanced against – contending tribes, which can be actual tribes, such as the Hutu and Tutsi, or religious groupings, such as the Sunni and Shiite branches of Islam. To this, Chua argues, the US used to be a partial exception, in that traditionally it formed a “super-group”, that is, an American identity transcending tribal loyalties – the famous melting pot: “America was able to elect Barack Obama as president because this country is a super-group, a group in which membership is open to individuals of any background but that at the same time binds its members together with a strong, overarching, group-transcending collective identity.”

Whereas this grouping worked well at home – for a while, at any rate – it proved disastrous in terms of American foreign policy. Chua maintains that all America's calamitous interventions in foreign countries – Vietnam, Afghanistan, Iraq, Venezuela



**POLITICAL TRIBES:
GROUP INSTINCT AND
THE FATE OF NATIONS**
by Amy Chua
(Bloomsbury)



Amy Chua

– were based on the mistaken assumption that what was at issue was an ideological divide (between capitalism and communism, for instance), whereas what was really playing itself out were age-old tribal enmities: “it can be a catastrophic mistake to imagine that through democratic elections, people will suddenly rally around a national identity and overcome their pre-existing ethnic, religious, sectarian and tribal divides.”

Complicating the transition to democracy, such as it is, is often the existence of what she calls a market dominant minority: “an ethnic minority that tends, under market conditions, to dominate economically, often to a startling extent, the poor ‘indigenous’ majority around them, generating enormous resentment among the majority, who see themselves as the rightful owners under threat from ‘greedy’ exploitative outsiders.”

It is not necessary, perhaps, to labour the relevance of this observation to the South African situation, and Chua mentions

Books

South Africa only in passing. She anatomises the Vietnamese situation in terms of this model, showing that the US entirely under-estimated the importance of the market-dominant Chinese minority, hated by the indigenous Vietnamese that the Americans thought they were liberating: “In effect, the US-backed regime was asking the South Vietnamese to fight and die – and kill their northern brethren – in order to keep the Chinese rich.” She points out that in South Vietnam a million civilians died and another million were wounded owing mainly to American “friendly fire”.

By Chua’s account, the only thing worse than tribal warfare is American intervention. But what about America’s internal politics under the baleful rule of Donald Trump? Chua sees here, too, the workings of the political tribe. The “supergroup”, she argues, has split into mutually distrustful tribes: “Race has split America’s poor,

and class has split America’s whites.”

What Trump has managed to do is to mobilise the discontents of the white tribe into a base: for all that he is immensely more rich than his followers, “Trump, in terms of taste, sensibilities, and values, actually is similar to the white working class. The tribal instinct is all about identification, and Trump’s base identifies with him at a gut level.”

As for the liberal “elite”, they form, according to Chua, a tribe of their own: “what these elites don’t see is how tribal their cosmopolitanism is ... There is nothing more tribal than the elite disdain for the provincial, the plebeian, the patriotic.” The Left, moving away from their traditional emphasis on tolerance and inclusion, have become ever more exclusive and intolerant, denying their perceived opponents “platforms” and squabbling among themselves about who is the most politically correct.

Writing of her experience at Yale, Chua says “I have sometimes watched with dismay as a tiny but highly vocal handful of students use their privileged positions not to foster the free exchange of ideas but to shame and punish – almost invariably at no cost to themselves – tearing apart the student community and driving dissenters underground.”

Again South African readers will make their own application of Chua’s contention: we have always been a country of tribes, and she gives us a couple of new tribes to take into account, as we lament the passing of the Rainbow Nation, the super-group that was to have emerged from our fledgling democracy.

It is beyond the scope or competence of this review to take issue with Chua’s arguments. Suffice it to say that it is a highly readable, intensely interesting overview, of extreme relevance to the South African situation. ■

Ivanka’s shoe brand sidesteps Trump’s trade war tariffs

WHEN THE US CONTENTIOUSLY imposed an additional 25% tariff on \$34 billion worth of Chinese goods in July, it was quickly noted that, thanks to a major exemption for Chinese garment and footwear in the tariffs dispute, the clothing industry was likely to be left unscathed.

About a third of the clothing and 72% percent of the shoes sold in the US are from China.

One of those importers has long been the fashion label of Ivanka Trump, President Donald Trump’s daughter and adviser.

Chengdu Kameido Shoes in Sichuan province told a reporter for the *South China Morning Post* that it had supplied shoes for the Ivanka Trump brand in the past and was aiming to do so again. “We are trying to win a contract with one of our customers,” a Kameido representative is reported to have said. “The entire order is for the Ivanka brand.”

The representative said the company was bidding to supply 140,000 pairs

of shoes. In the past, the company had fulfilled orders for at least 10,000 pairs for the brand.

A representative from Hangzhou HS Fashion in Zhejiang province said it was also still taking orders for Ivanka Trump’s brand. The company reportedly manufactures for the brand through intermediary G-III Apparel Group.

However, there could be some changes in the brand’s supply chain, according to an industry analyst quoted by US online newsletter, *Politico*.

Ivanka Trump has distanced herself from the day-to-day operations of the brand.

Shipment data from New York-based “marketing intelligence” platform Panjiva, indicates that there have been no records of “Ivanka Trump” shipments from China into the US since March.

Prior to that date, a Panjiva search for “Ivanka Trump” pointed to regular



shipments from either mainland China or Hong Kong, noted as: “GIII for Ivanka Trump”.

Interviewed by a *Politico* reporter, Panjiva research director Chris Rogers said it was likely that the involved companies had changed how they referred to the product, for example, by using a code name.

The Associated Press has reported that information about companies importing Ivanka Trump goods to the US has become difficult to track because data that once routinely appeared, including information about the consignee and the shipper, could no longer be found. ■

Letter from Umjindi

BHEKI MASHILE



Butt of a joke. Don't do it

FOR A FEW YEARS FOLLOWING MY return from a long journey of self-imposed exile in the States, I was constantly being reminded that this is not America. I guess some people did not find it appropriate that I would do things like wear tights while jogging or cycling. Yes, absurd as it may seem, there are those who objected.

Take a small town, mix it with the machismo African-man mentality and you have a perfect blend of ignorance and utter stupidity. However, that was in the late '90s and that ignorance – sorry, stupidity – has fortunately gone away.

You know, there is something very wrong about this #MeToo movement where people are being tried by popular opinion. You can forget about innocent-until-proven-guilty – once you are exposed on social media your goose is cooked.

How do you defend yourself against a score of accusers who seemingly do not know each other but share similar stories about one's touchy feely habits? You certainly cannot claim that they are conspiring against you.

How will all this turn out here in Mzansi? Will those who are exposed in this country face the same wrath as the Americans? I mean let's face it, Harvey Weinstein has turned from Hollywood mogul to Hollywood pariah and, Bill Cosby could be facing up to ten years in jail when he's sentenced for sexual assault. But here in Mzansi we have a habit of allowing these abusers to get away with it after offering a cheap apology.

A prominent Member of Parliament is caught on camera beating up a woman in front of a night club. Is he disciplined by his party? No. Instead, he continues to serve in Parliament.



The Jackson Five

What is wrong with this picture? Yes, I will say it again and again: these buggers should be glad this is not America. Although, if truth be told, the American influence in dealing with these pariahs is spreading like wildfire throughout the world. And of course Mzansi will not be shielded from said influence.

So, am I concerned about this touchy feely exposure? You're damn right I am.

Here is a funny story for your reading pleasure: It was the night before X-mas and all were sleeping, dreaming about Santa.

What? Wrong story?

No, I was in a nightclub in Georgetown, Washington DC. Now, mind you, this was 1982 and I was a senior in high school. (I was not in exile but accompanying Papa as he served his Majesty King Sobhuza II in the Swazi kingdom's diplomatic core.)

So, I am at the bar with my fake ID (legal age for booze then 18, and I was only 17 – but because my father had diplomatic immunity I could not be busted anyway). All of a sudden I hear this girl with a very heavy Chinese accent saying: "You squeezed my butt!"

I'm like, "I did no such thing!"

Remember, I am the son of a diplomat and Papa always said, "Watch your language, that is what diplomacy is all about, despite the fact that most of the time we are full of it."

Anyway, this girl spent the rest of the night chasing me around the club, yelling, "You squeezed my butt!". I didn't. Really.

I would discover later, with great laughter, that the culprit was my friend, who had been standing next to me at the bar.

Anyway, this night was supposed to be great. We were there to watch the Jackson Five's reunion concert on their "Victory Tour" in 1984 after his loser brothers begged Michael to reunite because his solo career was taking off.

While everyone else is grooving to *I want you back* and *Dancing machine*, I am running away from the daughter of Sun Yat Sen. Man she chased me around the whole night. Well, I did finally get upset and turned around and said the f-word. I was fed up.

"I did *not* grab your butt you crazy b***, f-off!" So much for diplomacy.

So what is the moral of the story here? Well, I hope this girl, as old as she is now, does not see my byline in the *Nose* and decide to sue me for sexual harassment by butt-grabbing!

This is really scary stuff.

For you guys who *are* doing this, stop! You are giving those of us who are genuinely innocent of butt grabbing sleepless nights. ■



Berea. Human nature

A LONG MY FRONT GARDEN ON OUR Durban Berea hillside is a low brick wall, whereon in the sun lies a beaut big Golden Throat lizard, storing energy for her day as reptiles do. But why *her* day? Why female? Because she's preggers-fontein, that's clear. And clearly needs nourishment; I slam cockroaches with a rolled-up *Noseweek* and she takes them from my fingers, that's how tame she's become. It occurs to me that for wildlife I don't need to go to Kruger and watch bloody crocodiles dragging beasts into a river, here is a creature of oh such dignity and elegance, her ancestry going way back before the dinosaurs.

All this I tell you because of the scorn I have for motor cars. I agree with David Attenborough, you see, who says if I deplore the damage done by exhaust gases to our environment then I shouldn't run a car. He doesn't and I don't. Also I think the motor car is death to urban culture. I walk, I see the small living things of our city habitat. Not just the wildlife, our fellow monkeys and feral cats, raptors flying off with the cats' kittens, the cats prowling the monkey babies, all that stuff of game rangers, according to whose 18th Century bullshit Nature is in Balance. If nature were in balance there'd be no evolution. Indeed there'd be no universe.

I wonder at this universe, including the minuscule world of it, see. How the hell does that fern find nutrients in a

solid brick wall, how do those ants lay down such a faint pheromone trail on such loose sand? Also I stop to gaze at peoples' gardens, and let me tell you dear readers if you've never seen a Colvillea Racemosa in full flower your life hasn't started; but you're not going to see it from a car, your attention is focused on the other cars or you're dead, such are our urban traffic skills.

Also walking here of course, but just a little bit, are the big bulbous beasts of our city habitat. From the upper parking level at the mall to the boutiques below, excluding time in the lift. Monstrous fat *H. sapienses* with golden teeth and steatopygia, huge wads of blubber on bum and thigh; symbols, these, of new power. Your car plus your blubber, you see, make status. Virtue. (BMW+b=sv) And let me tell you, dear readers, if you've never seen a big bulbous *H. sapiens* female paying R2,000 for a pair of spiky high-heeled shoes in the Berea's most appalling mall your life's been lucky so far, now explore elsewhere.

Aha! Just up the way from this mall is a small calm community in a small cul de sac, Bonair Road, with its own quiet culture and modest drama. Here live David and Jenny in a quiet cosy house with a nice little pool at the back and a little garden in front, with a bamboo hedge. Bamboo is best because you can see through it all right but it's quite impregnable, better than blade wire any day. The only ugly round here is a grim Dobe type monstrous dog name

of Strudel, who flings himself bodily at this hedge snarling hideously roaring and baring his fangs at passers-by fit to rip out their guts, but Jenny says he also is better than blade wire and I dare say she has a point. Other than that all is polite and peaceful.

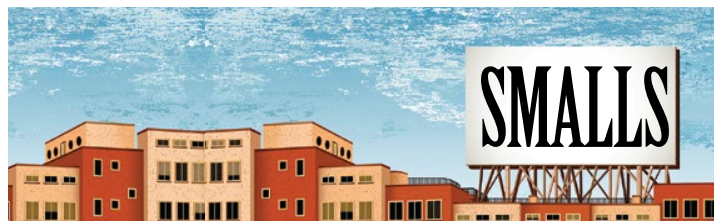
Up top of the cul de sac is a fine British colonial house, facing outwards but having a rear entrance on Bonair Road, and there dwells a fine mid-aged upper-class French colonial gentleman of refined presence, delicate, and impeccable etiquette. He wears a colonial light linen jacket and a tie and his trousers are well ironed. He has a trim moustache and a walking cane and a Panama hat which he raises to ladies. He takes short cuts down Bonair Road to the Checkers over the way.

I pull in at the Jen and David home one morning for a cuppa and buzz the street intercom to be let in, and as I stand there waiting M'sieur comes along, Strudel threatens to tear M'sieur's throat open and M'sieur sidles over to him and says: Fick eff. And e'en as he utters these words he spies Jenny in the garden. A lady! And she's heard him speak such unspeakable filth! Aauugggh! He pulls his panama over his eyes and scurries off to Checkers and nevermore is seen in Bonair Road.

But where was I just now? Ummm... aah yes, with Liz. I'm watching her quietly and carefully, waiting for the eggs. Never to worry, readers will be kept up to date with all developments. ■



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